

Research Report

# MUNISH '12



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**Forum:** Human Rights Council

**Issue:** Protecting the rights of refugees

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**Position:** President HRC, MUNISH 2012

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## Introduction

Already 3500 years ago countries and empires granted asylum for people fleeing from their country because of persecution or other reason, in order to give them the possibility to live in safety. A few thousand years later, this practice is very wide spread and ever growing. There are approximately 34 million people on the world that had to flee from their country and crossed borders. These people are refugees and live all in different circumstances.

But what most refugees share is that they had to give up everything in order to survive. Even if they didn't have very much and lived in a shack, they still had something. And even that is gone. Many refugees live in refugee camps, places where refugees started to settle or got help by NGOs. These camps are in very bad condition and sometimes even worse than slums.

However, refugees are of course humans like everyone else and have the same rights. These rights have to be granted and protected to ensure that they won't die and have a normal life after their escape.

## Definition of Key Terms

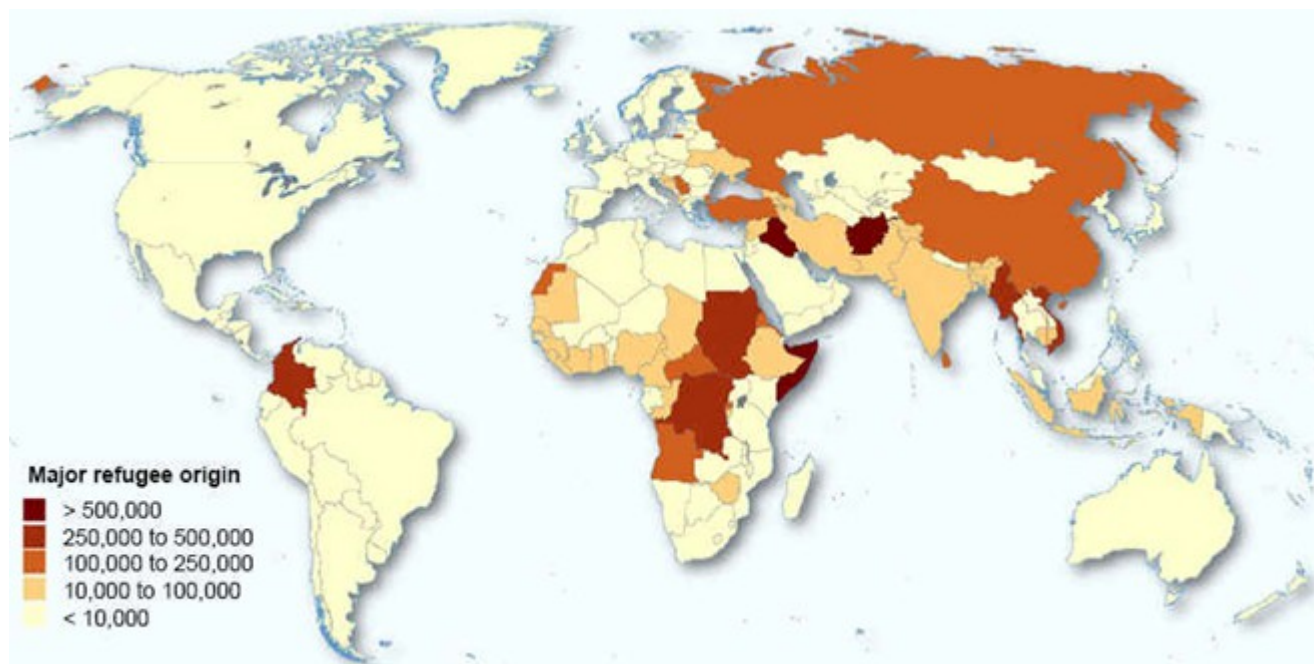
### Refugee

The Refugee Convention from 1951 defines a refugee as someone who, *“owing to a 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 to, or owing to such fear, is unwilling to avail himself of the protection of that country.”*<sup>1</sup> Migrants shouldn't accidentally be mistaken as refugees, as migrants leave their country for reasons like a better future, but not because they are persecuted. Only the five reasons stated above are accepted. People that have to flee for the same reason but do not cross the border are called 'internally displaced persons'.

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The UN High Commissioner for Refugees (UNHCR) created this map to indicate the main source countries of refugees.



## Right of asylum

Refugees, or in this case asylum seekers, may ask for protection by another sovereign country if they are a refugee. These cases are always case to case based meaning it can handle only individuals. This, if accepted, would grant protection by the nation and allow the refugee to live normally. No nation is obliged to allow the right of asylum and can decide on their own whether to accept a refugee or not.

However, it is still stated as Article 14 in the Universal Declaration of Human Rights that “everyone has the right to seek and enjoy in other countries asylum from persecution”<sup>2</sup>

## Repatriation and refoulement

These two words are very important terms and have a very close connection. Both mean for the refugee to return to the country they have fled from. The difference is that repatriation means that the refugee returns voluntarily and refoulement means that the refugees or asylum seekers are forced to return to the country. Refoulement can also be described as ‘forced repatriation’.

## Nonrefoulement

Nonrefoulement is the prohibition of refoulement. It is one of the most important principle in the international refugee law. It is written down in Article 33 of the 'Convention on the Status of Refugees'. It states:

No country "*shall expel or return ('refouler' in French) 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.*"<sup>3</sup>

## General Overview

The UNHCR revealed in 2011 that there were about 43.7 million refugees and internally displaced persons. This is divided into 15 million refugees, 27 million internally displaced people and about 850000 people waiting to get a refugee status. There are many refugees who live quite secure, regarding their prosecution, but most live in worse conditions than before and most of their rights are violated. To protect the refugees, we first have to look at their rights and their situation and then start to think about solutions.

## Refugees and their Rights

In the United Nations Convention Relating to the Status of Refugees (Refugee Convention) from 1951 the UN has set the rights of refugees in article 12-30. These articles entitle refugees to rights such as:

- "All refugees must be granted identity papers and travel documents that allow them to travel outside the country.
- Refugees must receive the same treatment as nationals of the receiving country.
- Refugees must receive the most favorable treatment provided to nationals of a foreign country.
- Refugees must receive the most favorable treatment possible, which must be at least as favorable to that accorded aliens generally in the same circumstances.
- Refugees must receive the same treatment as that accorded to aliens generally."<sup>4</sup>
- Refugees may not be forced to return to their country, also known as non-refoulement.

(This is only a summary and sub-descriptions are left out. For a bit more detailed list click on the footnote)

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These rights are only entitled to people that officially have a refugee status according to the UN Refugee Convention. Another important right is the right to seek asylum. This right however is one of the basic human rights and not a specific refugee right.

## Refugee Camps

Refugee camps play an important role in protecting the refugees. These camps are temporary settlements for refugees fleeing from their country. They are created when a great number of refugees flee for example during a crisis like a civil war and all of them seek asylum. The easiest and temporary best option is to establish a camp and grant them asylum though no integration takes place. The camps are mostly organized by the United Nation, UNHCR and/or ICRC or the host-country. Often they also work together to ensure safe and healthy conditions.

There are certain recommendations outlining the organization and construction of a refugee camps. They are not written down on any official papers and are not binding but they are very useful as they cover all aspects of a camp and make it easier to manage the camp. The first recommendations are about the location which can be quite crucial already. They recommend building the camps near a, if possible relative clean, river or other water source and also near towns as this offers automatic protection. In some countries hidden landmines or other threats were placed during previous conflicts which also should be taken in consideration. However, refugees often settle down somewhere with big other groups before the UNHCR or others can intervene. It then has to be decided if they are going to displace them to other, better located camps or if the location is good enough. When the camps are too big, they are often split up in smaller camps as diseases, fire alarms or other problems can be handled better in small camps.

The most important part about a refugee camps however is its anatomy, the structure and management of supplies. First of all, the host-country can decide whether to build a fence around the camp or not. This can actually be quite useful as it ends uncontrolled growth and allows newcomers only to enter through certain entry points. At these entry points there are registration centers which are very crucial as organizations such as the International Committee of the Red Cross or other aiding organizations have to know how many people they have to supply and also allows the UNHCR to collect detailed records of refugees.

There are many more important aspects of a refugee camp. There is a link (II.) in the Appendix which will explain the anatomy of a well structured refugee camp. All of these points are protecting the rights of the refugees and make the situation in the camps endurable. However, one has to keep in mind that the refugees leave everything behind when they flee. They enter the camps with nothing but their lives and their clothes. And the conditions of the refugee camps aren't always good. Some are quite unhygienic and offer much worse living conditions than the refugees' homes. Only the most basic rights are given to ensure that the refugees can survive. This can be accepted if the refugee camp exists only for a short period but when the cause of the persecution does not stop the refugees have to stay much longer. The longest existing camp at the moment, disregarding the Palestinian camps as they are bound to a dif-

ferent topic and are also handled under specific treaties, exists as long as 20 years, which is in Kenya. The refugees there are not just seeking protection anymore, they live there. And just like the refugee rights state that they should be granted the same treatment like the inhabitants of the host-country, the camps should be in the same condition as a village the same size.

## **Other Violations and Problems**

There are still many other violations of the rights of refugees than the ones mentioned above. One big problem is cause by Europe. Each day many migrants and refugees cross the Mediterranean Sea to seek a new life in Europe. Many European countries have set laws which allow migrants only to life in the country they arrive or none at all. Many migrants are therefore sent back to Africa and there are news of sunken boats with migrants each day. The problem for refugees is that they often travel along side migrants and therefore face the same treatment. This treatment could also be called refoulement as they don't accept the refugees and are sent back to the country they have fled from in which they might suffer great human right violations. More economical developed countries (MEDCs) like the countries in Europe should take more action against the refugee problem to make an example. They can't let only all the less economical developed countries (LEDCs) in Africa and Asia manage the refugee problem just because that's where the crises take place. This is a problem Amnesty International strongly campaigns against.

## **Major Parties Involved and Their Views**

### **Office of the United Nations High Commissioner for Refugees (UNHCR)**

The Office of the Untied Nation High Commissioner for Refugees was established 1951. Originally, the UNHCR was created to solve the refugee problem after the Second World War in Europe. But as the refugee problem continued and spread even more following civil wars or other crises the mandate got extended and so did its task. Their purpose today is to help refugees, ensure their rights as well as the right of seeking asylum and create or find refuge for the refugees to live secure until they return to their home voluntarily. The UNHCR also tries to encourage governments to implement fair refugee laws to protect refugees. These laws should implement processes such as granting asylum, declaring refugee status and creation of refugee camps or how to manage a flow of refugees in case there will be one. The International Organization of Migration also plays an important role assisting the UNHCR with rejected refugees or migrants which are not part of the UNHCR mandate.

### **Amnesty International**

Amnesty International is a non-governmental Organization with a campaign to end (grave) abuses of human rights in all countries worldwide. It was founded 1961 and at the moment they are placed in more than 80 countries. Amnesty International tries to ensure that refugees are allowed to seek asylum in Europe after they cross the Mediterranean Sea as well as to urge the European countries to open their borders for migrants and refugees in general. Especially after many European Countries have refused and sent back refugees in the last years returning the refugees into situations in which their human rights might be violated.

### International Committee of the Red Cross (ICRC)

The International Committee of the Red Cross is a neutral and non-governmental organization that provides humanitarian assistance and protection to victims of a war or armed conflict. This ranges from basic medical care as well as food and water supplies to restoring communication and reuniting separated families and other persons. The ICRC officially has no mandate to specifically help internally displaced people or refugees but as they are also victims the ICRC has often helped these people by providing supplies and basic care. The ICRC is regarded as the most experienced organization concerning such humanitarian situations and is therefore often asked to give aid. However, they can only help if the United Nations General Assembly or the Secretary General requests their help in combination with a request from the involved country.

### Timeline of Events

As there have not been any important events yet that could have a effect on this topic in general but only in specific situation, this list includes three of the most important conventions that build the base on which the UN and organization handle the refugee problem and to protect their rights. Other treaties are listed in the section below.

Date	Description of event
1948	Universal Declaration of Human Rights
1951	United Nations Convention Relating to the Status of Refugees; Establishment of the UNHCR
1961	African Union Convention Governing the Specific Aspects of Refugee Problems in Africa

### UN involvement, Relevant Resolutions, Treaties and Events

The United Nations and other regional Unions, like the African Union, have established many treaties regarding the refugee problems. The evolution of the refugee problem is mirrored in the evolution

of the treaties and the different subjects that are covered. The main treaty that is the most important for the refugee problem is clearly the Refugee Convention. But the other convention, even though they do not specify on refugees, have important articles as well regarding refugees and their rights.

- Universal Declaration of Human Rights, 1948  
-Article 14 about the right to seek asylum.
- Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949  
-In case of a war, refugees may not be treated as enemies.
- United Nations Convention Relating to the Status of Refugees, 1951  
-First international convention specifically on the status of refugees. It has been ratified by 145 until now. It basically gives refugees the same right as every other citizen (see General Information for a short list).
- United Nations International Covenant on Civil and Political Rights, 1966  
-States should care about all citizens and individuals that are in their territory and therefore subject to its jurisdiction.
- United Nations Protocol Relating to the Status of Refugees, 1967  
-Removed the geographical and time limitations that were set in the original convention as it was meant to be mainly for Europeans after the World War II. The convention and UNHCR cover all refugees on the world now.
- African Union Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969  
-This convention is very important as it not only accepts the definition of a refugee in the Refugee Convention but also expands it in the way that there are reasons beyond persecution why civilians flee and therefore should be granted the state of a refugee.
- United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984  
-The Convention states in article 3 some important circumstances which should be taken into account in case of an expulsion as this sometimes means that returning refugees get tortured and is therefore a violation of the human rights also by the refusing country. The Committee Against Torture is the monitoring body of this Convention
- United Nations Convention on the Rights of the Child, 1989  
-It basically specifies the treatment of children who are refugees and when they seek asylum.



- United Nations Guiding principles on Internal Displacement  
-This is a guideline on how to protect internally displaced people and how to help them.<sup>5</sup>

## Possible Solutions

Until now, not many resolutions or official plans are passed to solve the issue. Even though there are many treaties, most of them covered subjects like the definition of a refugee and what are the rights of refugees. These are very important of course to determine whom to help, who is a refugee etc. but they still not specific enough, especially in the combination with the fact that states aren't obliged to grant asylum. For example, what exactly is a 'well founded fear' and how can you prove that? Because of these interpretational differences from country to country refugees feel often insecure about their state and whether they will be granted asylum or refugee status.

As above mentioned, the states are not obliged to grant asylum, but it is a universal human right to seek asylum. It is clear that there is gap between those two. But obliging all countries to grant asylum to refugees will be impossible because not every country can just allow every refugee to get asylum or otherwise the host-country will have problems managing all of them. Therefore it might be a good idea to have an organization, UNHCR or another one, which will manage all asylum seekers around the world so that all of them will be granted asylum and their human right will be fulfilled. This could mean that generally all states would be obliged to grant asylum but in case there are reason why one country can't accept many or none at all, this can be accepted. So only states that are able to accept refugees would have grant them asylum.

Other small but also effective solutions would be to set official guidelines on refugee camps which should be made by the UNHCR in cooperation with the ICRC, if possible make the process to get the status of a refugee faster as well as establish programs on how to integrate refugees in their new country in case they won't return. If the situation on the cause of the persecution has settled refugees should be provided travel possibilities to get back.

## Bibliography

The most useful links are in **bold**.

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"UNHCR: The UN Refugee Agency." *UNHCR.* Web. 27 July 2012.

<http://www.unhcr.org/cgi-bin/texis/vtx/home>

## Appendices

- I. A report on the largest refugee camp in Kenya which already exists over 20 years. This will offer a good view on how the situation in a refugee camp is.

<http://www.theatlantic.com/infocus/2011/04/the-worlds-largest-refugee-camp-turns-20/100046/>

- II. This is a report by the Canadian Broadcasting Company on how a well structured refugee camp is established.

<http://www.cbc.ca/news/background/refugeecamp/>