

A POCKET GUIDE TO **REFUGEES**

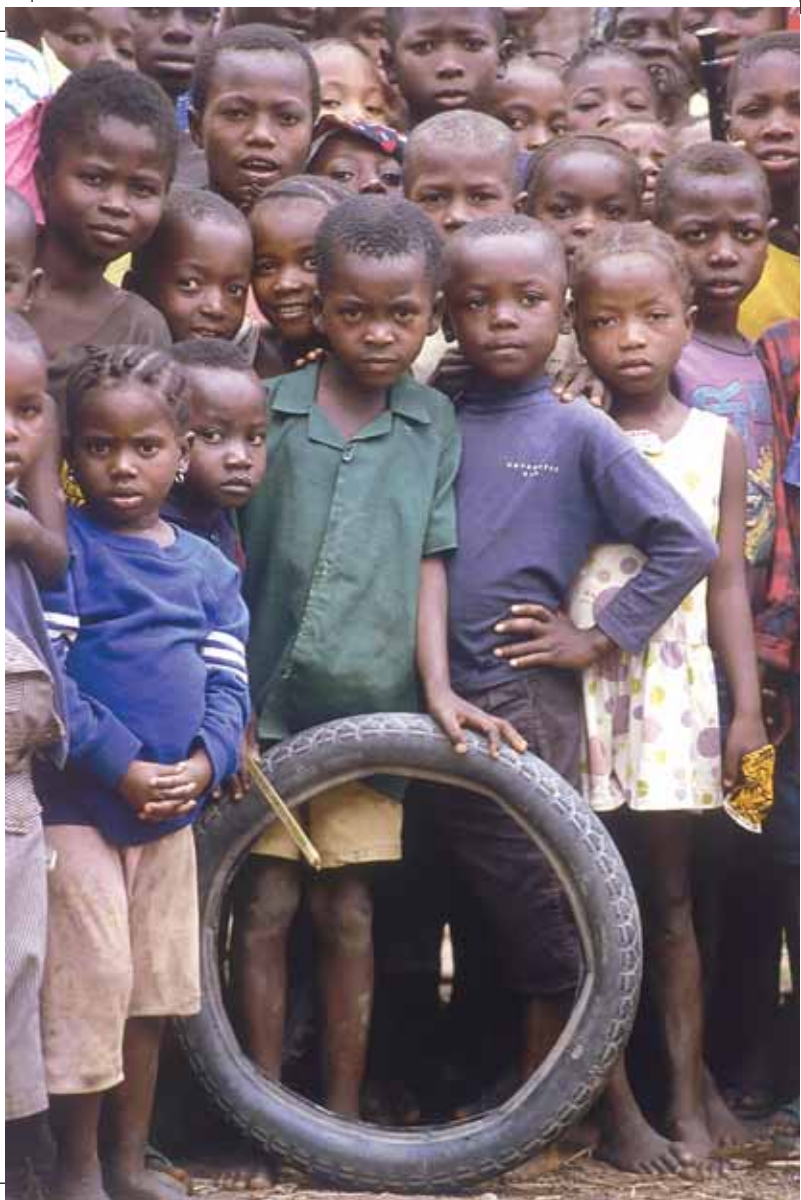
External Relations Publication
UNHCR, New Delhi
May 2008

Third Edition: May 2008
Second Edition: September 2004
First Edition: April 2004

Photographs UNHCR Geneva (Media Library)
UNHCR India (Sohail Akbar,
Nayana Bose)

Contents

Refugees: A Common Concern	5
Definitions and Conventions	11
About UNHCR	33
UNHCR in India	61



Refugees: A Common Concern

“There is no greater sorrow on earth than the loss of one’s native land” – Euripides

The word refugee is evocative, powerful even. Images of fleeing populations struggling with their “belongings” desperately crossing borders, images of refugee camps, with women trudging with water or children waiting to be fed and images of injured people being cared for, are only some of those that come to mind. Images of 1947 and the Partition of India, of trainloads of refugees arriving from Pakistan or millions crossing in human convoys, also come to mind.

Emotions aside, the word refugee has a specific definition, with legal and social implications. Refugees are entitled to international protection, which guarantees basic human rights. Those who migrate for purely economic reasons are not refugees. Individuals who have committed crimes against humanity, crimes against peace or war crimes are not recognised as refugees. This publication will explain the differences between asylum seekers, refugees, migrants and internally displaced people. It will elaborate on the definition in the

A POCKET GUIDE TO REFUGEES

1951 UN Convention and others. It will expand on the role of the United Nations High Commissioner for Refugees (UNHCR) with particular reference to its mandate in India.

This publication is intended to be a pocket guide for media persons, students, activists and others interested in refugee issues. It is not a legal guide and is intentionally written for the general public. Divided broadly into three sections, the first section will focus on the definitions and conventions; the second section will focus on UNHCR and its mandate, and the last section will focus exclusively on UNHCR in India.







Part I

Definitions and Conventions

ASYLUM SEEKER

Anyone fleeing from his or her own country seeking sanctuary in another state, is an asylum seeker. Asylum seekers have the right to receive legal protection until the process of verification (refugee status determination) is completed. In most countries, this could be a lengthy process.

REFUGEES

A refugee is a person who has fled his/her country owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality, and is unable or, owing to such fear is unwilling to avail himself/ herself the protection of that country. UN Convention relating to the Status of Refugees, 1951.

The 1951 Geneva Convention relating to the Status of

Refugees, clearly spelt out for the first time who a refugee is and the kind of legal protection, other assistance and social and economic rights he or she should receive from countries which have signed the Convention. In short, refugee status is based on five grounds: a well-founded fear of persecution that is a threat to life or liberty, because of race, religion, nationality, membership of a particular social group, and or political opinion. Equally, it defined a refugee's obligations to host governments and certain categories of persons, such as war criminals, who do not qualify for refugee status. It spelt out a set of basic human rights which should be at least equivalent to freedoms enjoyed by foreign nationals living legally in a given country and in many cases, those of citizens of that state. It recognised the international scope of refugee crises and the necessity of international co-operation, in tackling the challenge.

The Convention was limited to protecting mainly refugees in the aftermath of World War II, but a 1967 Protocol expanded the scope of the Convention as the problem of displacement spread around the world. It removed the geographical and time limitations written into the original Convention under which mainly Europeans involved in events occurring before 1 January 1951, could apply for refugee status.

In practice, the international protection of refugees

through the 1951 Convention is based on the grant of asylum, the recognition of refugee status and the principle of *non-refoulement*. Article 33 of the Convention/Protocol explains ***non-refoulement***: “No contracting state shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of the territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” *Non-refoulement* or **no forcible return** is a cardinal principle of refugee law.

The 1951 Convention and its 1967 Protocol remain the most important, and the only universal instruments of refugee law. As of December 2007, a total of 147 states have acceded to one or both of the UN instruments.

Some **common questions** on the Convention include the following:

What is contained in the 1951 Convention?

It defines what the term ‘refugee’ means. It outlines a refugee's rights including freedom of religion and movement, freedom from being penalised for illegal entry and being deported unless certain conditions are met, the right to work, education and accessibility to travel documents, but it also underscores a refugee's obligations to a host government. A key provision stipulates

that refugees should not be returned, or *refouled*, to a country where he or she fears persecution. It also spells out people or groups of people who are not covered by the Convention.

Who protects refugees?

Host governments are primarily responsible for protecting refugees and states party to the Convention and/or the Protocol are obliged to carry out its provisions. The UN Refugee Agency, UNHCR ensures implementation of convention obligations in countries that have signed the Convention and ensures that bona fide refugees are granted asylum and are not forcibly returned to countries where their lives may be in danger.

Is the Convention still relevant for the new millennium?

Yes. It was originally adopted to deal with the aftermath of World War II in Europe and growing East-West political tensions. But though the nature of conflict and migration patterns have changed in the intervening decades, the Convention has proved remarkably resilient in helping to protect an estimated 50 million people in all types of situations. As long as persecution of individuals and groups persists, there will be a need for the Convention.

In December 2001, the Ministerial Meeting of States Parties to the 1951 Convention and/or its Protocol, reaffirmed

in its Declaration, the validity of the 1951 Convention and pledged to meet their obligations and to uphold the values and principles embodied in the Convention and its Protocol.

Can the Convention resolve refugee problems?

People become refugees, either on an individual basis or as part of a mass exodus, because of political, religious, military and other problems in their home country. The Convention was not designed to tackle these root causes, but rather to alleviate their consequences by offering victims a degree of international legal protection and other assistance and eventually to help them begin their lives anew. The Convention is meant as a tool for international solidarity and for sharing the responsibility of hosting refugees. Protection can contribute to an overall solution, but as the number of refugees increased dramatically in recent decades, it has become clear that humanitarian work cannot act as a substitute for political action in avoiding or solving future crises.

Is a Convention signatory required to give permanent asylum to all refugees?

The Convention does not provide automatic or permanent protection to all refugees. There will be situations where refugees will integrate permanently in their country of asylum, but alternatively a person may cease to be

a refugee when the basis for his or her refugee status ceases to exist.

Can non-Convention countries refuse to admit asylum seekers?

The principle of *non-refoulement* – the forcible return of people to countries where they face persecution – is part of customary international law and is binding on all states. It takes into account the principle of non-rejection at the border. Therefore, all governments should ensure asylum seekers have genuine access to have their claims heard.

Does the very fact of accession to the Convention provide a 'pull' factor for increasing numbers of asylum seekers?

No. Some states hosting the largest refugee populations are not parties to refugee instruments. Geopolitical considerations or family links play a more crucial role as far as destination is concerned.

Regional Conventions

The definition of a refugee in the Convention is based on individual persecution and does not focus on extraneous factors. In 1969, reflecting the realities of Africa during a period of struggle for self-determination and national development, the **Organisation of African Unity** (OAU) adopted the Convention Governing the Specific Aspects of Refugee Problems in Africa. It

adopted the 1951 definition of a refugee and expanded it to include *“every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.”*

Similarly, reflecting regional needs and priorities in Latin America, the **Cartagena Declaration on Refugees** adopted by the Colloquium of the International Protection of Refugees in Central America, Mexico and Panama in 1984 elaborated the definition of refugees to include *“among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”* The Cartagena Declaration remains the first document in Latin America to establish guidelines for states with mass inflows of refugees. It was also the first international declaration recognising that the victims of massive human rights violations deserved refugee status.

In Asia, the **Bangkok Principles** promulgated under the auspices of Asian-African Legal Consultative

Organisation (AALCO 1966, revised in 2001) provide a refugee definition that takes into account the specifics of the Asia/Africa region based on wider parameters. **Expanding** on the Convention, OAU and Cartagena definitions, the Bangkok Principles also include in the definition of refugees, **persons who have a well founded fear of persecution due to colour, ethnic origin and gender**. The Bangkok Principles also clearly state that “the lawful dependants of a refugee shall be deemed to be refugees.”

Refugee Rights

Refugees have certain rights under the 1951 Convention and 1967 Protocol. However, even in countries that have not signed the Convention/Protocol, these rights are by and large, respected as they maybe part of a national legislation on refugees in those countries, or guaranteed in the Constitution of that country. In brief, the rights of refugees include:

- i. The right not to be returned to a county where they are likely to face persecution (the principle of *non-refoulement*)
- ii. The right not to be expelled, except under certain strictly defined conditions
- iii. Exemption from penalties for illegal entry into the territory of a contracting state
- iv. Freedom of religion and free access to courts
- v. Freedom of movement
- vi. The right to identity papers and travel documents

- vii. The right to public education

Cessation of Refugee Status

There are circumstances when a person, recognised as a refugee, may no longer qualify to be classified as such. The 1951 Convention stipulates that a person ceases to be a refugee if:

- i. He or she has voluntarily re-availed himself or herself of the protection of the country of his or her nationality
- ii. Having lost his or her nationality, he or she has voluntarily re-acquired it
- iii. He or she has acquired a new nationality
- iv. He or she has voluntarily re-established himself or herself in the country which he or she left
- v. The circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, and he or she can no longer continue to refuse the protection of the country of his or her nationality
- vi. He or she is without a nationality, but because circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, is now able to return to his or her country of former habitual residence

Exclusion: When a person cannot be given refugee status

The exclusion clause of the 1951 Convention is meant to ensure the integrity of refugee protection by excluding

from its coverage persons who do not deserve to be recognised and protected as refugees. It reassures governments that persons not deserving of refugee status will not be recognised as such, even though they may have a well-founded fear of persecution. The exclusion clause applies to people who have committed a crime against peace, a war crime or crime against humanity, or a serious non-political crime outside the country of refuge prior to admission to that country as refugees; or they have been guilty of acts contrary to the purposes and principles of the United Nations.

The exclusion clause also applies to persons already receiving protection or assistance from agencies of the UN, other than UNHCR. Examples are certain categories of Palestinians, who are helped by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Lastly, the exclusion clause applies to persons who are not considered to be in need of international protection because they are in a country where they have been granted most of the rights normally enjoyed by nationals, short of formal citizenship.

INTERNALLY DISPLACED PERSONS (IDPs)

Internally displaced persons (IDPs) often flee for the same reasons that refugees do: political persecution, religious persecution, massive human rights violations,

civil war and external aggression. The crucial difference is that they do not cross an international border - IDPs remain within their own territory and therefore are still subject to the laws of their country. They are still in principle, however not always in practice, protected by their government, albeit in a different part of the country.

Internally Displaced Persons often face a much more difficult and hazardous future. Their principal source of legal protection and material assistance is their own government which may, however, view the displaced with caution or as 'enemy sympathisers' in a civil conflict and which may be in no position anyway to offer emergency food, medicine or shelter. There are also situations where the governments may have no control over a geographic area and therefore cannot provide protection to its own citizens.

In 1992 Sudanese lawyer and diplomat Francis M. Deng was appointed to the newly-created post of Special Representative of the UN Secretary-General for Internally Displaced Persons, a recognition that this group of disenfranchised people needed protection. One of Deng's first tasks was to look at all existing human rights, refugee and humanitarian laws and other institutional arrangements and determine how these could be better employed to help the displaced. He came up with the Guiding Principles on Internal

Displacement – a set of 30 recommendations for the protection of the internally displaced.

The Principles identify the rights and guarantees relevant to the protection of the internally displaced in all phases of displacement. They provide protection against arbitrary displacement, offer a basis for protection and assistance during displacement, and set forth guarantees for safe return, resettlement and reintegration. Although they do not constitute a binding instrument, these Principles reflect and are consistent with international human rights and humanitarian law and refugee law. They are equally applicable to state and non-state actors and provide a useful set of standards against which to measure the protection objectives and promote dialogue with both state and non-state actors.

The Guiding Principles on Internal Displacement, 1998
Deng's Guiding Principles define the internally displaced as *“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border.”*

The Guiding Principles complement existing interna-

tional human rights, international humanitarian law instruments and rights granted to persons under national laws. The principles emphasise the responsibility to governments to protect its citizens, and when it cannot, to allow the international community to do so. There are three distinct phases of internal displacement: pre-displacement, displacement and post-displacement. The principles cover all three phases. Principle 6 (1) for example, refers to the pre-displacement phase: “Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.”

Principle 15, for example refers to the period during displacement. It reaffirms that: internally displaced persons have: (a) The right to seek safety in another part of the country; (b) The right to leave their country; (c) The right to seek asylum in another country; and (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.”

Principle 28 (1), for example, refers to the period post-displacement. It says that “Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual

residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.”

ECONOMIC MIGRANTS

Economic migrants are NOT refugees and should not be confused, as they sometimes are, with bona fide refugees who are fleeing life-threatening persecution. An economic migrant leaves a country **voluntarily** to seek a better life. He or she chooses to leave for economic reasons, not because of political, religious or human rights violations. He or she continues to receive the protection of his or her government. Refugees flee in fear for their freedom and lives and cannot return safely to their homes, unless circumstances change.

Millions of ‘economic’ and other migrants have taken advantage of improved communications in the last few decades to seek new lives in other countries. Modern migratory patterns can be extremely complex and contain a mix of economic migrants, genuine refugees and others. Governments face a challenging task in separating the various groupings and treating genuine refugees in the appropriate manner through established and fair asylum procedures. UNHCR has the expertise to support and assist governments in identifying refugees.

STATELESSNESS

Nationality/citizenship is the legal bond between a person and a State as provided for under the State’s laws and encompasses political, economic, social and other rights as well as the responsibilities of both the State and of the individual. The 1954 Convention relating to the Status of Stateless Persons defines a stateless person as **“a person who is not considered as a national (or citizen) by any State under the operation of its law”**.

A stateless person may also be a refugee if he/she has been forced to leave his/her country of habitual residence because of persecution. Not all stateless persons are refugees, however, and **many stateless persons never leave their country of residence**. People become stateless for a number of reasons. Root causes include:

- The transfer of territory or sovereignty (eg. State dissolution) which alters the nationality status of citizens of the former State(s) and may render some persons stateless.
- Arbitrary deprivation of nationality or denationalisation of groups or individuals by the State
- Conflicts of law, for example, when a child is born in a State that grants nationality by descent only, but the laws of the State of which the parents are nationals only grant nationality on the basis of birth on their territory

- Marriage or the dissolution of marriage, if nationality is automatically affected as a result (women are most at risk of becoming stateless in these cases)
- Failure to register children at birth so they cannot prove where or to whom they were born.

The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness are the primary international instruments that regulate and improve the legal status of stateless persons (1954 Convention) and that deal with the means of avoiding statelessness (1961 Convention). They sketch out measures to prevent statelessness resulting from the transfer of territory, and establishes international principles for the granting of nationality to persons born in a country who would otherwise be stateless. The UN General Assembly has entrusted the office of the United Nations High Commissioner for Refugees (UNHCR) with assisting states in implementing the 1961 Convention and has requested UNHCR to assist all states in avoiding and reducing statelessness. ■









Part II



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

MISSION STATEMENT:

To Protect Refugees and Promote Solutions

UNHCR's primary purpose is to safeguard the rights and well being of refugees. UNHCR's efforts are mandated by the organisation's Statute, guided by the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol. UNHCR offers protection and assistance to refugees and others in an impartial manner, on the basis of their need and irrespective of their race, religion, nationality, political opinion or gender.

The United Nations High Commissioner for Refugees (UNHCR) was established by the UN General Assembly in 1950, to further provide protection and assistance to refugees. The League of Nations, the forerunner of the UN, had named Norwegian scientist and explorer Fridtjof Nansen to the post of High Commissioner as early as 1921. World War II provided the impetus for several new organisations, the United Nations Relief and

Rehabilitation Agency, the International Refugee Organisation and subsequently UNHCR.

UNHCR was given a limited three-year mandate to help resettle 1.2 million European refugees left homeless by the war. But as refugee crises mushroomed around the globe, its mandate was extended every five years and in 2003, the General Assembly decided to extend UNHCR's mandate without a time-limit. In the following decades, the number of uprooted people grew to around two million in the early 1970s to more than 27 million in 1995. In 2007, the number of people 'of concern' to UNHCR was approximately 33 million world-wide.

These included not only refugees but related groups such as asylum seekers, refugees returning home (returnees) and some, but not all, of the estimated 25 million people who are displaced within their own countries and officially identified as internally displaced persons (IDPs) and those who are Stateless, some 6 million under UNHCR's protection.

During its lifetime, UNHCR has helped more than 50 million people successfully restart their lives, earning two Nobel Peace Prizes in the process.

UNHCR's programmes, its protection and other policy guidelines, are approved by an Executive Committee of

72 member states which meets annually in Geneva.

A second 'working group' or Standing Committee meets several times a year. The High Commissioner reports on the results of the agency's work annually to the UN General Assembly and the Economic and Social Council.

As humanitarian crises have become more complex, UNHCR has expanded both the number and types of organisations it works with. United Nations sister agencies include the World Food Program (WFP), which supplies basic food to refugees, the UN Children's Fund (UNICEF), the World Health Organisation (WHO), the UN Development Program (UNDP), the Office for the Co-ordination of Humanitarian Affairs (OCHA) and the UN High Commissioner for Human Rights.

Other organisations include the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (IFRC), the International Organisation for Migration (IOM) and more than 500 non-governmental organisations both national and international. More unorthodox, and at times controversial partners, have included UN peacekeepers in the former Yugoslavia, and East Timor, various regional military forces in Africa and Kosovo and financial institutions such as the World Bank with which UNHCR has signed a Framework of Co-operation.

UNHCR at a Glance

High Commissioner:	Antonio Guterres
Number of UNHCR offices world-wide, including Headquarters (Geneva), field offices, and sub offices:	268 in 117 countries
Number of persons employed by UNHCR, including short-term staff:	6,350
Staff members in field offices/ sub offices:	Approximately, 87% of total
Number of NGOs UNHCR works with as partners, world-wide:	600+
States party to the 1951 Convention and/or to the 1967 Protocol:	147
Number of people of concern to UNHCR:	32.9 million
9.9 million refugees	30%
12.8 million internally displaced	39%
5.8 million stateless people	17%
2.6 million returned refugees and IDPs	8%
740,000 asylum seekers	2%
1,000,000 others of concern to UNHCR	

Figures in this box are from 2007 statistics.

UNHCR is funded almost entirely by voluntary contributions, principally from governments but also from inter-governmental organisations, corporations and individuals. It receives a limited subsidy of under two percent of its budget from the United Nations regular budget for administrative costs and accepts 'in kind' contributions including tents, medicines, trucks and air transportation.

As the number of persons of concern to UNHCR jumped to a high of 27 million in 1995, its budget rose accordingly, from \$564 million in 1990 to more than \$1 billion for most of the 1990s and has remained at similar levels since.

UNHCR at Work

As a humanitarian, non-political organisation, UNHCR has two basic and closely related aims – to protect refugees and to seek ways to help them restart their lives in a normal environment.

International protection is the cornerstone of UNHCR's work. In practice that means ensuring respect for a refugee's basic human rights and ensuring that no person will be returned involuntarily to a country where he or she has reason to fear persecution.

The word "protection" has a very specific meaning for UNHCR. It includes material and other assistance to

refugees, so that basic needs are met. It includes ensuring that refugees are able to avail their rights. It includes the three durable (long-term) solutions – voluntary repatriation, local integration and resettlement (*discussed in detail later*). Guided by the Universal Declaration of Human Rights (1948), the 1951 Convention and its Protocol, and bolstered by internal initiatives such as the Agenda for Protection, UNHCR carries out its mandate of protection in a manner that reflects changing global reality.

The following set of questions is frequently asked on protection. They help further clarify the substance of UNHCR protection, including the groups of people who benefit from it.

How are refugees protected?

Governments normally guarantee the basic human rights and physical security of their citizens. But when civilians become refugees this safety net disappears. UNHCR's main role in pursuing international protection is to ensure that states are aware of, and act on, their obligations to protect refugees and persons seeking asylum. However, it is not a supranational organisation and cannot be considered as a substitute for government responsibility.

Countries should not forcibly return refugees to a terri-

tory where they face danger or discriminate between groups of refugees.

What rights does a refugee have?

A refugee has the right to safe asylum. However, international protection comprises more than physical safety. Refugees should receive at least the same rights and basic help as any other foreigner who is a legal resident, including freedom of thought, of movement and freedom from torture and degrading treatment. Economic and social rights are equally applicable. Refugees should have access to medical care, schooling and the labour market.

In certain circumstances when adequate government resources are not immediately available, including the sudden arrival of large numbers of uprooted persons, UNHCR and other international organisations provide assistance such as financial grants, food, tools and shelter, schools and clinics. With projects such as income-generating activities and skills training programs, UNHCR makes every effort to ensure that refugees become self-sufficient as quickly as possible.

What are the obligations of a refugee?

Refugees are required to respect the laws and regulations of their country of asylum, and to respect international refugee principles.

Who decides who is a refugee?

Governments establish status determination procedures to decide a person's legal standing and rights in accordance to their own legal systems based on international criteria. UNHCR may offer advice as part of its mandate to promote refugee law, protect refugees and supervise the implementation of the 1951 Refugee Convention. The agency advocates that governments adopt a rapid, flexible and liberal process, recognising how difficult it often is to document persecution. UNHCR's Executive Committee sets non-binding guidelines and the agency's "Handbook on Procedures and Criteria for Determining Refugee Status" is an authoritative interpretation of the 1951 Convention. In countries which are not party to international refugee instruments but who request UNHCR's assistance, the agency may determine a person's refugee status under its mandate and offer its protection and assistance.

Are persons fleeing war or war-related conditions and ethnic violence refugees?

The 1951 Geneva Convention, the main international instrument of refugee law, does not specifically address the issue of civilians fleeing conflict, though in recent years major refugee movements have resulted from civil wars, ethnic, tribal and religious violence.

However, UNHCR considers that persons fleeing such

conditions, and whose state is unwilling or unable to protect them, should be considered refugees, provided that other conditions under the refugee criteria are fulfilled. Regional instruments such as Africa's OAU Convention and the Cartagena Declaration in Latin America support this view.

Some countries argue that civilians fleeing generalised war or who fear persecution by non-governmental groups such as militias and rebels, should not be given refugee status under the 1951 Convention/1967 Protocol. It is UNHCR's view that the origin of the persecution should not be decisive in determining refugee status, but rather whether a person deserves international protection because it is not available in the country of origin.

Who helps the internally displaced?

Internally displaced persons (IDPs) flee their homes for the same reasons as refugees, but remain within their own country and are thus subject to the laws of that state. Though it does not have a specific mandate for IDPs, UNHCR assists several million in various crises, but not all displaced persons world-wide. These operations are initiated at the request of the UN Secretary-General or the General Assembly, with the consent of the country involved and have included recent crises in the Middle East, the Balkans, the Caucasus, Afghanistan,

Sri Lanka, Africa and Latin America. More recently, UNHCR has become a major player in the UN's new 'Cluster Approach' designed to improve the delivery of protection and assistance for internally displaced people, who have never had a single agency wholly dedicated to their well being. Under the Cluster Approach, different UN agencies take the lead for various sectors. UNHCR is the lead agency for conflict-induced IDPs for Emergency Shelter, Protection and Camp Management. UNHCR has been involved with IDPs for at least two decades, but on a much more adhoc basis.

Must every refugee undergo individual status determination?

People who apply for refugee status normally need to establish individually that their fear of persecution is well-founded. However, during a mass exodus it may not be possible to carry out individual screening. In such circumstances, particularly when civilians are fleeing for similar reasons, it may be appropriate to declare 'group' determination of refugee status, whereby each civilian is considered as a refugee, *prima facie* – in other words, in the absence of evidence to the contrary.

May governments deport persons who are found not to be refugees?

Persons who have been determined, under an equitable and fair procedure, not to be in need of international

protection are in a situation similar to that of illegal aliens, and may be deported. However, UNHCR does urge that protection be granted to people who come from countries devastated by armed conflicts or generalised violence. The agency also advocates that rejected asylum seekers be granted the right to an appeal review before being deported.

Can a draft evader be a refugee?

Every country has the right to ask its citizens to bear arms in periods of national emergency. However, citizens should have an equal right to conscientious objection. In cases where the option of conscientious objection is not observed, or where a conflict violates international norms, draft evaders who fear persecution on political or other grounds may be eligible for refugee status.

Can a criminal be a refugee?

A criminal who has received a fair trial for a common law offence and who flees his country to escape jail is normally not a refugee. However, a person accused of these or other non-political crimes, whether innocent or guilty, and who may also be persecuted for political or other reasons, is not necessarily excluded from refugee status. Furthermore, people convicted of the 'crime' of political activism may well be refugees.

Can a war criminal be a refugee?

Persons who have participated in war crimes and violations of humanitarian and human rights law – including the crime of terrorism – are specifically excluded from the protection accorded to refugees.

In practice, especially during a mass exodus, it is sometimes difficult to separate persons suspected of serious human rights violations from bona fide refugees especially for a humanitarian organisation such as UNHCR, which is neither a police force nor a judicial body. UNHCR cooperates with states and UN Peace Keepers to ensure separation of armed elements from refugee camps.

The most viable solution is to provide support initiatives such as the international tribunals for Rwanda and the former Yugoslavia, to bring war criminals to justice. UNHCR is obligated to share with these and other relevant UN organisations, pertinent facts on such issues while sensitively handling information which refugees have confidentially divulged to field staff.

Can a soldier be a refugee?

No, because a soldier by definition belongs to the structured armed forces of a country and is someone who is fighting for his/her country. However, if a soldier is no longer affiliated or active with the army, then he or she is eligible to apply for asylum/refugee status.

Can women facing persecution because they refuse to comply with social cultural norms and constraints be refugees?

Women, like men, may be persecuted due to race or for political, ethnic or religious reasons. In addition, someone fleeing discrimination or severe persecution for her failure to conform to harmful strict social codes has grounds to be considered for refugee status. Such persecution may emanate from a government authority or, in the absence of adequate government protection, from non-state actors. Sexual violence, such as rape, may constitute persecution. Such discrimination will have consequences that are significantly prejudicial.

In 1984, the European Parliament determined that women facing cruel or inhumane treatment because they seemed to transgress social mores should be considered a particular social group for the purposes of determining refugee status. The United States and Canada have exhaustive guidelines relating to gender-based persecution, and there has been similar progress in some other countries.

What is temporary protection?

Nations at times offer 'temporary protection' when they face a sudden mass influx of people, as happened during the conflicts in the former Yugoslavia in the early 1990s and later in Kosovo, when their regular asylum systems would be overwhelmed. In such circumstances

people can be speedily admitted to safe countries, but without any guarantee of permanent asylum.

Thus 'temporary protection' can work to the advantage of both governments and asylum seekers in specific circumstances. But it only complements, and does not substitute for the wider protection measures, including refugee asylum, offered by the Convention.

Temporary protection should not be prolonged, and after a reasonable period of time UNHCR advocates that people benefiting from this should be given the right to claim full refugee status. Those rejected should, nonetheless, be allowed to remain in a country of asylum until it is safe to return.

How can unaccompanied children find their families?

An unaccompanied minor is one "who is separated from both parents and for whose care no person can be found who by law or custom has primary responsibility." The number of unaccompanied child refugees varies widely. It often comprises 2 to 5 percent of a refugee population and in Europe a recent UNHCR study estimated that 4 percent of asylum seekers were unaccompanied children.

UNHCR works with other agencies such as the Red Cross, UNICEF and Save the Children, to ensure that unaccompanied children are identified and registered,

and their families traced. In the Rwandan crisis in the mid 1990s, an estimated 67,000 children were reunited with their families.

Are there asylum guidelines on stowaways or people rescued at sea?

Shipmasters have an obligation under international law to rescue any persons in distress at sea. In some cases, such as the exodus of Vietnamese boat people, such persons were asylum seekers. Clandestine stowaways may also be asylum seekers.

Persons rescued at sea should be disembarked at the next port of call, where they should be admitted, at least on a temporary basis, pending resettlement. Some flag states of rescuing ships have provided guarantees of resettlement for rescued persons.

There is no binding international convention relating to stowaway asylum seekers and their reception varies widely. UNHCR advocates that, wherever possible, stowaways should be allowed to disembark at the first port of call, where their refugee status may be determined by the local authorities. If a port state does not allow a stowaway to disembark, and the ship's next port of call is in a state where the stowaway's life is threatened, then the action is tantamount to forcible return (*refoulement*).

In such cases, UNHCR officials try to arrange an on board interview and if the asylum seeker is found to be a refugee, they assist in finding a permanent solution, usually third country resettlement.

THE AGENDA FOR PROTECTION AND CONVENTION PLUS

In the year 2000, UNHCR embarked on a series of global consultations to revitalise the international protection regime. There were three tracks to these consultations. The first track worked towards the Ministerial Meeting and the Declaration of States which reaffirmed their commitment to the 1951 Convention. The second track focussed on analysis of substantive issues the 1951 Convention. The third track dealt with issues that did not fall within the ambit of the Convention, but were related to refugees.

This led to the [Agenda for Protection \(2002\)](#) which is an ambitious, though practical programme of action to improve the protection of refugees and asylum-seekers around the world. It is intended to serve as a guide for concrete action, not only by UNHCR, but also by governments, NGOs and other partners. Although not a legally binding document, the Agenda has considerable political weight, as it reflects a broad consensus on what specific actions can and should be undertaken to achieve agreed goals in refugee protection. The Agenda

focuses on those issues and activities that would benefit from multilateral commitment and co-operation.

The Agenda consists of two sections: the Declaration of States Parties and a Programme of Action. The Programme of Action identifies specific objectives and activities grouped according to six inter-related goals: Strengthening implementation of the 1951 Convention and 1967 Protocol; Protecting refugees within broader migration movements; Sharing of burdens and responsibilities more equitably and building capacities to receive and protect refugees; Addressing security-related concerns more effectively; Redoubling the search for durable solutions; and Meeting the protection needs of refugee women and refugee children.

As a complement to the Agenda for Protection, [Convention Plus](#) was initiated, as an international effort co-ordinated by UNHCR. Its aim was to improve refugee protection world-wide and to facilitate the resolution of refugee problems through multilateral special agreements. This can be achieved through a process of discussion and negotiations with States and other partners of UNHCR to mobilise support and bring about firmer commitments.

The 1951 Convention and its 1967 Protocol define the responsibilities of states toward refugees. These instru-

ments remain the cornerstone of the international refugee protection regime. Despite their continued relevance, however, the Convention and the Protocol cannot address all the pressing issues pertaining to refugee protection in today's changing world. These include how the responsibility for admitting and protecting refugees can best be shared and how durable solutions for refugees should be pursued. For this reason the Convention Plus process was launched in 2003.

Convention Plus focuses on generic multilateral agreements to tackle three priority challenges:

- The strategic use of **resettlement** as a tool of protection, a durable solution and a tangible form of burden-sharing;
- More effective **targeting of development assistance** to support durable solutions for refugees, whether in countries of asylum or upon return home; and
- Clarification of the responsibilities of States in the event of **secondary movements** of refugees and asylum-seekers, that is, when refugees and asylum-seekers move from an initial country of refuge to another country.

These generic agreements will set out shared understandings and commitments, which can be relied upon and incorporated into situation-specific multilateral agreements, designed to resolve a particular refugee sit-

uation. The Convention Plus effort will also promote and support the development of these agreements.

DURABLE SOLUTIONS

The second part of UNHCR's mission statement focuses on **promoting durable or long-term solutions for refugees**. The three durable solutions that UNHCR facilitates are voluntary repatriation, local integration and resettlement.

Voluntary Repatriation

Voluntary repatriation is normally a refugee's preferred long-term solution. Most refugees prefer to and do return home as soon as circumstances permit, generally when a conflict has ended, a degree of stability has been restored and basic infrastructure is being rebuilt. In such conditions, UNHCR encourages voluntary return by providing transportation, material incentives and practical help such as seeds, farming equipment and building materials. When quick impact projects (QIPs) are approved, they are designed not only to help returning refugees, but also members of local communities which, in developing countries, are often as poor and deprived as the returnees themselves.

The decision to return home (repatriate) is entirely the refugee's. UNHCR shares information about the condi-

tions in the country of origin - i.e., the place where the refugee is returning to, so that the decision to return, is an informed one. In any repatriation operation, UNHCR has the following role:

- Verify the voluntary character of refugee repatriation. (That is, to make sure that the refugee is not being forced or threatened to return, that the decision is not made under duress)
- Promote the creation of conditions that are conducive to voluntary return in safety and with dignity
- Promote voluntary repatriation once conditions are conducive to return
- Facilitate the voluntary return of refugees when it is taking place spontaneously, seeking to ensure protection monitoring throughout
- Organise, in co-operation with NGOs and other agencies, the transportation and reception of returnees, provided that such arrangements are necessary to protect their interests and well being
- Monitor the status of returnees in their country of origin and intervene on their behalf if necessary.

At the end of 2006, the largest repatriation movement was to Afghanistan where 388,000 Afghan refugees chose to return home from neighbouring countries. The next largest repatriation movement was to Liberia where 108,000 refugees returned home.

Local Integration

For refugees who are unable to return to their home country, or those who have stayed for years in the host country (country of asylum) local integration is an appropriate durable solution. In some situations, it is a permanent solution, that is when refugees become naturalised citizens of the host country.

Local integration can be broken into three steps:

First, it is a **legal process** where refugees are granted a progressively wider range of rights and entitlements by the host state similar to those enjoyed by its citizens. Second, local integration is an **economic process** where refugees become progressively less reliant on state aid/humanitarian aid, becoming self reliant and being able to contribute to the economy of the host country. In many countries, UNHCR helps refugees to become self reliant by providing vocational skills training, job placements and so on. Third, local integration is a **social and cultural process** that enables refugees to live amongst the local host population without discrimination where they can then contribute actively to the social life of the host country.

Resettlement

Some refugees cannot or are unwilling to return home, usually because they would face continued persecution. Many are also unable to integrate locally for a variety of

reasons. In such circumstances, UNHCR helps to permanently resettle refugees in a third country. On resettlement, the refugee normally becomes a citizen of that country after having fulfilled the criteria for naturalisation. Resettlement as a permanent solution means refugee status ceases.

Resettlement is also an important protection tool, addressing the protection and special needs of a refugee that cannot be met adequately in the country of asylum. A categorisation of such needs include women-at-risk, family reunification needs, unaccompanied or separated children, and refugees with medical needs.

Under normal circumstances refugees cannot request for resettlement to a particular country. But in the interests of family reunification, refugees may request resettlement in countries where their immediate family members are living. Less than 20 nations world-wide participate in UNHCR resettlement programs and accept quotas of refugees on an annual basis. UNHCR submits cases (refugees) for resettlement based on its own criteria – protection needs, or most appropriate durable solution – but the final decision of whether or not to accept a refugee for resettlement, is made by the resettlement country, not UNHCR. Countries that have traditionally participated in the resettlement program include Australia, Canada, Denmark, Finland, New

Zealand, Norway, Sweden, the Netherlands and the USA. Newer resettlement countries include the UK, Chile, Benin, Burkina Faso, Brazil, Ireland and Iceland. Other countries may consider submissions from UNHCR on a case by case basis, normally because of family reunion or strong cultural links.

People facing particular problems or continued threats to their safety in their first asylum countries are foremost among those who can benefit from resettlement. In some cases it is an essential life-saving option - or the only way to save a particular refugee from having to resort to desperate measures (one unfortunately common example is the rape victim who has been rejected by her family and society, and has nowhere else to turn). Some very specific refugee populations are also on occasion beneficiaries of group resettlement programmes. In 2006, refugees from Myanmar were the largest group globally to benefit from resettlement with 5,700 being transported to a new life outside their first asylum countries, followed by Somalis (5,200), Sudanese (2,900), refugees from the Democratic Republic of the Congo (2,000), and Afghans(1,900). ■







Part III

UNHCR in India

Representative's Title: Chief of Mission

REPRESENTATIVE'S TITLE	:	Chief of Mission
OFFICES	:	New Delhi and Chennai
TOTAL STAFF	:	30
NUMBER OF REFUGEES UNDER UNHCR'S MANDATE	:	11,750 (Afghan - 9,200 Myanmar - 1,900 Others - 650)

(The Government of India protects and assists over 100,000 Tibetans and 75,000 Sri Lankan refugees. Another estimated 20,000 Sri Lankan refugees are out of camp refugees in Tamil Nadu).

UNHCR works in a rather unique situation in India. Without a formal status, UNHCR functions under the broad umbrella of the United Nations Development Programme (UNDP) and has done so, since 1981, protecting and assisting individual asylum seekers. India is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. India also has no refugee specific legislation. India, however, is a member of UNHCR's Executive Committee (EXCOM), which meets annually in Geneva, to review the agency's work and policies.

India remains a country that is hospitable to refugees and has been traditionally so. Rights of refugees are by and large respected through Articles 14 and 21 of the Constitution of India, which accord such rights to anyone resident on the soil of India. Refugees as foreigners have freedom of religion, have freedom of movement (in urban settings and are allowed to go out of the camps in Tamil Nadu for work), and access to the courts. Although without work permits, work in the informal sector is tolerated. But without a national refugee legislation, refugees are not all treated in a uniform manner. Some groups/nationalities are less privileged than others. There is also a danger that decisions impacting refugees are made for administrative/strategic reasons rather than those grounded in refugee law. In spite of this, India has traditionally provided asylum and protection for many refugees historically.

UNHCR's work in India is concentrated on three areas: **Protection**, which includes the three durable solutions, **Programme** and **Promotions/External Relations**. In addition to the office in New Delhi, the Government of India agreed that UNHCR would open an office in Chennai in 1992 to verify the voluntariness of return of Sri Lankan refugees.

Refugees under UNHCR's mandate in India (approximately 11,750 in number) include Afghans (78 % of

beneficiaries), Myanmar refugees (16% of beneficiaries) and other groups of smaller nationalities such as Somalis, Palestinians, Sudanese, Iraqis, and Iranians. Ninety percent of Afghan refugees in India are Hindu and Sikh. The number of Myanmar refugees (close to 1900) reflects only those who are in New Delhi. Media and NGO sources report that there are many Myanmar nationals in the border states of Mizoram and Manipur, but since there is no national/international verification mechanism in that area, it is difficult to accurately gauge as to how many may be genuine refugees.

Internally Displaced People (IDPs) do not come under UNHCR's operation in India.

The larger refugee groups present in India – the Tibetans and the Sri Lankans – are not under UNHCR operations in India. Both groups are considered as refugees by the Government of India as a matter of policy. The Tibetans who first arrived in the 1950's with the flight of the spiritual leader the Dalai Lama, are well cared for. The Government of India provided the Tibetans with land for settlements, and today, the 100,000+ strong community is self sufficient, adding a colourful mosaic to India's diversity. Sri Lankan refugees mostly live in over 100 refugee camps primarily in Tamil Nadu. The Government provides shelter

and rations and allows refugees access to the informal work sector outside the camps in a controlled manner.

PROTECTION

UNHCR provides legal assistance and guidance and decisions on matters relating to refugee status, stay in India, and rights and obligations of refugees in India. UNHCR facilitates voluntary repatriation for those who wish to return home and helps resettle those who neither have the option of return or any long-term prospects of integrating in India.

Exceptionally, in the absence of a national refugee eligibility procedure, UNHCR conducts refugee status determination interviews for individual asylum seekers who approach its office in New Delhi. Refugees are treated as foreigners on extended stay (there is no separate category) and come under the Foreigners Regional Registration Office (FRRO). The process of UNHCR refugee status determination is as follows:

All asylum seekers are first Registered with UNHCR

- A date for an interview with a legal officer in UNHCR is given.
- Those with special needs are 'fast-tracked' (i.e., given a date quickly) for the interview.
- A detailed refugee status determination interview is

held. As far as possible, women are interviewed by female legal officers.

- Interpreters are provided for all refugees who require them. For women, a female interpreter is made available.
- Individual facts are then assessed with information available on the refugee's country of origin.
- A decision is then taken on recognition as a refugee. If recognised a Refugee Certificate is issued by UNHCR.
- If rejected, he/she has the right to appeal once; a different officer will re-interview the person.

Every recognised refugee is given a laminated UNHCR certificate that becomes a proof of identity for the refugee. The certificate is renewed once in 18 months.

UNHCR intervenes on behalf of refugees who face protection problems, caused for example, due to lack of documentation or social/cultural tensions. UNHCR also provides free legal counsel/representation for refugees, should they require this through its legal implementing partner, **PILSARC (Public Interest Legal Support and Research Centre)**. The Socio-Legal Implementing Centre (SLIC), also an implementing partner, provides annual assessment and support to refugees. The **Gandhi National Memorial Society** in Pune assists UNHCR recognised refugees based in Maharashtra.

The UNHCR India office won the Global UNHCR Gender Team Award for 2006, in recognition of its efforts in mainstreaming age, gender and diversity concerns into its programs in India. At every stage, gender concerns are addressed: for example, vulnerable women and girl asylum seekers are “fast-tracked” for refugee status determination interviews; income generating activities for women refugees are on-going; physical security for refugee women and girls is prioritised; and refugee representatives of all nationalities must include women to ensure their concerns are also voiced.

A pioneering effort was the creation of the Women’s Protection Clinic, in west Delhi which opened its doors in December 2005. The Clinic offers a safe and confidential space for refugee women and girls to detail their problems and concerns, which are then looked into holistically by UNHCR. Through the assessments made at the Clinic, immediate short and long term solutions are identified and counselling and consultations provided. All Myanmar refugee women and girls are profiled at the Clinic, which is funded mostly by donor countries. The Clinic has been recognised as an example of a “best practice” in UNHCR.

On the basis of the UNHCR refugee certificate, the Government of India issues Residential Permits to Afghan and Myanmar refugees, giving them a lawful stay in India.

However, UNHCR believes that there is a genuine need for a national refugee law, in spite of India’s good record in hosting refugees. The argument in favour of a national refugee law is based on the following points:

- Refugees are individuals or groups of persons fleeing persecution based on race, religion, nationality, political opinion, etc. and therefore refugees need to be treated differently from other foreigners.
- Refugees are unable to avail the protection of their country of origin hence need international protection i.e., protection of the host State that they have entered or may be seeking to enter.
- Given the absence of a refugee protection regime in India specific to individual refugees, refugees do not always receive the protection they need and instead fall within the purview of the laws governing foreigners in general.
- Involuntary return of refugees/*refoulement*/deportations may result in human rights violations to the returnee.
- India is signatory to various human rights instruments and has incorporated human rights protection in its Constitution and other legislations. Indian courts have repeatedly interpreted human rights protection principles to encompass refugees including Articles 14 and 21 of the Indian Constitution.
- A screening mechanism helps to ensure only those deserving international protection are granted

refugee status, and that those who are not refugees are screened out.

Benefits of Enacting National Refugee Protection Legislation

Dissolution of Adhocism: The absence of a legislation on refugee protection has led to differential administrative measures between refugee groups. These measures vary for each refugee group with regard to their determination and treatment. There are no policy guidelines for individual refugees who have no alternative but to approach UNHCR.

Existing policies are influenced by political interests of the receiving State. A national legislation for refugee protection would provide standardised and acknowledged principles for refugee determination and treatment.

Establishment of Mechanisms for Determination and Treatment: Enactment of Refugee Protection Legislation will enable the creation of a framework for determination of refugee status based on agreed standards of refugee status determination, protection and treatment. The entry, stay and exit of individual refugees in India is currently under the general laws relating to Foreigners. These laws are: The Foreigners Act 1946; Registration of Foreigners Act, 1939; Passport (Entry into India) Act

1920; Passport Act 1967; Extradition Act 1962. These provisions could be harmonised under international standards and under one legislation for refugee protection to enable meaningful implementation guided by humanitarian principles.

Judicious, Fair and Accountable Procedures: Given the prevalence of Rule of Law in the Indian legal system and as enunciated in the Indian Constitution, it is appropriate that refugee determination and treatment receive the same attention that other human rights protection issues receive. This will be in keeping with India's active participation in the EXCOM and India's leadership role in the region and among nations.

Enhanced Administrative Control by the State: In bridging the gap between adhoc refugee policies and the establishment of a standardised mechanism for refugee status determination and treatment, administrative gains to the State will be immense. These will be so in terms of establishment of a database providing detailed information about asylum seekers, including their backgrounds in country of origin, precise cause of departure/flight from country of origin.

Also on record would be current information including present whereabouts, family profile and activities of the asylum seeker. It would enable the Government to dis-

tinguish between bonafide asylum seekers and economic migrants, terrorists, criminal elements, or others.

Asylum seekers who may not be deemed to be deserving of refugee status in accordance with the accepted principles and standards may be dealt with in accordance with immigration procedures. Those who have been conferred with refugee status shall be treated in accordance with accepted standards and may be required to keep regular contact with concerned administrative authorities for location of residence, work, movement to other parts of India, and any other issues that may arise.

Concerted search for Durable Solutions: Refugee status is meant to be a temporary phase in a person's life. The search for durable solutions for particular groups of refugees and individual refugees shall receive a planned and structured approach in the presence of a domestic legislation.

Co-ordination among Concerned Agencies: Enacting a national legislation, which deals with the roles of governmental, judicial, UN and other agencies in the determination, protection and treatment of refugees shall clarify the roles to be played by different agencies and as well provide for appropriate co-ordination among these agencies.

Reduce Friction Among States: Enactment of a legislation

for refugee protection will help to avoid friction between the host country and country of origin. The act of granting asylum being governed by law rather than an adhoc policy will then be understood by other States as a peaceful, humanitarian and legal act under a judicial system rather than as a hostile political gesture.

DURABLE SOLUTIONS

Voluntary Repatriation

The most preferred solution globally, but in India sparingly used among UNHCR mandate refugees. Post September 11, 2001 and with the establishment of the Karzai government in Afghanistan, a small number of **Afghan refugees** have repatriated from India. Since April 2002 till the end of December 2007, some 600 Afghan refugees chose to return home with UNHCR assistance. UNHCR helps with local exit formalities and pays for the air tickets from New Delhi to Kabul.

Among **Sri Lankan refugees**, voluntary repatriation was the preferred option and **UNHCR is involved in establishing the voluntariness of return**. The UNHCR office in Chennai interviews refugees to ensure that the decision to return is not made under any kind of coercion. UNHCR also shares information – political, economic, social – about the place that the refugee is returning to, so that his or her decision to go back, is an informed

one. From 2002 to 2006, 5000+ Sri Lankan refugees returned home with UNHCR assistance. It is estimated that there are many more who returned “spontaneously”, i.e., without UNHCR assistance. As with the Afghans, UNHCR helps with local exit formalities and pays for the air tickets from Chennai/Thiruvanthapuram/Trichy to Colombo. However, with the breakdown of the cease fire agreement between the LTTE and the Government of Sri Lanka, some 20,000+ people fled from Sri Lanka to India as refugees in 2006-2007. Only 25 refugees returned with UNHCR assistance during this period.

Local Integration

Often thought of as an interim solution in the country of asylum while the refugee is waiting either to return home or be resettled to a third country, in India local integration could very well turn out to be a permanent solution for a bulk of refugees under UNHCR’s mandate, as many are eligible and have applied for naturalised citizenship. Ninety percent of the Afghan refugees in India are Hindus and Sikhs – just over 4000 of this population have so far, shown an interest in naturalisation. Some 250 have become naturalised Indian citizens.

UNHCR works with its NGO partner, SLIC to facilitate the process of naturalisation, which is fairly lengthy. The applicant is required to fill a form to which Affidavits certifying the applicant’s stay in India, from two neigh-

bours have to be attached along with two copies of advertisements in a national newspaper. The completed form is submitted to the local Sub Divisional Magistrate (SDM) who registers the application and forwards it to the local Foreigners Registration Office (FRO). The FRO undertakes a security screening of the case and with its report sends it back to the SDM, who then screen it and send it to the Central Ministry of Home Affairs (MHA). The MHA also undertakes its own intelligence review of the case prior to granting citizenship.

UNHCR New Delhi opened two Naturalisation Clinics in 2007. The Clinics will help those Afghan Hindu and Sikh refugees who are eligible and interested in applying for naturalised Indian citizenship to do so in a systematic manner. UNHCR will pay all fees and expenses required for naturalisation procedures through its implementing partner, SLIC. There are an estimated 4000 Hindu and Sikh refugees from Afghanistan who have expressed an interest in naturalisation to date. The Government of India has remained supportive of Afghans wishing to naturalise, and this has helped UNHCR to advocate for solutions for all refugees, including those who are in need of resettlement. Both Clinics will close in December 2008, by which time, all applications for those interested in naturalised citizenship would have been submitted for UNHCR’s existing caseload. The SLIC office in New Delhi will continue to assist naturali-

sation applications beyond December 2008.

Resettlement

A limited option but in India, the only durable solution option for UNHCR mandate refugees who cannot repatriate or locally integrate and for those with protection problems. Refugees not given residential permits are vulnerable to detention by law enforcement agencies and at risk of *refoulement*. This group includes Somalis, Palestinians, Sudanese, Iraqis and others. Afghan refugees who have no prospects of local integration and for whom repatriation is not an option, and who have spent decades in exile, may also be proposed for resettlement where appropriate. In the calendar year 2006-07 more than a 1000 refugees were submitted for resettlement to Australia, New Zealand, USA, Canada, Norway, etc.

PROGRAMME SUPPORT

As part of its protection mandate, UNHCR provides health and education/social support to recognised refugees through its implementing partners: the New Delhi YMCA and Don Bosco Ashalayam, in Delhi to ensure that education, health and skills training needs of refugees under UNHCR's protection, are met. Programmes run by NDYMCA and DBA are supported by UNHCR.

Education: New Delhi YMCA.

UNHCR recognises every refugee child's right to primary education. A subsidy for uniforms/books and concerted follow up to enhance levels of school enrolment is provided through the NDYMCA. Refugee children are welcome in government schools. NDYMCA help refugees with school admissions and monitor the performance of children in schools, to help prevent children dropping out. They also run tuition/remedial classes for children who need help with their school work. Language classes for adults and children are also part of the UNHCR-NDYMCA program for refugees.

The German Government provides limited slots for higher/technical education under the DAFI Scholarship Programme (The Albert Einstein German Academic Refugee Initiative). Some 30 refugee are currently DAFI scholars in India.

Access to Government's Health Services: NDYMCA

Access to primary health care is a basic human right. Refugees can access governmental facilities closest to their area of residence – dispensaries (for minor ailments, pregnancies, immunisation, routine tests etc.) and hospitals. Most of the services, including medicines are free or at nominal charges. Refugees can also avail the free HIV/AIDS related facilities of the hospitals.

These include services of the Voluntary Counselling and Testing Centres (VCTC) and Anti Retroviral Therapy. NDYMCA helps refugees to use government hospital and reimburses costs incurred for primary health care at these hospitals. NDYMA also arranges for interpreters at key points. This is important to enable correct diagnosis, treatment, filling of forms etc. for refugees who cannot speak local languages and are unable to get family/community support for interpretation.

The All India Institute of Medical Sciences (AIIMS) has a Refugee Counter, run by NDYMCA to help refugees find their way in one of India's largest and best known hospitals.

Financial Assistance: NDYMCA

All newly recognised refugees are given temporary financial support for six months. Funds are reserved for those requiring subsistence support on grounds of medical condition/vulnerability/protection concerns. This is granted for a specified period of time on the basis of assessments carried out by UNHCR and its implementing partners and is periodically reviewed for continuation. This extends beyond the first six months at a lower rate of assistance. The financial assistance schemes are subject to change based on changing situations, competing demands and available fund flow.

Skills Development: Don Bosco Ashalayam (DBA)

UNHCR's skills development programme essentially seeks to empower individuals by strengthening their comparative advantages through life skills training, vocational skills training, literacy and language training and support services.

Earning a Living: The majority of Indians and refugees work in the informal sector. DBA helps adult refugees find work in the informal sector, as refugees do not have a formal right to work in India. They also provide need based initial support for those who have difficulties in surviving in their new job environments. Some options for home based income activities for groups of women who are not able to work outside the home due to cultural norms, are also available.

Vocational Training: Limited sponsorships are provided. Refugees are selected in part on an assessment of their ability to optimally use the training for becoming self reliant.

Worth mentioning are efforts made by refugees themselves. The Khalsa Diwan Welfare Society, an organization formed by and run by Afghan Sikh refugees, operates Vocational Training Courses for Hindu/Sikh Afghans in Tilak Nagar, west Delhi. Subsidised slots in computer training for Hindu/Sikh Afghan refugees in Faridabad are

available through Zoom Educational & Cultural Society (run by refugees for the general public).

In addition, around 75 paid refugee volunteers (41% women) are working with UNHCR's implementing partners to help provide essential services to the refugee communities. They often comprise of those with limited marketable skills or with family responsibilities that prevent them from working in the informal sector. An additional 25 work as interpreters with implementing partners and the UNHCR office.

In general, constraints on complete self-reliance include language barriers, high local unemployment and limited market absorption capacity resulting from general urbanisation trends in India, and the limited urban skills of refugees as well as lack of a work permit. Every effort is made to address these problems and to encourage and support all refugees, including as part of a search for durable solutions.

Reaching Out

A conscious effort to keep a communication flow with refugees is made – all refugees have direct access to UNHCR through its refugee reception. A regular dialogue with refugee committees/representatives is also maintained for issues of common concern. UNHCR continues to strive for an equal representation of women in these

committees. Open house meetings and participatory individual group meetings are held regularly.

PROMOTIONS/EXTERNAL RELATIONS

Though the UNHCR office in New Delhi is modestly staffed, the organisation invests much time and effort in promotional activities, through sensitisation programmes, structured training sessions, seminars and informal interactions with a wide range of people. Reaching out to civil society – lawyers, academics, think-tanks, media – is crucial, and particularly so in a democracy where civil society can play a constructive role in advocating, generating debate and spreading awareness about refugee concerns.

Interactive sensitisation and training sessions on refugee rights as human rights, with security agencies, including the National Police Academy in Hyderabad are periodically held. Similar training sessions have also been held at police academies in West Bengal, Tamil Nadu and Punjab. The Delhi police too has been amenable to sensitisation efforts. Often, security agencies and the police are the foremost government representatives that refugees encounter when entering the country and it is important that these agencies are sensitised towards refugees.

UNHCR has facilitated capacity building of institutions

in India to provide expertise in refugee studies and law. Some of these include the establishment of Chair on Refugee Law at the National Law School of India University (NLSIU) in Bangalore and the establishment of a Centre for Refugee Studies in Jadavpur University, Kolkata. UNHCR also supports published research on refugee related issues. In collaboration, UNHCR, the International Committee of the Red Cross (ICRC) and the Indian Society of International Law (ISIL), teach a post graduate diploma course on Human Rights, International Humanitarian Law (IHL) and Refugee Law. The course attracts a large number of participants from the diplomatic corps, Government of India, NGOs and the academic community. The collaboration between the three institutions has also resulted in the compilation and annual publication of a Year Book on IHL and Refugee Law since 2000.

A Winter Course on Migration, partly funded and supported by UNHCR, Brookings Institute and the Government of Finland, taught by the Calcutta Research Group (CRG) was introduced in 2003 and is held annually in Kolkata. This serves as an effective forum within South Asia on migration and refugee issues. Also in Kolkata, an annual debate on refugee issues for high schools organised by the West Bengal Federation of United Nations Agencies (WBFUNA) for UNHCR, has become an event that the students and the

general public look forward to. For UNHCR, this is an excellent way to reach out.

UNHCR has worked with the National Human Rights Commission and key State Human Rights Commissions to enhance knowledge on refugee issues. Trainings for lawyers have been held jointly with SLIC who have also initiated a handbook for the legal practitioner on refugee protection issues. In 1999 a judicial symposium held jointly with the Indian Supreme Court Bar Association and the International Association of Refugee Law Judges (IARLJ) reached out to a core group of jurists whose deliberations reflected the need for a refugee protection regime in India.

Under the auspices of the Association of Indian Universities (AIU), UNHCR and ICRC have encouraged the introduction of IHL and Refugee Rights teaching in various streams of education in graduate and post graduate courses in the country. This has resulted in training of teachers programmes organised all across the country at periodic intervals by UNHCR in collaboration with host institutions.

Since 2005, UNHCR India has facilitated a Regional Workshop on Emergency and Disaster Management, partnered by the National Institute of Disaster Management, NIDM, under the Ministry of Home Affairs.

The office participates in workshops organised by NGOs working in disaster relief as resource persons, introducing refugee concerns to a whole different strata of professionals. UNHCR liaises with policy think tanks and tries to mainstream refugee issues with other issues that are of national concern, either by participating as resource persons, or by partly supporting such seminars.

On-going are a series of activities that highlight UNHCR's role in India: a monthly eNewsletter, focussing on the key events each month, an annual seminar on World Refugee Day (20 June), publications on UNHCR in India, this pocket guide, seminar proceedings, retrospectives of the eNewsletters, information brochures, etc that serve to raise awareness on refugee issues in a reader-friendly way.

Though UNHCR focuses the bulk of its promotional efforts on civil society – with the legal fraternity, with academics, scholars, policy makers, students and media – the agency also participates in military/UN Peace Keeping Training exercises, through the United Services Institute (USI), New Delhi. For UNHCR, this is an excellent opportunity to explain its mandate by participating as resource persons either in structured lectures for the different courses organised by the Centre for UN Peace Keeping (CUNKPK) at USI or by role-playing in elaborate simulated UN Peace Keeping exercises. One third of all

CUNKP courses comprise of international officers ranging from Australia to Mongolia, the United Kingdom to Sudan. Continued interaction with USI-CUNKP has also led to UNHCR being part of training capsules at the Academic Staff College in Wellington, Tamil Nadu and other courses organised by the Ministry of Defence, including an annual UNHCR lecture for senior defence officers at the National Defence College in New Delhi. Other activities include UNHCR participation at simulation exercises, joint exercises with the Indian Army and US Army Pacific Command, India and the UK, and so on. Beginning with the differences between refugees and IDPs, to what is international protection and how the military can help ensure that protection in a peace keeping context, such interaction has proved to be of much value for UNHCR and for the exercises conducted by USI for army officers and UN civil police.

Concluding, it would be fair to say that UNHCR's promotional activities are wide-ranging and attempt to reach out to a diverse population, with the intention of creating an awareness on refugees concerns, promoting refugee law and refugee protection that are guided by international standards and norms. ■





A POCKET GUIDE TO **REFUGEES**



The United Nations High Commissioner for Refugees
14 Jorbagh, New Delhi 110 003, India
Phone: 43530444 Fax: 43530460/61
Email: indne@unhcr.org Website: www.unhcr.org

