

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

UNHCR Yerevan, Armenia

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United Nations High Commissioner for Refugees

Haut Commissariat des Nations Unies pour les réfugiés

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**

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- 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

States are responsible for refugee on their territory

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- 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 used 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?



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