

Forum: Legal Committee

Issue: The question of the rights of political refugees

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Introduction

The issue of the right of the world's political refugees and internally displaced is among the most complicated and difficult-to-solve problem in our world today. The only international instrument is the UN Convention, with an optional Protocol, while various regional bodies have instruments applying only to member states.

Current refugee movements, unlike those of the past, increasingly take the form of mass exoduses rather than individual flights. Most of the world's refugees wait for durable solutions for their predicament. While most have been granted provisional or temporary asylum in neighboring countries, they are not able to regularize their status or integrate. Their rights to move and work are often highly restricted, and educational and recreational opportunities are often nonexistent or severely lacking. These refugees may also be subject to attacks, either by local security forces or by cross-border incursions from the country of origin, and are often pressed to return to their native country before they or their country are ready to receive them.

Consequently, from the social and political significance of the issue, the UN Legal Committee has been enlisted to ensure a legally correct resolution to the issue is reached, to protect the legal rights and safety of the refugees.

Definition of Key Terms

Refugee

A refugee is a person who is outside his or her country of origin or habitual residence because they have suffered (or fear) persecution. More specifically, the Article 1 of the Convention as amended by the 1967 Protocol provides the definition of a refugee as: "A person 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 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..." Such a person may be called an 'asylum seeker' until recognized by the state where they make a claim.

Internally Displaced Persons (IDP)

IDPs are 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, but are those who have not crossed an internationally recognized border. Unlike refugees, these IDPs do not have a special status in international law with rights specific to their situation. The term "internally displaced person" is merely descriptive.

Non-refoulement (Prohibition of Repatriation)

This is a principle of international law which forbids the rendering of a true victim of persecution to their persecutor. It is a key facet of refugee law. Under the principle of non-refoulement, no state may expel or return a refugee to places where their lives or freedoms could be threatened.

Convention Relating to the Status of Refugees (CRSR)

CRSR is a United Nations multilateral treaty (approved at a special United Nations conference on 28 July 1951 and amended on 13 January 1967) that defines who constitutes as a refugee, and sets out the rights of individuals who are granted asylum and the responsibilities of nations that grant asylum. The Convention also sets out which people do not qualify as refugees, such as war criminals. The Convention also provides for some visa-free travel for holders of travel Documents issued under the convention.

United Nations High Commissioner for Refugees (UNHCR)

The Office of the (UNHCR), also known as the UN Refugee Agency, is a United Nations agency mandated to provide, on a non-political and humanitarian basis, international protection to refugees and to seek permanent solutions for them at the request of a government or the UN itself and assists in their voluntary repatriation, local integration or resettlement to a third country.

UNHCR's mandate has gradually been expanded to include protecting and providing humanitarian assistance to whom it describes as other persons "of concern," including internally displaced persons (IDPs) who would fit the legal definition of a refugee under the 1951 United Nations Convention Relating to the Status of Refugees and 1967 Protocol, the 1969 Organization for African Unity Convention, or some other treaty if they left their country, but who presently remain in their country of origin.

The Right of Asylum

When an individual fears to live in their own country due to threats to their rights or safety, they can seek asylum in different countries. If they are allowed to live in the new country this is called political asylum.

Political asylum is one of the human rights affirmed by Article 14 of the Universal Declaration of Human Rights (1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.), and a rules of international human rights law. All UN member nations who have agreed to the United Nations Conventions Relating to the Status of Refugees must let people, who do qualify as a refugee, come into their country.

Right of return

The term right of return refers to a principle of international law, codified in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, giving any person the right to return to, and re-enter, his or her country of origin. This principle is sometimes reflected in special consideration in a country's immigration laws (called "repatriation") which facilitate or encourage the reunion of a Diaspora.

History

Formation of the UNHCR

Following the demise of the League of Nations and the formation of the United Nations, the international community was acutely aware of the refugee crisis following the end of World War II. In the late 1940s, The United Nations agreed that a body was required to oversee global refugee issues. Despite many heated debates in the General Assembly, the United Nations High Commissioner for Refugees was founded as a subsidiary organ of the General Assembly by Resolution 319 (IV) of the United Nations General Assembly of December 1949.

The 1951 Convention relating to the Status of Refugees

The 1951 Convention, which was drafted as a result of a recommendation by the newly established UNHCR, was a landmark in setting standards for the treatment of refugees. The Convention, in its article 1, provides a general definition of the term "refugee".

The Convention sets the minimum standards of treatment of refugees, including the basic rights to which they are entitled. It also establishes the juridical status of refugees and contains provisions on their rights to gainful employment and welfare, on the issue of identity papers and travel documents, on the applicability of fiscal charges, and on their right to transfer their assets to another country where they have been admitted for the purposes of resettlement.

The Convention prohibits the expulsion or forcible return of persons having refugee status. Its article 33 stipulates that "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". Article 34 concerns the naturalization and assimilation of refugees. Other provisions deal with such rights as access to courts, education, social security, housing and freedom of movement

1967 Protocol relating to the Status of Refugees

The 1951 Convention could benefit only persons who had become refugees as a result of events occurring prior to 1 January 1951. However, the years following 1951 showed that refugee movements were not merely the temporary results of the Second World War and its aftermath. Throughout the late 1950s and 1960s new refugee groups emerged, in particular in Africa. These refugees were in need of protection which could not be granted to them under the limited time-frame of the 1951 Convention.

Key Issues

Right of political refugees

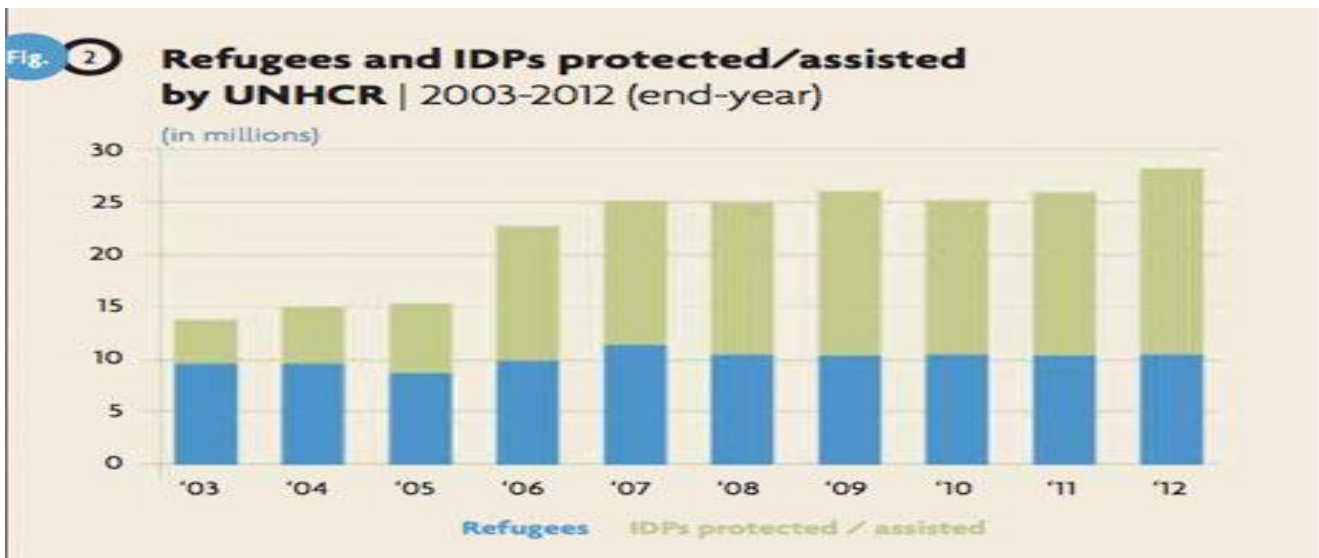
International law recognizes the right to seek asylum, but does not oblige states to provide it. Meaning, nations must accept refugees, but at times when nations face a sudden mass influx of people, the regular asylum systems can be overwhelmed, slowing the process of evaluating migrants if they qualify as refugees. And in these situations, they can offer 'temporary protection' before people can be admitted to safe countries, but without any guarantee of permanent asylum. Thus 'temporary protection' is helpful to both governments and asylum seekers in specific circumstances. Yet it only complements and does not substitute for the wider protection measures offered by the Refugee Convention.

Some countries detain asylum seekers upon arrival, during the asylum process or while waiting for deportation (*refoulement*), even though Article 31 of the Refugee Convention legally prevents asylum seekers from being persecuted and detained. Asylum seekers may have already suffered imprisonment and torture in the country from which they have fled. Therefore, the consequences of detention may be particularly serious, causing severe emotional and psychological stress.

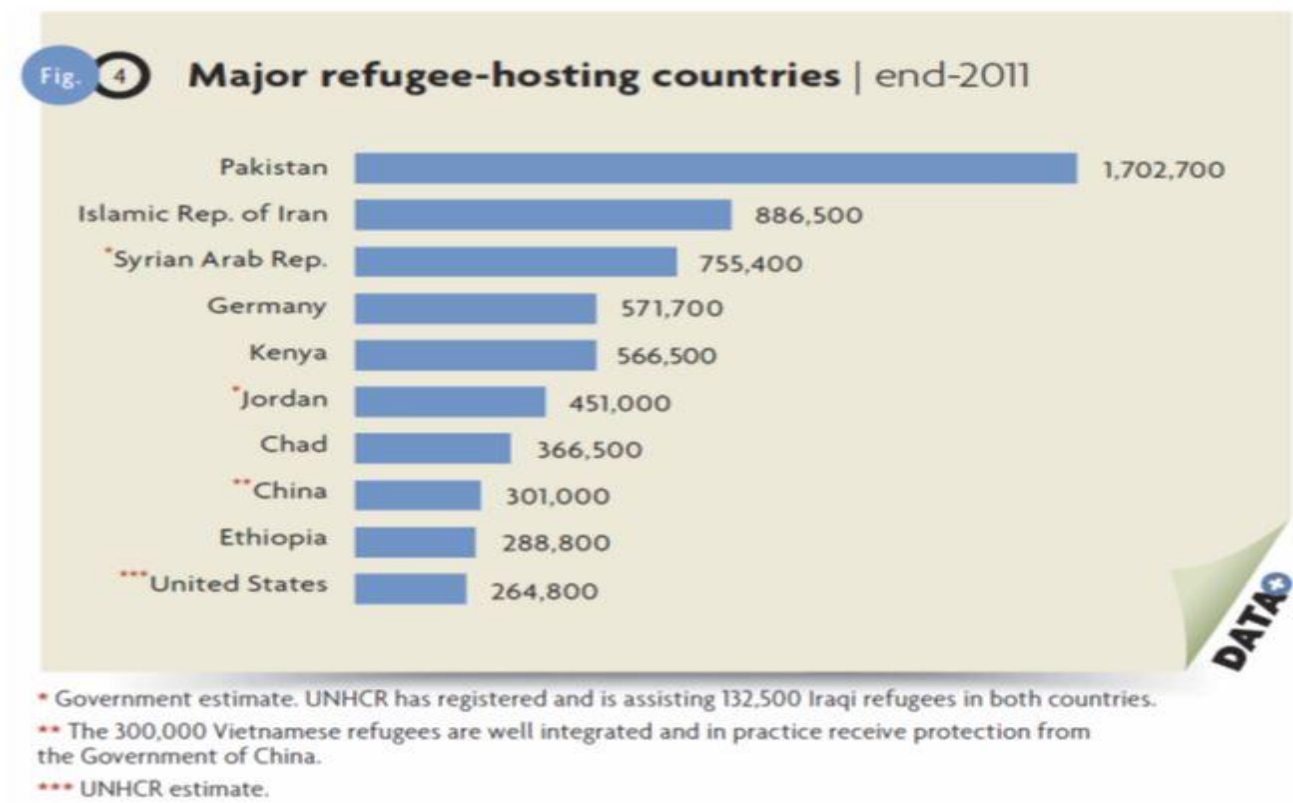
There **is** much controversy surrounding the "right of return", the issue derives from disagreement surrounding what in UDHR article 13 is referred to as "his own". Because many countries are nation states predicated on the right to national self-determination, such countries often identify a special link between them and persons identified with the nation, or people, whose self-determination that country enables. National laws implementing a "right of return" tend to be predicated on that link.

Major Parties Involved and Their Views

There are currently 15.4 million refugees worldwide. In 2012 Afghanistan was the biggest source country of refugees, furthermore, countries like South Sudan and Syria has become a steady producer of refugees consequently due to civil war occurring in respective states.



Caption #1. Refugees and IDPs Protected/assisted 2003-2012 -(UNHCR)



Caption #2. Diagram displaying countries hosting the most refugees (end-2011)-(UNHCR)

Syria

Syrian nationals have fled Syria as a result of the escalation of the Syrian Civil War. To escape the violence, more than 2 million Syrian refugees have fled the country to neighboring Jordan, Lebanon, Turkey, Iraq and Iraqi Kurdistan, while thousands also ended up in more distant countries.

UK

In the UK, thousands of asylum seekers are held in immigration detention centers each year. Under the Detained Fast Track (DFT), asylum seekers are mandatorily detained for the duration of their application and appeal. As a principle, UNHCR opposes the detention of people seeking asylum, as immigration detention is fundamentally against international refugee laws. In 2012, of 21,843 main applicants for asylum, 11.4% (2,482) applicants were detained under DFT. In 2011, 10.7% of asylum claims were accepted onto DFT. In 2012, 222 children were detained in immigration removal centers, with 156 being under the age of 11. Not only is this against international refugee laws, it also goes against human rights. The UK is currently reassessing asylum systems, to safeguard refugees from detainment and to improve identification procedures.

Germany

Germany is the recipient of the largest number of asylum applications overall in the European region in 2013, followed by France and Sweden. Scores of undocumented migrants living in improvised tent cities in Germany showed signs of continued struggle for the government to provide refugees with the housing and jobs they need to integrate into mainstream society. Asylum seekers are required by law to remain in the city or town where they were originally issued a stay of deportation, living in state-run shelters or camps that resemble detention centers. Though they receive a stipend of 400 euros per month, they are not permitted to work for more than 1 euro per hour until their asylum status is made official. Currently, Germany is refusing to accept additional asylum seekers, but the problem of poor quality of living for the refugees remains intact.

Timeline of Relevant Resolutions, Treaties and Events

You must include short sentences to explain the timeline. Otherwise you have to follow the format specified below:

Date	Description of event
1948	Universal Declaration of Human Rights
1951	UN Refugee Convention
1967	Protocol Relating to Status of Refugees
1969	Convention Governing the Specific Aspects of Refugee Problems in Africa

Evaluation of Previous Attempts to Resolve the Issue

The UNHCR has been effective in responding to refugee crises, especially during the early stages of refugee movements, however there are still issues regarding the assimilation of refugees within the host country. Although there are laws to protect several different legal rights of refugees, some countries and organizations still struggle to provide, or protect them. The issue is largely socio-political, while the refugees may be legally protected, dispute between the host country civilians and refugees may prevent the implementation.

Possible Solutions

Different organizations call for increased levels of coordination and cooperation among relief agencies, while others point to gaps in international legislation and appeal for further standard-setting in this area. However, the problem is both global and multidimensional. **A**ny solution would therefore have to be comprehensive and must aim to tackle all aspects of the issue, from the cause of mass exodus to the elaboration of responses necessary to cover the range of refugee situations from emergencies to repatriation.

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