Basic principles of the protection of refugees and the UNHCR’s role

UNHCR Yerevan, Armenia
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UNHCR Global Figures

By end 2012, 45.2 million people were forcibly displaced worldwide:

- **15.4 million** people were refugees: 10.5 million under UNHCR’s mandate;
- **28.8 million** internally displaced persons (IDPs);
- Nearly **one million** (937,000) asylum-seekers.

The 2012 level was the highest since 1994, when an estimated 47 million people were forcibly displaced worldwide.

By mid-2013, the total population of concern to UNHCR stood at **38.7 million**
UNHCR

- UNHCR’s work is humanitarian and non-political in character.
- UNHCR has two core mandate functions:
  - provide international protection to refugees;
  - seek durable solutions to their problems (voluntary repatriation; local integration; resettlement).

Supervision of implementation of international instruments protecting refugees
UNHCR Role

*States are responsible for refugee on their territory*

**UNHCR**

- INTERNATIONAL PROTECTION OF REFUGEES
- Durable solution to refugee problems
- Assistance to the Government
- Receive relevant and updated statistical and other information

UNHCR staff should have **unimpeded access** to asylum-seekers and asylum applications
Refugees

• The evolution of a legal concept.

• Today UNHCR’s competence with regard to refugees extends to main two legal categories of persons:
  
  • Refugees in accordance to the criteria set out in the 1950 Statute and in the 1951 Convention Related to the Status of Refugees and its 1967 Protocol.

  • Refugees within the meaning of UNHCR’s broader international protection mandate.

• The term Mandate Refugee covers women, men, girls and boys who have been recognized as refugees by UNHCR.
Refugee Definition:

According to Article 1A(2) of the 1951 Refugee Convention, a refugee is a person who:

"...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 nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence [...], is unable or, owing to such fear, is unwilling to return to it."
Access to territory and asylum

Asylum Application

- clearly expressed desire to seek asylum or
- clear expression of unwillingness to be returned.

**ANY APPLICATION**, which has been submitted orally, in the written form, or by use of body language or other methods of communication and expresses desire to SEEK PROTECTION
Non-refoulement

Prohibition of expulsion or return (refoulement)

• Article 33 of the 1951 Convention

No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of 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

• **ABSOLUTE BAN** to expel a person to a country, where she/he will face torture or other inhuman and degrading treatment or punishment;

• Customary Law Principle – all countries shall respect;

• Expulsion is an *extremely serious measure*, which should be use in exceptional cases as a danger to the security of the country or having been convicted by a final judgment of a particularly serious crime, which constitutes a danger to the community of that country;
Non-refoulement

• Protection should be provided to ALL refugees without discrimination;

• An asylum-seeker should have access to the territory and asylum procedures, otherwise it is violation of non-refoulement principle

• TIMEFRAME: from asylum application submission to its final decision
Confidentiality

**The most IMPORTANT aspect**

- The requested State should refrain from revealing any information to a refugee’s or asylum-seeker’s country of origin about the status of the wanted person as a refugee or asylum-seeker.

- Disclosure may result in a breach of the refugee or asylum-seeker’s right to privacy, and may put the person at risk.
NON-PENALIZATION OF ASYLUM-SEEKERS

• Art. 31 para 1 of the 1951 Convention
  - presentation without delay
  - “coming directly” from country of persecution
  - transit through country where no protection could be found
  - provision reflects general principle of law that violation of minor obligation can be justified in order to protect higher values, such as the right to life and freedom
• In Georgia see also: Criminal Code, note to the Article 344
PROTECTION PERSONS WITH SPECIFIC NEEDS

• Protection must be extended to all refugees without discrimination

• Minimum standards of treatment by host country and obligations by refugees towards host country
PSYCHOLOGICAL AND EMOTIONAL NEEDS

Effect of traumatic experiences:
• Fears to talk to state authorities due to past experiences;
• Refuse to talk about past experiences due to feeling of helplessness;
• Fears of reprisal of trafficker/smuggler;
• Lack of awareness of the rights and duties;
• Incoherence due to fatigue or poor command of language;
• Serious memory gaps due to post-traumatic stress disorder.
Questions?