

Research Report

Human Rights Commission

The protection of the rights of refugees and IDPs

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Forum	Human Rights Commission
Issue:	Protection of refugee and IDPs rights
Student Officer:	Laurent Hooimeijer
Position:	President

Introduction

Thousands of people are forced to leave their communities, families, friends and homes due to the circumstances which they face.

In 1997 a total of 17 million people were forced to leave their home; persecution, environmental disasters or extreme poverty are just some of the few reason why they had to leave.

Since 1997 the number of International Displaced Persons has increased steadily with a total of 27 million people in 2010.

IDPs populations counting more than one million can be found in Sudan, Congo, Iraq, Azerbaijan and Columbia. The International Displacement Monitoring Center (IDMC) has estimated that between 70 and 80% of all IDPs are women and children.

In many refugee camps the situation is critical; according to the IDMC, more than 5 million IDPs spread over 11 countries, are without any significant humanitarian assistance from their government.

Definition of Key Terms

Human Rights:

"Fundamental rights which humans have by the fact of being human, and which are neither created nor can be abrogated by any government. Supported by several international conventions and treaties (such as the United Nation's Universal Declaration of Human rights in 1948), these include cultural, economic, and political rights, such as right to life, liberty, education and equality before law, and right of association, belief, free speech, information, religion, movement, and nationality. " (-- Business Dictionary)

Basically, every human being has fundamental rights mentioned in the United Nation's Universal Declaration of Human Rights, which cannot be taken away by anyone or anything whatsoever.



Internally Displaced Persons:

The IDMC defines an Internally Displaced Person (more commonly known as 'IDPs') 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 generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border.'

Refugee:

In 1951, the United Nations Convention relating to the Status of Refugees defined 'Refugee' as 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 as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'

Internally Displaced Persons are not the same as refugees: in order to be a refugee, the crucial requirement is to have passed an international border.

Migrant:

(Human) Migration are human who move, either in small or large groups, from one area to another.

Nowadays, there are two forms of migration; voluntary migration (within one's region or country) and involuntary migration (including slave trade, human traffic and ethnic cleansing). People who migrate are called migrants.

Asylum seekers:

A refugee moves to another country because of the aforementioned reasons (see definition 'Refugee'). He then requests an official refugee status from the receiving country.

Until a request for refuge has been accepted, the person is referred to as an asylum seeker. Only after the recognition of the asylum seeker's protection needs, he or she is officially referred to as a refugee and enjoys refugee status, which carries certain rights and obligations according to the legislation of the receiving country.

Rights of Internally Displaced Persons:

Created in 1998, the Guiding Principles on Internal Displacement gives IDPs, beside their basic human rights (see definition 'Human Rights' above), a range of additional rights.

Once persons have been displaced, they retain a broad range of economic, social, cultural, civil and political rights, including the right to basic humanitarian assistance (such as food, medicine, shelter), the right to be protected from physical violence, the right to education, freedom of movement and residence, political rights such as the right to participate in public affairs and the right to participate in economic activities (Principles 10-23). Displaced persons also have the right to assistance from competent authorities in voluntary, dignified and safe return, resettlement or local integration, including help in recovering lost property and



possessions. When restitution is not possible, the Guiding Principles call for compensation or just reparation (Principles 28-30).’

Rights of Refugees (and Asylum Seekers):

A person who is a refugee has a range of important rights under the Refugee Convention (= Convention Relating to the Status of Refugees):

- the right to seek asylum in a country outside their country of origin which has agreed to be bound by the Refugee Convention;
- the right not to be returned to the country where they have a well-founded fear of persecution;
- the right not to be discriminated against or penalised because they are a refugee;
- the right to equal access to the courts;
- freedom of religion and movement;
- the right to education and employment;
- access to travel documents.

These are the most important ones (summarized), of course the Refugee Convention as a whole is more extensive.

Main Part

History:

Before the ending of WW I, there was on a international scale no coordination regarding the issue of refugees and IDPs.

June 27th 1921: the League of Nations (predecessor VN) created a High Commissioner for Refugees and with that a commission that should deal with the current situation after WO I there was in Europe: the return of 3 million ex- prisoners of war throughout Russia to their country of origin and later on, the spanish civil war.

With the rise of Nazism and the outbreak of WW II, the scale of refugees increased extraordinary, displacing well over 55 million people.

During WO II, the United Nations Relief and Rehabilitation Administration (UNRRA, 1943) was created by the allies, in order to help and provide aid to liberated countries. It was as well their task to ensure the return and resettlement of Displaced Persons (DPs) to their country of origin.

By 1948 the UNRRA was dissolved and succeeded by the International Refugee Organization (IRO), which main task was to complete and finish the UNRRA's mandate.

On 14th December 1950, the Office of the United Nations High Commissioner for Refugees (UNHCR) was established.

Paragraph one of it's core mandate states:

'The United Nations High Commissioner for Refugees, [...], shall assume the function of providing international protection, [...], to refugees [...] and of seeking permanent solutions for the problem of refugees by assisting Governments, ...'

Now a days, the agency has several tasks and is a key player in co-ordinating action to protect refugees, secure their rights and solve problems regarding refugees.

Over time, the UNHCR has not only been mandated to provide aid and other means just for refugees, but also for IDPs, meaning an gradual mandate expansion.

Current situation:

At the moment, there a many refugee and IDPs crises all over the world; this are the current mayor ones:

Country	IDPs population	Refugees
Sudan	5 - 6 million	750.000
Iraq	over 2.5 million	4.7 million
Congo	over 1.5 million	430.000
Azerbaijan	over 1.3 million	900.000
Columbia	2 - 3 million	350.000

According to international law, it is the responsibility of a country to provide refugees and



IDPs protection and assistance; a mayor problem however is, many countries with a high refugee (and IDPs) population are in a crises (war for example) and have no financial means whatsoever to provide these measures (80% of the world's refugee population are located in the world's poorest countries).

The UNHCR and several other Non Governmental Organizations (NGOs) build refugee camps, where refugees and IDPs have access to the very basic facilities; nutrition (food and water), sleeping accommodation (tents), hygiene (cleaning and toilets), medical supplies and protection.

People may stay in camps as long as it is not safe to return to their own community; this may take up to years or even decades (Palestine refugee camps opened in 1948).

A further mayor problem are the huge amount of people moving to these camps: as shown above, in countries such as Sudan with an estimated IDPs population of 5 - 6 million, camps are not able to provide basic facilities.

Refugees and IDPs are because of this often in a very critical situation, since there is a lack of food and medical care. in most cases, families are separated because of a conflict, meaning the refugees do not get any family support which is needed since many of them have a post-traumatic stress disorder (PTSD) or depression.

There have been reports stating exploitation and human rights abuse of refugees. These include rapings (in most cases women between 13 - 18 years), child labour and mental or physical torture. Especially in Africa, girls and women were given money or food for sexual exploitation.

All refugees and IDPs have the 'Right of Return', which gives displaced people the right to return to their areas of origin and the same property.

This is actually the main issue concerning the rights of refugees and IDPs: in most cases, people can't return to their property after the conflict because of several reasons. A couple are:

- no access to the property they had
- it is not clear who is the exact owner as family structures could have changed during the conflict and thus the division becomes a issue
- other people already settled on the land since they have no where else to go

Given the problem, the UNHCR has started a campaign in order to stimulate local integration into the countries of asylum.

A third option is to move refugees and IDPs to another country (third country) in order to resettle there and build up a new life.

So far, there has been not been a mayor offense by the International Community to protect the rights of refugees and IDPs. As aforementioned, the UNHCR is mandated to protect refugees and find solutions to problems regarding refugees.

In paragraph 2 and 20 however, the significant limitations of the agency become clear, achieving success in their mandate is therefore very hard.



Paragraph 2 (Core Mandate):

'The work [...] shall be of an entirely nonpolitical character; it shall be humanitarian and social and shall relate, [...], to groups and categories of refugees.'

Paragraph 20 (Core Mandate):

" The Office of the High Commissioner shall be financed under the budget of the United Nations. [...] No expenditure other than administrative expenditures [...] shall be borne on the budget of the United Nations and all other expenditures [...] shall be financed by voluntary contributions.

At the moment, only 3 % of the UNHCR's budget comes from the UN itself; the remaining 97 % come from individual countries (such as USA 30.5 %) and voluntary contribution.

Major Parties Involved

UNHCR:

See 'General Overview for more information'

IMDC:

Established in 1948 by the Norwegian Refugee Council (NRC), the Internal Displacement Monitoring Centre is a key player in monitoring internal displacement worldwide. The IMDC provides to the UN, NGO and other governments comprehensive amounts of information, statistics, reports and analysis on internal displacement. As well, the IDMC carries out training activities in internally displaced regions and send their staff to areas where IDPs population are to be found.

Amnesty International:

Amnesty International is a NGO with more than 3 millions members over the world. Their main goal is to end severe abuses of human rights in all its aspects. For refugees, IDPs and migrants, Amnesty International publishes reports, lobbies with governments and works together with other organization to end the abuse of refugees human rights and to underline the failure of their protection.

Other NGOs:

Other NGO are essential for refugees and IDPs peoples rights, however it is not their mandate to do so. They are partners with NGOs such as UNHCR and work together. These NGOs are:

- UNICEF
- UNDP
- FAO
- WHO



Timeline:

- 1950: United Nations Convention Relating to the Status of Refugees
→ Definition of refugee
- 1967: United Nations Convention Relating to the Status of Refugees Protocol
→ Further expansion of refugee definition, including IDPs
- 2000: First 'World Refugee Day' (14th June)

Attempts to solve the issue:

Regarding the protection of refugee and IDPs rights, there has been done several things. To start with, in many refugee and IDPs camps, different NGO use combined forces to provide basic necessities, such as stated in section 'Refugee (IDPs) Rights'. In many cases though, especially in Africa, providing aid is still a very big issue as seen in the recent (and still going on) humanitarian crises in the Horn of Africa.

As well, it is a refugee right to return to their home and not to live for the rest of their lives in camps.

The UNHCR and in co-operation with other government's, have set up a plan to secure this right:

- Repatriation: If there is no reason left for people why they shouldn't return to their homes, refugees and IDPs go in most cases back.
It does require though full commitment of the country of origin to help reintegrate their own people; as well, for a long term solution, the continuous support of the international community in the crucial post-conflict phase.
- If Refugees and IDPs cannot return because they face prosecution or the local situation is in a critical situation, refugees may settle in a third country, which is sage. However, only 1 % are submitted by the UNHCR for resettlement, since only few Member States participate in resettlement programmes (USA world's top resettlement country, followed by Australia and Canada).
Integration is a crucial part of this; various NGOs provide programmes facilitating integration, such as cultural orientation and language and vocal training.
- A third option is local integration. Refugees and IDPs cannot return to their own country due to an remaining conflict or because they would face prosecution. Since not many people are submitted to resettlement programmes, they stay in the country where they fled to in first instance. It is a gradual and complex process which in many cases takes year. Still, an estimated 1.1 million refugees have become citizen in their country asylum.

Another issue is the protection of people, especially children and women, since they are most vurnable to exploitation. Protection is very much needed, but is not easy to be organized, since in many cases, United Nations peacekeeping troops are involved in this (which needs to be approved by the Security Council).



Possible Solutions:

Given the seriousness and complexity of the topic, there are many possible solutions which could be provided by the Human Rights Council.

Since refugee and everything related to this is nothing more than a consequence of a conflict or other reason, the main goal would be to prevent these crises.

Of course, this is very hard to achieve.

Nevertheless, there are ways which could lead to a better refugee and IDPs rights protection.

The agency in charge of this, is the UNHCR; as stated in the main part, there are several restrictions to this agency which makes it hard to accomplish their mandate.

A possible solution would be to set up a new NGO or another agency which are not restricted. The other option would be to grant UNHCR more rights and influence.

Financing support to refugees in order to protect their rights is as well very important.

As well, basic facilities should be provided to all refugees and IDPs since it is their right. A lack of food and water could end finally in a humanitarian crisis as could be seen over the past decade.

Furthermore, the state should do its utmost to help its people and do everything in their power to make the situation as a whole better.

Seeing that only 1 % of all refugees and IDPs are considered for resettlement, countries could increase this percentage. Integration of these people should not be forgotten though.

Appendix:

The following sites are considered to be helpful for your own research:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/177/69/PDF/G0917769.pdf?OpenElement>

<http://www.amnesty.org/en/refugees-and-migrants>

<http://www.internal-displacement.org/publications/global-overview-2010.pdf>

<http://www.unhcr.org/4dfb66ef9.html>



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<http://www.unhcr.org/pages/49c3646cf8.html>
http://www.hreoc.gov.au/human_rights/immigration/asylum_seekers.html
[http://www.internal-displacement.org/8025708F004BD0DA/\(httpSectionHomepages\)/\\$first?OpenDocument&count=1000](http://www.internal-displacement.org/8025708F004BD0DA/(httpSectionHomepages)/$first?OpenDocument&count=1000)
<http://www2.ohchr.org/english/issues/idp/index.htm>
<http://www.usaid.gov/policy/ads/200/200mbc.pdf>
<http://isferea.jrc.ec.europa.eu/Activities/Applications/Pages/RefugeeandIDPCamps.aspx>
<http://www.dailynews.lk/2011/09/06/news03.asp>
<http://en.wikipedia.org/wiki/Refugee>
http://en.wikipedia.org/wiki/Human_migration
http://en.wikipedia.org/wiki/Internally_displaced_person
<http://www.idpaction.org/>

