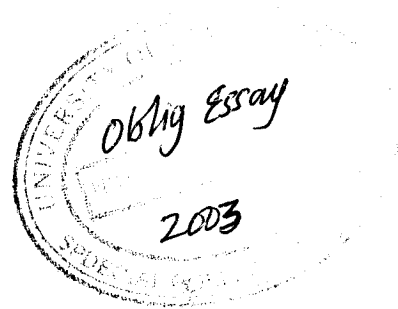


THE UNIVERSITY OF ZAMBIA



SCHOOL OF LAW

I recommend that the obligatory essay prepared under my supervision

By

KAPETWA Z. PHIRI

Entitled

THE REFUGE PROBLEM IN ZAMBIA: A QUEST FOR DURABLE SOLUTION

Be accepted for examination. I have checked it carefully, and I am satisfied that it fulfils the requirement relating to format as laid down in the Regulations Governing Obligatory Essays

Dated this .....day .....2003

Signed by the said MR. G.MULENGA as Supervisor

Signature.....

**Submission**

THE REFUGE PROBLEM IN ZAMBIA: A QUEST FOR DURABLE SOLUTION

By

KAPETWA Z. PHIRI

An Obligatory Essay submitted to the University of Zambia, Faculty of Law in partial fulfillment of the Requirement for the award of the Degree of Bachelor of Laws (LL.B)

21<sup>st</sup> November, 2003



**DEDICATION**

***EDWIN JULITA AND MATHEW***

*For being the best brother, niece and nephew in the whole world, for being there for me and all the sacrifices they have made for me in ensuring that I get support, spiritually, financially and morally.*

Kapetwa December 9, 2003

## ACKNOWLEDGEMENTS

*I would, first and foremost, like to thank my GOD for his never-ending love for me; his grace without which I would not have been where I am, and without which I would not have done what I have; and the fellowship and censorship of his spirit, so conspicuous and precious, without which I might have been on the way to self destruction. I am forever grateful.*

*I would like to thank my supervisor Mr. Mulenga his dedication and his invaluable suggestions and guidance during my research. Sometimes I wonder whether this work should justly be said to be mine because it would have been so different without his input. Posterity will judge me harshly if I do not mention the tremendous help I received from Lt. Mulungu und Andrew Mulenga to you guys only God will award you.*

*Thanks to Alex (Shi Kapumpe), Iven Kunda Mulenga, Peter Mwanza, PJ, Capt Lambe and Sam Mujuda for being my dearest friends and for the help they rendered to me in ensuring the completion of this work.*

*Thanks to Simbaya Amos, for helping in typing, and also thanks to the rest of the members of International Christian Community without whose prayers and encouragement, the completion of this work would have not been possible.*

*AND for you the much cherished and precious lady MWESHI, Ok, I will acknowledge you later at the appropriate time to avoid raising more questions than answers.*

## CHAPTER ONE

### 1.0 INTRODUCTION

Refugees have been a continuous feature of international life in the present times. They were one of the first concerns of both the League of Nations and the United Nations (UN) and over the last sixty and so years vast numbers have found the opportunity of a new life in the countries of asylum and resettlement. Of late the world community has seen forced population movements, the courses and magnitude of which pose a serious threat to fundamental rights and freedoms of persons seeking refuge in other countries<sup>1</sup>. Yet no end is in sight to the potential future flows.

Latterly, however added impetus has been given to the notion by growing sense of dissatisfaction and procedures and the feeling that these and commentaries on them have failed to develop and keep pace with the crucial issues let alone with the dimensions of today's problems. When refugees find themselves in exile they usually find it difficult to settle down and to establish themselves as the host countries will, more often than not refuse to accord them the same treatment accorded to their nationals<sup>2</sup>.

Ever since the end of the 1950s the African Continent has been faced with a refugee problem of enormous magnitude. Today this continent has the largest number of refugees<sup>3</sup>. The official estimate puts the number of refugees at more than three million. The main purpose of this work is however, to analyze the dynamics of the refugee problem in Zambia from a legal point of view, and to assess the viability of some solutions, which probably are of a more lasting nature.

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<sup>1</sup>Goodwin-Gill (1983) A Refugee in International Law . p.iv

<sup>2</sup>Robison, Nehemiah, (1953) "Convention Relating to the Status of Refugees: Its History, Contents and Interpretation", p.14

<sup>3</sup>Jeremy Zetterquist (1999) Refugees in Botswana p1

## 1.1 STATEMENT OF THE PROBLEM

The hypothesis underlying the enquiry into the concept of the refugee problem in international law is that the international endeavors to protect refugee rights are aimed at the attainment of justice in the relations between communities and individual, that is between states and those who are subjected to their jurisdiction<sup>4</sup>.

Zambia happens to be in a region of Africa that is characterized by daily reports of violence, brutality, killings and murders<sup>5</sup>. The situation forces people to flee from their houses and villages and to cross an international border, sometimes because they are involved in conflict, sometimes because they are caught in the cross fire between rival forces or are otherwise affected by the conflicts. Zambia is an exception to these conflicts and receives these people in large numbers who consequently come to be known as refugees.

The problem may be traced back to the colonial era when Germany refugees were resettled in Makeni area of northern Rhodesia in the post world war two era. The refugee phenomenon in Zambia may be traced back to the early 1960s when war of liberation in countries like South Africa, Namibia, Botswana, Mozambique, Angola and Zimbabwe forced thousands of people into Zambia<sup>6</sup>. In the 1980s many more persons were forced to flee, as civil wars in place like Angola and Mozambique become another course of displacement. In more recent times, civil wars in the Democratic Republic of Congo have been the cause of forcible population displacement into Zambia. Moreover Zambia

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<sup>4</sup>Viedag E. W (1980) The Concept of Discrimination in International law .p167

<sup>5</sup> Ibid

<sup>6</sup>COLES, GERVASE,(1988) "human Rights and Refugees" No.59 December p54

continues to host refugees from countries outside the region such as Burundi, Rwanda, Somalia, Sudan and Uganda<sup>7</sup>.

The policy adopted by Zambia towards the refugees problems during the 1960s which was solely for security reasons and avoidance of political unrest in the country has remained deep rooted in the commitments. The traditional protection of refugees, however, requires no more special rights or privileges in a cultural sense than are accorded to human rights systems to for example political dissenting groups (freedom of press and freedom of association for political minorities)<sup>8</sup>.

It is well perceived however that cultural heritage of national refugee stigma is so much wealth of protection against the postulates of monolithic nation-state if, they so desire, that in the light of history of international protection of refugee rights in particular of UNHCR the grating of different treatment to individuals or groups must be considered as part and parcel of the non-discrimination concept in international law<sup>9</sup>.

### **1.3 INFLUX OF REFUGEES<sup>10</sup>**

In the central African region as of January 2002 refugees and asylum seekers were projected to be 1,115,651. And of these central Africa accounts for the highest recipients that is about 88%. The number of refugees and asylum seekers in the region is very high. It is about a third of the total number of refugees the whole of Africa which stood at 3,346,000 at the end of 2000.

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<sup>7</sup> op. cit p11

<sup>8</sup> Viedag E.W, supra note 4

<sup>9</sup> Ibid, p167

<sup>10</sup> Mr. D Tambulukani Refugee Law (L472) Tutor UNZA 2003

Since the Independence of Zambia in 1964 there has been an influx refugees from neighbouring countries to Zambia in the course of friction among rival groups in the Great lakes regions and beyond. It is estimated that there are 250,700 refugees, of whom approximately 200,000 live in camps and others are scattered among the local population.

#### **1.4 ARRANGEMENT OF CHAPTERS**

The task of this work is to critically analyse the role of UNHCR in protecting refugees and others and to suggest ways to secure durable solutions to the dynamics of the refugee problem in Zambia.

Thus the aim is to show that refugees are a class known to and defined by general international law; that certain legal implications follow from the existence of this class and related principles in particular that states are bound to protect refugees as per provisions of international documents and that states are bound not to return refugees to territories where they may be persecuted or where their lives or freedoms may be threatened, besides being responsible in a general sense for finding solutions, also has the necessary legal standing to protect refugees, for which purpose it may be represented by UNHCR or by individual states.

In pursuit of the above objectives the second chapter discusses the salient provisions which directly point to the protection mandate of the UNHCR. The third chapter discusses the humanitarian mandate of UNHCR and the role of other UN bodies. This will be followed by the forth chapter which looks at durable solutions for refugee

problem that is local integration, repatriation and resettlement. Lastly recommendations and a conclusion will be given.

## CHAPTER TWO

### **PROTECTION MANDATE OF UNHCR**

#### **2.0 International protection**

It is, first and foremost, the responsibility of states to protect their citizens.<sup>11</sup> when governments are unwilling or unable to protect their citizens individuals may suffer such serious violations of their personal rights that they are willing to leave their homes, their friends, maybe even some of their family, to seek safety in another country. Since, by definition, the basic rights of refugees are no longer protected by the government of their home countries, the international community then assumes the responsibility of ensuring that those basic rights are respected.<sup>12</sup>

In the aftermath of World War 11, the United Nations General Assembly, created the office of the United Nation High Commissioner for Refugees (UNHCR). UNHCR is mandated to protect and find durable solutions for refugees. Its activities are based on a framework of international law and standards that includes the 1948 Universal Declaration of Human Rights and the four Geneva Conventions of 1949 on international humanitarian law, as well as an array of international and regional treaties and declarations both binding and non binding, that specifically address the needs of refugees.<sup>13</sup>

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<sup>11</sup> PROTECTING REFUGEES 'A field Guide for NGOS, UNHCR publication sales number G.V.E 99. 0.22 PAGE 18

<sup>12</sup> The phrase "international protection" covers the gamut of activities through which the refugees' rights are secured.

<sup>13</sup> REFUGEE PROTECTION "A guide to international Refugee law." Hand Book for Parliamentarians .No

## **2.2 THE STATUTE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES**

The UNHCR, acting under the authority of the General Assembly assumes the function of providing international protection , under the auspices of the UN to refugees who fall within the scope of the present statute seeking permanent solutions for the problem of refugees by assisting governments and, subject to the approval of, the government concerned and the private organizations to facilitate the voluntary repatriation of such refugees, or the assimilation within the new national communities.<sup>14</sup> The High Commissioner follows the directives given to him by the General Assembly or the Economical and Social Council.

Most important of the competence of the High Commissioner is the one provided for in section 6(B) which extends to any person who is outside the country of his nationality , or if he has no nationality, the country of his former habitual residence, because he has or had well founded fear of persecution by reason of his race, religion , nationality or political opinion and is unable or unwilling because of such fear, to avail himself of the protection of the government of the country of his nationality or has no nationality to return to the country of his former habitual residence.<sup>15</sup>

Apart from those protected in section 6(B) the statute extends its competence to those persons covered by the 1951 convention relating to the status of refugees which is the general and wide definition encompassing the entire plight of refugees. As such the High Commissioner shall provide for the protection of refugees falling under his office by;

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<sup>14</sup> Section 1 of chapter 1 of SOUNHCR.

<sup>15</sup> *ibid*

Promoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto. This provides a moral conviction between the states to honour their commitments in ensuring that rules guiding the welfare of refugees are safeguarded. This is in promoting through special agreements with governments the execution of any measures calculated to improve the situation of refugees and to reduce the number of refugees requiring protection. Apart from the existing governmental and private efforts to promote voluntary repatriation or assimilation within new national communities, the commissioner promotes the admission refugees, not excluding those in the most destitute categories.

## **2.3 CONVENTION AND PROTOCOL RELATING TO THE STATUS OF REFUGEES**

The convention and the protocol are the principle international instruments established for the protection of refugees and their basic character has been widely recognized internationally. These instruments detail apart from the definition of the refugee the refugee's rights. Although some refugee rights may be restricted under certain circumstances (as may citizen's rights), some of the important rights set out in the convention include:

### **2.3.1 Non-Discrimination**

This provides that every state shall apply the provisions of the convention to the refugee without discrimination as to race, religion or country of origin.<sup>16</sup>

### **2.3.2 Religion**

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<sup>16</sup> Article 3

The contracting states shall accord to the refugees within their territories treatment at least as favourable as that of accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.<sup>17</sup>

### **2.3.3 Access to Courts**

1. a refugee shall have free access to the courts of law on the territory of all contracting states
2. A refugee shall enjoy in the contracting state in which he has his habitual residence the same treatment as a national in matters pertaining to access to courts, including legal assistance and exemption from *cautio judica tumsolvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.<sup>18</sup>

### **2.3.4 Wage-Earning Employment**

The contracting state shall accord to the refugees lawfully staying in the territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

In any case restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempted from the matter at the date of entry into force of the convention for the contracting states concerned or who fulfill the following conditions:

- (a) he has completed three years' residence in the territory;

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<sup>17</sup> Article 4

<sup>18</sup> Article 16

(b) He has a spouse possessing the nationality of the country of residence of the refugee. A refugee may not invoke the benefit of the proviso if he has abandoned his spouse;

(c) He has one or more children possessing the nationality of the country of residence.

The contracting state shall give sympathetic considerations to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.<sup>19</sup>

#### **2.3.4 Housing**

As regards housing contracting states, in so far as the matter is regulated by laws or regulations or subject to the control of public authorities, shall accord to refugees lawfully staying in the territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.<sup>20</sup>

#### **2.3.5 Public Education**

With respect to elementary education the contracting state shall accord to refugees the same education as that accorded to their nationals. In regard to the above there shall also be the recognition of foreign certificates, diplomas and degrees without any form of discrimination.<sup>21</sup>

#### **2.3.6 Public Relief**

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<sup>19</sup> Article 17

<sup>20</sup> Article 21

<sup>21</sup> Article 22

The contracting state shall accord to refugees lawfully staying in the territory the same treatment with respect to public relief and assistance as is accorded to their nationals.<sup>22</sup>

### **2.3.7 Freedom of Movement**

As regards to this freedom which is found in many international instruments it provides that a refugee should be allowed to move freely in the territory subject to any regulations that are applicable to any alien.<sup>23</sup>

### **2.3.8 Expulsion**

A refugee can only be expelled for reasons of national security or public order which should be objectively considered through the due process of law.<sup>24</sup>

### **2.3.9 Prohibition of Expulsion or return ('REFOULEMENT')**

The most important right detailed in the convention is the right to be protected against forcible return, or refoulement, to the territory from which the refugee had fled. The convention 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."<sup>25</sup>

Refoulement is also explicitly prohibited in a number of other documents, including the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment<sup>26</sup>, the United Nations Declaration on the Protection of persons from Enforced Disappearance<sup>27</sup>, and the United Nations principles on the Effective

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<sup>22</sup> Article 23

<sup>23</sup> Article 26

<sup>24</sup> Article 32

<sup>25</sup> Article 33

<sup>26</sup> Article 3

<sup>27</sup> Article 8

Prevention and Investigation of Extra Legal, Arbitrary and summary Executions.<sup>28</sup> In fact it is widely accepted that the prohibition of refoulement is part of customary international law. That means that all states must respect the principle of non-refoulement, even if they are not party to the 1951 Refugee Convention.<sup>29</sup>

## **2.4 Conclusion**

It is now an appreciated understanding that the protection mandate of UNHCR will include among other activities;

- (i) Promoting accession to and implementation of refugee conventions and law;
- (ii) Ensuring that refugees are treated in accordance with recognized international standards of law;
- (iii) Ensuring that refugees are granted asylum and are not forcibly returned to the countries from which they fled;
- (iv) Promoting appropriate procedures to determine whether or not a person is a refugee according to the 1951 Convention definition and to definitions found in regional instrument;
- (v) Assisting refugees in finding solutions to their problems such as: voluntary repatriation, local integration or resettlement to a third country;
- (vi) Helping re-integrate returnees when they go home and provide protection and assistance when asked to do so to internally displaced persons.

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<sup>28</sup> Principle 5

<sup>29</sup> Protecting refugees supra page 19

## **CHAPTER THREE**

### **HUMANITARIAN MANDATE OF UNHCR AND THE ROLE OF OTHER UN BODIES.**

#### **3.0 Introduction**

The peoples who are of concern to the UNHCR who are the refugees, internally displaced, returnees, asylum seekers and stateless people, in terms of their human needs and the humanitarian issues associated with their plight, share a number of important characteristics, for example the manifestation of internally displaced entails the likelihood of confrontation with very immediate threats to their life and liberty. The asylum seeker waiting for a decision on his or her claim to refugee status, for example, may spend months or even years in a situation of hardship and uncertainty. Stateless people who lack an effective nationality even though not threatened by death or serious injury may live in constant fear of expulsion from the country which they consider to be their own. In each of the following categorizations, humanitarian action has a valuable role to play in the effort to achieve these objectives.

#### **3.1 Humanitarian mandate**

Humanitarian action is a very broad concept, covering a variety of different activities undertaken by many different institutions. This chapter focuses primarily on international and multilateral humanitarian action, particularly the activities of UNCHR and other UN organs which it works with on a daily basis.

In the popular consciousness, humanitarian action is most commonly associated with the provision of relief assistance such as food, shelter materials and medical care. During a complex emergency or refugee crisis, the rapid and equitable distribution of such scarce

resources can evidently help to save lives and prevent unnecessary human suffering. Even if it does little to restore people's livelihoods or enable them return to a more settled way of life, emergency assistance can safeguard the most fundamental components of human security.

Humanitarian action can also assume many other and no less important forms. It can mean removing the land mines, which make it impossible for refugees and displaced people to go back to their homes. It can mean trying to ensure that the parties to a conflict respect the laws of war and the rights of civilian populations. It can take the form of advocacy activities, intended to persuade a government that it is wrong to act in a manner that is contrary to international refugee or human rights law. And the concept of humanitarian action can also be understood in terms of military intervention, if armed forces are deployed to safeguard the security of a displaced or war-affected population.

The importance of such activities cannot be overstated, especially in a period of turbulence in the international system and at a time when the world's most powerful states are demonstrating a reduced willingness to take action other than to support humanitarian relief operations. As one eminent analyst reminds us, "humanitarian efforts have achieved some important results since 1991... it enabled Iraqi Kurds, stranded in the mountains, to return home to relative albeit temporary safety. It averted the worst consequences of famine in Somalia in 1992-93. It subsequently prevented or mitigated at least two widely predicated disasters- mass starvations in Sarajevo and the uncontrolled spread of cholera and dysentery in the camps on the boarder of Rwanda in 1994"<sup>30</sup>

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<sup>30</sup> A. Roberts, *Humanitarian Action in War*, Adelphi Paper No. 305, International Institute for Strategic Studies, London, 1996, p.79.

At the same time, however, there is need to acknowledge that humanitarian action has some important limitations. It cannot avert armed conflicts or bring them to an end. It cannot act as a substitute for political will. It may have a variety of unintended and even negative consequences, and be exploited by the parties to an armed conflict. And it can never act as a satisfactory substitute for national protection.

National protection can be said to exist as long as the state is able and willing to ensure the security of its citizens, as long as those citizens recognize the legitimacy of the state, and as long as different groups within society acknowledge the need to reconcile their differences by peaceable means. National protection is manifested most clearly in the maintenance of the rule of law and an absence of social or political violence; in the effectiveness of law enforcement mechanism and impartial judicial systems; in constitutional, participatory and non-discriminatory forms of governance; and in the equitable distribution of resources and access to public services. There is abundant evidence to demonstrate that the states and societies, which lack these attributes, are precisely those whose citizens are most likely to suffer the trauma and hardship of displacement.

### **3.2 The Office for Humanitarian Affairs (OCHA)**

When war, genocide or political repression cause large numbers of civilian victims, displaced or besieged populations and human suffering on a major scale, humanitarian assistance goes beyond the mandate of any single U.N. agency. Established in 1998 as part of the Secretary General's overall reform of the United Nations system, the office for

Humanitarian Affairs (OCHA) co-ordinates and mobilizes the efforts of the international community to help victims of such emergencies.

OCHA focuses on three core areas: co-ordinating emergency aid to disaster sites; advocating humanitarian issues with governments, the general public and within the U.N. system itself; and developing policies to ensure that humanitarian issues are addressed.

The office for Humanitarian affairs, working with the Inter-Agency Standing Committee (IASC) and the Executive Committee on Humanitarian Affairs (ECHA), insures that an immediate and appropriate response is established at the site of the emergency.

OCHA advocates humanitarian issues in consultation with the major political organs of the United Nations, notably the Security Council, the secretariat's Department of Political Affairs (DPA), and the Department of Peace-keeping Operations (DPKO). The office for Humanitarian Affairs also consults regularly with governments and keeps the general public informed about humanitarian issues.

Finally, OCHA supports the secretary general and the IASC by ensuring that issues that may not be part of the mandates of the U.N. agencies and might therefore be ignored, such as protecting and assisting internally displaced persons, are adequately considered and addressed.

UNCHR and OCHA frequently co-operate in complex emergencies that involve both refugees and other populations of concern. In such cases, OCHA assumes overall co-ordinating responsibility within the U.N. system while UNHCR handles all aspects of the actual operations relating to refugees.

### **3.3 THE ROLE OF OTHER UN BODIES**

**While** UNHCR is the only UN organisation devoted solely to the protection of refugees, other UN agencies often work in partnership with UNHCR. They include;

#### **World Food Programme (WFP)**

This is the principal supplier of relief food aid;

The **United Nations Children's Fund** (UNICEF), which helps governments with programmes that focus on children's health, nutrition, education, training and social services. UNICEF also plays an important role in protecting unaccompanied minors and in uniting families that might have been separated during flight from their country of origin;

The **World Health Organisation** (WHO) which acts as directing and coordinating authority on international health work and is active, in among other things, immunization and AIDS campaigns;

The **United Nations Development Programme** (UNDP) which coordinates all development activities undertaken by the UN system, oversees long-term development plans after the emergency phase is over and plays an important role in integration and re-integration programmes;

The **Economic and Social Council** may decide after hearing the views of the High Commissioner on the subject, to establish an advisory committee on refugees, which shall consist of representatives of states members and states non members of the UN, to be selected by the Council on the basis of their demonstrated interest on the matter and devotion to the solution of the problem.

### **3.4 Conclusion**

At the field level, UNHCR staff work to protect refugees through a wide variety of activities, including responding to emergencies, relocating refugees, camping away from border areas to improve safety, ensuring that refugee women have a say in food distribution and social activities; reuniting separated families, providing information to refugees on conditions in their home countries so that they can make an informed decision about return, documenting a refugees' need for resettlement, to a second country of asylum, visiting detention centres, and giving advice to governments on drafting refugee laws, policies and practices.

UNHCR seeks long-term solution to the plight of the refugees repatriated to their home countries, if conditions are conducive to return, integrate into their countries of asylum, or in second countries of asylum.

## **DURABLE SOLUTION**

### **4.0 UNHCR's Mandate for Voluntary Repatriation**

UNHCR's role and responsibilities with regard to voluntary repatriation have been developed over decades through texts, instruments, and practice. In this process, the mandate of UNHCR has been refined and extended, from the initial consideration that UNHCR's responsibility ended when repatriants crossed the border back into their home country, to a substantive involvement with regard to securing protection and providing assistance to returnees in the country of origin. Some of the instruments from which UNHCR's mandate for voluntary repatriation is derived, such as the 1951 Convention Relating to the Status of Refugees, have force of law and are binding on states that sign and ratify them. Others, such as the relevant General Assembly Resolutions and Executive Committee Conclusions, belong to the category of "soft law". While not legally binding, they nonetheless signify an international consensus.

#### **4.0.1 *The Statute***

General Assembly Resolution<sup>31</sup> adopting the UNHCR Statute calls upon governments to cooperate with the High Commissioner in the performance of her functions inter alia by "assisting the High Commissioner in the efforts to promote the voluntary repatriation of refugees." Among other functions, the UNHCR Statute also entrusts the High Commissioner with seeking permanent solutions for the problem of refugees by assisting governments and private organizations to facilitate their voluntary repatriation<sup>32</sup> and with providing for the protection of refugees by assisting governmental and private efforts to

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<sup>31</sup> 428 (V) of 14 December 1950,

<sup>32</sup> Par. 1

promote voluntary repatriation as a solution<sup>33</sup>. These statements, however brief, are of great significance because they introduce three principal topics which later Conclusions and Recommendations on the subject have elaborated in detail:

- Repatriation should be **voluntary**.
- UNHCR, governments and private organizations (NGOs) have a joint role to play in voluntary repatriations.
- Voluntary repatriation should be both **facilitated** and **promoted**.

#### ***4.0.2 The 1951 Convention on the Status of Refugees***

While the 1951 Convention Relating to the Status of Refugees does not address the question of voluntary repatriation as such, it contains several provisions with significant relevance to UNHCR's respective statutory functions.

- **Non-refoulement.** Article 33 prohibits a state from expelling or returning ("refouler") a refugee in any manner whatsoever to the frontiers of territories where he or she would be exposed to persecution.
- **Well-founded fear of persecution.** Such fear<sup>34</sup> is central to the refugee definition of the Convention. The fact that repatriation must be voluntary implies that the subjective fear should have ceased. Refugee status can cease, however, once meaningful national protection is re-established<sup>35</sup>.

#### ***4.0.3 General Assembly Resolutions***

The UN General Assembly has repeatedly reaffirmed UNHCR's function of promoting voluntary repatriation.<sup>1</sup> (1) During the Algerian repatriation in 1961 it became apparent

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<sup>33</sup>Par. 8(c)

<sup>34</sup>As defined in Article 1

<sup>35</sup>See Article I, par. 4 of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa

that UNHCR could effectively assist in voluntary repatriation operations as required by its Statute, only if it were assigned an active role in the country of origin. Recognizing this, the General Assembly in Resolution 1672 (XVI) 2(2), requested UNHCR to assist in the rehabilitation of Algerian refugees following their return to their homeland. This decision, which effectively broadened UNHCR's competence, has been reiterated in numerous subsequent Resolutions, both in general terms and with reference to specific returnee situations.<sup>3</sup> (3)

#### **4.0.4 UNHCR Executive Committee Conclusions<sup>36</sup>**

The Executive Committee of the High Commissioner's Programme first examined the topic of voluntary repatriation in detail in 1980 and recognized in its Conclusion 18 (XXXI) the desirability for UNHCR, whenever necessary, to be involved in:

- Establishing the voluntary character of repatriation.
- Cooperating with governments to assist refugees who express the wish to repatriate.
- Arranging for guarantees to be provided by the country of origin.
- Advising refugees of such guarantees and of information regarding conditions prevailing in their country of origin.
- Monitoring the situation of returnees in their country of origin.
- Receiving returnees in their country of origin and assisting in their reintegration.

While UNHCR's special competence concerning returnees had been recognized in principle by the General Assembly, the above Conclusion for the first time codified it in greater detail. In 1985, the Executive Committee adopted **Conclusion 40 (XXXVI)** on the same subject and significantly developed doctrine with regard to voluntary repatriation through a clear reiteration of basic protection principles and through

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<sup>36</sup>[WWW.UNHCR.ORG](http://WWW.UNHCR.ORG) 'voluntary repatriation' 15<sup>th</sup> june, 2003

outlining in some detail practical ways and means of promoting this solution, and of making it truly durable through rehabilitation and reintegration assistance. In particular, UNHCR should:<sup>37</sup>

- Keep the possibility of repatriation "under active review" from the outset of a refugee situation [and as appropriate actively pursue the promotion of this solution].
- Act as an intermediary and promote dialogue between all main parties; tripartite commissions between UNHCR, the country of origin and the country of asylum should be established.
- On all occasions be fully involved from the outset in assessing the feasibility and, thereafter, in both the planning and implementation stages of repatriation.
- Together with other UN Agencies, assist returnees in their reintegration and rehabilitation.
- Be recognized as having a legitimate concern for the consequences of return and be given direct and unhindered access to returnees.

Reaffirming the above Conclusions, the Executive Committee in 1994 underscored "the leading role of UNHCR in promoting, facilitating, and coordinating voluntary repatriation" in **Conclusion 74 (XLV)**.

#### ***4.0.5 Requests by the Secretary-General***

On many occasions, UNHCR's responsibilities in major repatriation situations have been spelled out in specific terms by instructions from the Secretary-General. He has requested UNHCR, among other things,

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<sup>37</sup> Shirley C.D **Voluntary Repatriation: International Protection HANDBOOK**  
VOLUNTARY REPATRIATION: INTERNATIONAL PROTECTION 1996  
United Nations High Commissioner for Refugees Geneva. Page 10

- To act as his Special Representative in order to coordinate and monitor the returnee programme in Vietnam, in 1990.
- To assist returnees and displaced persons in Iraq, in the context of the United Nations Inter-Agency Humanitarian Programme following the effects of the Gulf crisis, in 1991.
- To act as the lead agency in the Cambodia repatriation, in 1991.
- To be the lead agency for humanitarian activities in the Former Yugoslavia, in November 1991, following which UNHCR was designated as the lead agency for the organized voluntary return of refugees and displaced persons to and in the Former Yugoslavia.

#### ***4.0.6 Summary of the Current UNHCR Mandate for Voluntary Repatriation***

In light of the above developments, the current UNHCR mandate for voluntary repatriation may be summarized as follows:

- Verify the voluntary character of refugee repatriation.
- Promote the creation of conditions that are conducive to voluntary return in safety and with dignity.
- Promote the voluntary repatriation of refugees once conditions are conducive to return.
- Facilitate the voluntary return of refugees when it is taking place spontaneously, even if conditions are not conducive to return.
- Organize, in cooperation with NGOs and other agencies, the transportation and reception of returnees, provided that such arrangements are necessary to protect their interests and well-being.
- Monitor the status of returnees in their country of origin and intervene on their behalf if necessary.
- Undertake activities in support of national legal and judicial capacity-building to help

states address causes of refugee movements.

- Raise funds from the donor community in order to assist governments by providing active support to repatriation and reintegration programmes.
- Act as a catalyst for medium and long term rehabilitation assistance provided by NGOs, specialized development agencies and bilateral donors.

#### **4.0.7.0 The Protection Content of Voluntary Repatriation**

##### ***4.0.7.1 International Human Rights Instruments and the Right to Return***

The right of refugees to return to their country of origin is fully recognized in *international law*. *The Universal Declaration of Human Rights (1948)* established in Article 13 (2) that "Everyone has the right to leave any country, including his own, and to return to his country." While the Universal Declaration of Human Rights, as a Resolution of the General Assembly, is not a treaty requiring signature or consent, it sets the code of conduct and serves as a point of reference for all universal and regional human rights instruments subsequently adopted. Thus, the right to return has been enshrined in various binding international human rights instruments, including the International Covenant on Civil and Political Rights (Art. 12 (4)) and the International Convention on the Elimination of all Forms of Racial Discrimination (Art. 5 (d) (ii)), as well as in a number of regional human rights instruments and the national legislation of various countries. In international human rights law, the basic principle underlying voluntary repatriation is the right to return to one's own country. As a corollary of this right, states are duty-bound to admit their nationals and cannot compel any other state to keep them through measures such as denationalization.<sup>38</sup>

Related to the right of return is the right to a nationality and a number of other

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<sup>38</sup> Ibid 13

fundamental rights, such as the right to life, liberty and security of person, the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, the right not to be subjected to arbitrary arrest or detention or exile and the right to freedom of movement. Returnees are furthermore entitled to basic rights, including the right to work, to education, health care, social security and other social benefits.

#### **4.0.8            *Cessation of Status and Fundamental Changes in the Country of Origin***<sup>39</sup>

The 1951 Convention relating to the Status of Refugees and the 1967 Protocol do not address the question of voluntary repatriation of refugees directly. However, the Convention makes clear that refugee status is a transitory condition which will cease once a refugee resumes or establishes meaningful national protection. Article 1 C explicitly defines the various situations in which the cessation of refugee status is warranted. When relating to voluntary repatriation, one may broadly distinguish two categories of cessation clauses: Paragraphs (1), (3) and (4) of Article 1 C reflect a change in the situation of the refugee that has been brought about by himself, namely:

- voluntary re-availment of national protection;
- voluntary re-acquisition of nationality;
- voluntary re-establishment in the country where persecution was feared.

In practice, these cessation clauses are not automatically invocable upon repatriation, because the circumstances which provoked the original flight often still subsist. The "ceased circumstances" cessation clauses (5) referring to nationals and (6) referring to stateless persons, are based on the consideration that:

- international protection is no longer justified on account of changes in the country where persecution was feared, because the circumstances in connection with which a

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<sup>39</sup> *ibid*

person has been recognized as a refugee have ceased to exist. Thus the person can no longer refuse to avail himself or herself of the protection of the country of his or her nationality/country of former habitual residence. "Circumstances" refer to fundamental changes in the country of origin, which can remove the basis of the fear of persecution. A mere - possibly transitory - change in the facts surrounding the individual refugee's fear of persecution, which does not amount to a fundamental change of circumstances, is not sufficient to make this clause applicable. A refugee's status should not in principle be subject to frequent review to the detriment of his or her sense of security, which international protection is intended to provide. Even when the circumstances in the country of origin have undergone a fundamental change, individual refugees may continue to have a well-founded fear of persecution or compelling reasons not to return arising out of previous persecution. Has this been determined, the "ceased circumstances" cessation clauses should thus not apply to them.

The cessation clauses are negative in character and are exhaustively enumerated. They should therefore be interpreted restrictively, and no other reasons may be adduced by way of analogy to justify the withdrawal of refugee status.

The Executive Committee, in **Conclusion 65 (XLII)** of 1991, underlined the possibility of use of the cessation clauses of the 1951 Convention in situations where a change of circumstances in a country is of such a profound and enduring nature that refugees from that country no longer require international protection, and can no longer continue to refuse to avail themselves of the protection of their country, provided that it is recognized that compelling reasons may, for certain individuals, support the continuation of refugee status. This statement reflects a more general humanitarian principle, recognizing that a

person who - or whose family - has suffered atrocious forms of persecution should not be expected to repatriate. Even though there may have been a change of regime in his country, this may not always produce a complete change in the attitude of the population, nor, in view of his or her past experiences, in the mind of the refugee.

In its **Conclusion 69 (XLIII)** of 1992, the Executive Committee elaborated on the above and, so as to avoid hardship cases, recommended further that states seriously consider an appropriate status, preserving previously acquired rights, for persons who have compelling reasons arising out of previous persecution to re-avail themselves of the protection of their country. The Executive Committee further recommended that appropriate arrangements, which would not put into jeopardy their established situation, be similarly considered by relevant authorities for those persons who cannot be expected to leave the country of asylum, due to a long stay in that country resulting in strong family, social and economic links there should furthermore be noted that the fact that a cessation clause has come into operation does not preclude UNHCR from assisting returnees. The fact that the voluntary repatriation of refugees can take place at a **lower threshold** of change in the country of origin than cessation is based on two elements. One is that a "fundamental change of circumstances" implies the consolidation, over time, of a process of stabilization. The other is that the voluntary nature of the refugee's decision to repatriate constitutes the core element in promoting and facilitating repatriation.

### *Voluntariness*

The principle of **Voluntariness** is the cornerstone of international protection with respect to the return of refugees. While the issue of voluntary repatriation as such is not addressed in the 1951 Refugee Convention, it follows directly from the **principle of non-**

**refoulement:** the involuntary return of refugees would in practice amount to refoulement.

A person retaining a **well-founded fear of persecution** is a refugee, and cannot be compelled to repatriate.

The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa - the only international refugee instrument to date formally elaborating the principles of voluntary repatriation - also stresses the voluntary character of repatriation.

The principle of "Voluntariness" must be viewed in relation to both:

- Conditions in the country of origin (calling for an informed decision); and
- The situation in the country of asylum (permitting a free choice). Voluntariness means not only the absence of measures which push the refugee to repatriate, but also means that he or she should not be prevented from returning, for example by dissemination of wrong information or false promises of continued assistance. In certain situations economic interests in the country of asylum may lead to interest groups trying to prevent refugees from repatriating. "Voluntariness" is more than an issue of principle.

Repatriation which is voluntary is far more likely to be lasting and sustainable. The requirement of Voluntariness therefore constitutes a pragmatic and sensible approach towards finding a truly durable solution. The issue of "Voluntariness" as implying an absence of any physical, psychological, or material pressure is, however, often clouded by the fact that for many refugees a decision to return is dictated by a combination of pressures due to political factors, security problems or material needs. The difficulty of identifying true "Voluntariness" enhances the need for UNHCR to scrutinize objectively the refugees' situation. One of the most important elements in the verification of Voluntariness is the legal status of the refugees in the country of asylum. If refugees are

legally recognized as such, their rights are protected and if they are allowed to settle, their choice to repatriate is likely to be truly free and voluntary. If, however, their rights are not recognized, if they are subjected to pressures and restrictions and confined to closed camps, they may choose to return, but this is not an act of free will. As a general rule, UNHCR should be convinced that the positive pull-factors in the country of origin are an overriding element in the refugees' decision to return rather than possible push-factors in the host country or negative pull-factors, such as threats to property, in the home country.<sup>40</sup>

#### ***4.0.9 Ensuring Return in Safety and with Dignity***

UNHCR's involvement in voluntary repatriation of refugees should not be overshadowed by the many and often complex logistical issues which at times tend to dominate the practical planning. A number of protection issues need to be examined on both sides of the border to ensure that return takes place in conditions of safety, dignity and security.

##### **4.0.9.1 Return in safety**

Return which takes place under conditions of legal safety (such as amnesties or public assurances of personal safety, integrity, non-discrimination and freedom from fear of persecution or punishment upon return), physical security (including protection from armed attacks, and mine-free routes and if not mine-free then at least demarcated settlement sites), and material security (access to land or means of livelihood).

##### **4.0.9.2 Return with dignity**

The concept of dignity is less self-evident than that of safety. The dictionary definition of "dignity" contains elements of "serious, composed, worthy of honour and respect." In practice, elements must include that refugees are not manhandled; that they can return

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<sup>40</sup> Ibid

unconditionally and that if they are returning spontaneously they can do so at their own pace; that they are not arbitrarily separated from family members; and that they are treated with respect and full acceptance by their national authorities, including the full restoration of their rights. Among the elements of "safety and dignity" to be considered are:

- the refugees' physical safety at all stages during and after their return including en route, at reception points and at the destination,
- the need for family unity,
- attention to the needs of vulnerable groups,
- the waiver or, if not possible, reduction to a minimum of border crossing formalities,
- permission for refugees to bring their movable possessions when returning,
- respect for school and planting seasons in the timing of such movements, and
- Freedom of movement. Make appropriate arrangements for the physical safety of unaccompanied women and women heads of household in departure, transit or reception centers (such as separate areas close to the relevant infrastructure with adequate security arrangements, lighting).

#### ***4.0.9.3 Responsibilities of the Host Country***

The following is a summary of the responsibilities of the country of asylum:

- The country of asylum is bound by the fundamental principle of non-refoulement not to return refugees in any manner whatsoever to territories, or to the frontiers of territories, where their life or freedom would be threatened.
- The country of asylum is obliged to continue to treat refugees according to

internationally accepted standards as long as they are on its territory.

- The country of asylum should allow UNHCR, in the exercise of its international protection functions, to supervise the well-being of asylum-seekers and refugees.
- The country of asylum should respect the leading role of UNHCR in promoting, facilitating and coordinating voluntary repatriation.
- The country of asylum should contribute to the promotion of voluntary repatriation as a durable solution.
- The country of asylum should allow UNHCR to ascertain the voluntary character of the repatriation, with regard to individual refugees and with regard to large-scale movements.
- The country of asylum should facilitate arrangements and UNHCR's involvement in them, for ensuring that accurate and objective information on conditions in the country of origin is communicated to the refugees.
- In the event of refugees wishing to visit their country of origin to assess the conditions there in the context of possible repatriation, UNHCR and the countries of origin and asylum should seek to facilitate such visits. Under such circumstances, automatic application of the cessation clauses of the 1951 Convention is not appropriate.

#### ***4.0.9.4 Responsibilities of the Country of Origin***

The responsibilities of the country of origin include, in summary:

- The country of origin should allow its nationals to return in safety and with dignity, without any fear of harassment, discrimination, arbitrary detention, physical threat or prosecution on account of having left or remained outside the country, and should provide guarantees and/or amnesties to this effect. It should also take all measures to ensure the restoration of full national protection.
- The country of origin should respect the leading role of UNHCR in promoting,

facilitating and coordinating voluntary repatriation.

- Where a UNHCR Voluntary Repatriation Form (VRF) is not used for this purpose, the country of origin should provide repatriating refugees with the necessary travel documents, entry permits, and any other documentation required for return.
- Where refugees have lost their nationality, the country of origin should arrange for its restoration as well as for its granting to children born outside the territory and, as appropriate, to non-national spouses.
- The country of origin should seek lasting solutions to refugee problems, inter alia by assuming responsibility for the elimination of root causes of refugee flows and the creation of conditions conducive to voluntary return and reintegration. It should provide full support to the efforts of UNHCR and other actors to the same end.
- The country of origin, recognizing UNHCR's legitimate concern for the well-being of returnees, should ensure UNHCR direct and unhindered access to all returning refugees in order to monitor their situation, in particular the fulfillment of any amnesties, guarantees or assurances provided by the country of origin which may have played a part in the refugees' decision to return. International support may also be important in this context.

Both in the country of origin and in the host country local instruments such as UNHCR Branch Office Agreements, Sub-Agreements etc. may contain clauses relevant to the above and can provide a basis for negotiations and interventions.

#### **4.1.0 UNHCR's Role in Voluntary Repatriation Operations**

##### ***4.1.0.1 Promotion of Solutions, Promotion of Repatriation and, Facilitation***

The role UNHCR plays in voluntary repatriation, can best be summarized by the terms **promotion of solutions, promotion of repatriation and facilitation**. Below, certain

parameters are set out to give meaning and context to these terms so that there is a common understanding of their usage.

#### **4.1.0.1.1 Promotion of Solutions:**

Promotion of solutions describes actions taken from the very outset of a refugee situation which could foster a climate for return. It thus refers to activities which could help bring about safe and dignified conditions for refugee repatriation. Such activities associated with the root causes of the exodus, and thus concerned with the refugee's country of origin, which would affect prospects for return, are generally carried out at the political level and in conjunction with other actors, in particular, regional organizations and the UN Secretariat<sup>41</sup>. **Promotion of solutions** in this sense<sup>41</sup> must always be attempted. In carrying out this advocacy role, UNHCR seeks, among other things, to: Contribute to national, regional and international efforts to deal with and resolve the root causes of population displacements within the practical and political limits presented by a particular situation.

Support conflict resolution efforts by creating a humanitarian and non-political space within which all parties concerned with the refugee situation can engage in constructive dialogue to resolve their underlying differences.

Consult with refugees to involve them in efforts to find a durable solution to their problems. Safeguard the refugees' desires, enhance their decision-making process and, *through concerted confidence-building measures, enlist their active participation in* assessing the feasibility and desirability of their eventual return home. Secure the political will of the country of origin and, as appropriate, the cooperation of the international community to create conditions that are required to actively promote the

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<sup>41</sup> see also chapter 3.5 "UNHCR contributing to solutions"

return of refugees.

#### **4.1.1.1.2 Promotion of Repatriation:**

The practical measures which can be taken to help refugees return voluntarily once the conditions for this exist are described as **promotion of repatriation**. Promotion of voluntary repatriation movements means actively undertaking broad and wide-ranging measures to advocate refugees' return. Promotion of repatriation can take place when a careful assessment of the situation shows that the conditions of "safety and dignity" can be met: in other words, when it appears that objectively, it is safe for most refugees to return and that such returns have good prospects of being durable. At this stage, refugees require objective and accurate information and support in considering their options, and UNHCR needs extensive feedback from the refugees.

These are some of the **essential preconditions** to be met for UNHCR to promote voluntary repatriation movements:

- There must be an overall, general improvement in the situation in the country of origin so that return in safety and with dignity becomes possible for the large majority of refugees.
- All parties must be committed to fully respect its voluntary character.
- The country of origin must have provided a formal guarantee, or adequate assurances for the safety of repatriating refugees, as appropriate.
- UNHCR must have free and unhindered access to refugees and returnees.
- The basic terms and conditions of return must be incorporated in a formal repatriation agreement between UNHCR and the authorities concerned.

UNHCR may promote repatriation through planning and organizing the voluntary repatriation of refugees under conditions which are conducive to their safe return and durable reintegration, by: gaining full access to the refugee population, whether in camps or in settlements, to ensure voluntariness. Undertaking a comprehensive information campaign to enable the refugees to make their decisions in full knowledge of the facts. Interviewing, counselling and registering potential repatriants, organizing safe and orderly return movements and adequate reception arrangements.

Developing and implementing (directly or through implementing partners) rehabilitation and initial reintegration programmes. Monitoring the legal, physical and material security of returnees. UNHCR can promote voluntary repatriation without being in charge of organizing all aspects of the return movement. Frequently, members of a group will make their own arrangements for return, with or without material assistance from UNHCR.

#### **4.1.1.3 Facilitation:**

Respecting the refugees' right to return to their country at any time, UNHCR may **facilitate voluntary repatriation** when refugees indicate a strong desire to return voluntarily and/or have begun to do so on their own initiative, even where UNHCR does not consider that, objectively, it is safe for most refugees to return. This term should be used only when UNHCR is satisfied that refugees' wish to return is indeed voluntary and not driven by coercion<sup>42</sup>.

While the condition of fundamental change of circumstances in the country of origin will usually not be met in such situations, UNHCR may consider facilitating return in order to have a positive impact on the safety of refugees/returnees as well as to render assistance

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<sup>42</sup> *supra see also chapter 2.3 on "Voluntariness"*

which the refugees may require in order to return. Such assistance may have to be given in the absence of formal guarantees or assurances by the country of origin for the safety of repatriating refugees, and without any agreement or understanding having been concluded as to the basic terms and conditions of return.

In designing and carrying out its protection and assistance functions, UNHCR, however, has to make it clear to the authorities and, most importantly, to the refugees, that UNHCR support for such repatriations is based on respect for the refugees' decision to repatriate and cannot be interpreted as an indication of adequate security. UNHCR's role in **facilitating** such repatriations may include: providing information on conditions prevailing in the country of origin in general, and in areas of intended return in particular, which is both accurate and complete. Providing those returning with limited material assistance for their return, advising returnees of the limits of UNHCR protection and assistance in such situations (e.g. the lack of UNHCR presence in the country/area of origin or of agreement with the authorities of the country of origin). In addition to this, UNHCR should seek to make refugees aware of any obstacles which may exist to their re-entry to the present country of refuge. Where possible, in the context of facilitating refugee-induced repatriation UNHCR should also try to seek ways to improve the safety of returnees in their country of origin. When return has become a fact, UNHCR should attempt to negotiate amnesties and guarantees, UNHCR presence in the areas of return and so on. If UNHCR is able to establish a presence in the areas of return, UNHCR should aim, to the extent possible, at exercising its returnee monitoring function<sup>43</sup>, while still not promoting voluntary repatriation in the host country until such time as the conditions in the country of origin may allow UNHCR to consider moving from

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<sup>43</sup> *Ibid see also chapter 2.3 on "Voluntariness"*

facilitation to promotion of repatriation.

### **4.3 RESETTLEMENT: A VITAL INSTRUMENT OF INTERNATIONAL PROTECTION**

Resettlement is a vital instrument of protection and durable solution. Resettlement under UNHCR auspices is geared primarily to the special needs of refugees under the Office's mandate whose life, liberty, safety, health or other fundamental human rights are at risk in the country where they sought refuge. It is also considered a durable solution, in particular circumstances, for refugees who do not have immediate protection concerns. The decision to resettle a refugee is normally taken, with priority, when there is no alternative way to guarantee the legal or physical security of the person concerned. In light of this, the common description of resettlement as a "last resort" should not be interpreted to mean that there is a hierarchy of solutions and that resettlement is the least valuable or needed among them. For many refugees, resettlement is, in fact, the best - or perhaps, only alternative. Refugees may be denied basic human rights in a country of refuge; their lives and freedom may be threatened by local elements driven by racial, religious or political motives, or by attacks and assassinations directed from the outside. The authorities in the country of refuge may be unable or unwilling to provide effective protection. In such circumstances, resettlement becomes not a solution of last resort, as it has often been called, but a principal objective. In the broad context of UNHCR's principal mandate to provide international protection and seek durable solutions for refugees, resettlement policy aims to achieve a variety of objectives. The first and

perhaps most fundamental are to provide a durable solution for refugees unable to return home or to remain in their country of refuge. Resettlement contributes to international solidarity and to maintaining the fundamental principles of protection by assisting countries of refuge in the task of caring for refugees. Resettlement can also provide significant potential for the development of a resource base for the return of professional and skilled personnel at some future time when repatriation may become viable.

Third country resettlement involves the transfer of refugees from the country where they have sought refuge to another State which has agreed to admit these persons. They will usually be granted asylum or some other form of long-term residence rights and in many cases the opportunity to become naturalized citizens. For that reason, resettlement is often referred to as one of the permanent, or durable, solutions available to refugees.

In other contexts, the term resettlement is commonly used to describe the transfer of populations from one area within a country to another. The World Bank may finance resettlement projects to clear areas to be flooded as a result of dam construction.

Populations may be resettled in anticipation of a natural disaster. Sometimes, returning refugees are said to be resettling in their former homes. Closer to UNHCR's specific use of the term, a number of Governments refer to some of their migration programmes as resettlement. These programmes, however, may include persons who meet neither the definition of a refugee under the UNHCR mandate nor the specific UNHCR resettlement criteria detailed in this essay. Resettlement under UNHCR auspices is geared primarily to the special needs of refugees under the Office's mandate whose life, liberty, safety, health or fundamental human rights are at risk in the country where they sought refuge. It is also considered a durable solution for refugees who, although not in need of immediate

protection, have compelling reasons to be removed from their country of refuge. The decision to resettle a refugee is normally made only in the absence of other options such as voluntary repatriation and local integration. It becomes a priority when there is no other way to guarantee the legal or physical security of the person concerned.

Resettlement may be necessary to ensure the security of refugees who are threatened with refoulement to their country of origin or those, whose physical safety is seriously threatened in the country where they have sought sanctuary. Resettlement is also used for other refugees at risk, such as survivors of torture and violence, the disabled and other injured or severely traumatized refugees who are in need of specialized treatment unavailable in their country of refuge. It is also appropriate for refugees without local integration prospects, for whom no other solution is available. Furthermore, resettlement is often the only way to reunite refugee families who, through no fault of their own, find themselves divided by borders or by entire continents. No country is legally obliged to resettle refugees. Only a small number of States do so on a regular basis; allocating budgets, devising programmes and providing annual resettlement targets. Some countries regularly accept refugees for resettlement, sometimes in relatively large numbers, but do not set annual targets. Accepting refugees for resettlement is a mark of true generosity on the part of Governments and UNHCR welcomes the opportunities that continue to be offered by States for the resettlement of refugees.

#### **4.2.1 Obstacles to Resettlement**

In 1990, of the then global refugee population of 15 million, UNHCR requested resettlement for just under 150,000 persons or approximately one per cent of the total. Of the total global refugee population targeted for resettlement by UNHCR, the Office

registered only 52,000 departures. This represents a 65 per cent shortfall in meeting the Office's stated needs.

The reasons for the shortfall in meeting resettlement requirements in 1990 are attributable to several interdependent factors which over the past years have posed obstacles in achieving this durable solution. The major impediment remains the limited number of countries offering annual refugee admission quotas. Of the 159 member States of the United Nations only 10 governments establish and announce annual refugee resettlement quotas.

Admission levels of the governments concerned are indeed generous contributions, in providing a new life to a large number of deserving persons, and their humanitarian approach is commendable. The adjustment of available quotas of some countries, however, resulting from the admission of groups processed independently of the Office, often in response to domestic pressures represented by special interest groups, significantly reduces the annual pool of resettlement places available to meet UNHCR specific, protection-related requirements.

The above phenomenon is closely related to, if not actually part of, another phenomenon, which is the blurring of the distinction between refugees (especially UNHCR-designated protection cases requiring, and promoted for, resettlement) versus persons admitted under refugee quotas who often do not face the same protection problems or who more appropriately should be classified as immigrants. The confusion between immigration and refugee admissions, evidenced, *inter alia*, by the selective approach of governments in accepting refugees for Resettlement, can exacerbate protection problems, delay the processing of deserving cases, contribute to the number of

long-stayers and adversely affect the well-being of persons who have already experienced considerable trauma.

Adding to UNHCR's problems in securing sufficient resettlement quotas is the cumulative effect on governments and influential sectors of public opinion of South-North and East-West mass migration movements. Over the past decade, as is well known, there has been an upsurge in the number of persons arriving spontaneously in western countries or in intermediate countries especially in Asia and the Middle East - hoping for onward movement to the West. Those with genuine asylum claims have been joined by many others who register such claims on the assumption that their chances of remaining in western countries are greater if they enter the asylum procedure. The aforementioned phenomenon must also be seen in the light of events accompanying the end of the cold war. This historic development has not only altered the convenient prism of East-West conflict through which many western countries perceived refugees and thus, resettlement for some 40 years, it has also raised the prospect, with the easing of travel restrictions, of large-scale emigration from Eastern Europe.

This confluence of movements, culminating in a very considerable increase in asylum applications, has had social, economic and political consequences which have included changed attitudes to immigration and refugee issues. One result has been that many governments have introduced more restrictive immigration policies, which may have an adverse impact. This situation has also militated against attempts by UNHCR, in the spirit of burden-sharing, to convince countries to do more in terms of resettlement admissions. As can be imagined, some governments face a rising chorus of critics at home who question why it is necessary to process for resettlement abroad when they

must contend with so many persons arriving directly at their borders, the majority of whom manage to remain in their chosen countries.

### **4.3 Conclusion**

While voluntary repatriation may be the preferred outcome for most refugees, donor States and countries of asylum, other solutions, including resettlement, cannot be neglected. Indeed, there is a growing recognition of the need for a more comprehensive approach to refugee problems that involves helping different groups of refugees to find appropriate solutions to their plight, according to their individual circumstances, aspirations and the opportunities available. Resettlement is an essential element in a comprehensive strategy of refugee protection.

Although the overall number of refugees in need of resettlement has decreased in recent years, the profile of resettlement cases has been increasingly characterized by new and diverse nationalities, and also by more complex cases needing specialized attention and treatment, such as victims of torture and women-at-risk. This has generated a variety of challenges for UNHCR and for resettlement countries, ranging from how to better define the standards for resettlement, responding to the special needs of resettled refugees, to extending support networks in the host communities.

The need for broad-based resettlement programmes may arise again as part of international endeavors to ensure protection and promote durable solutions.

## 4.4 LOCAL INTEGRATION

### 4.4.1 INTRODUCTION

This part examines the role of local integration and the promotion of self-reliance as a means of finding durable solutions to refugee problems. It attempts to define the concepts of local integration and self-reliance, as well as their relationship to each other. It further explains why the international community has paid relatively little attention to local integration in recent years, and preferred to pursue a solutions strategy which focuses predominantly on repatriation.

This part will suggest that voluntary repatriation is not an immediately attainable solution for many of the world's refugees, nor is it necessarily the most viable one for others. On the basis of this analysis, the paper concludes that a comprehensive durable solutions strategy is required for refugee problems to be effectively addressed and resolved, involving a revitalized approach to local integration and the promotion of self-reliance.

### 4.4.2 BACKGROUND

When the international refugee protection regime was established over 50 years ago, the international community recognized the potential for certain refugee problems to be resolved by means of local integration.<sup>44</sup> In practice, however, local integration can, for a range of political and practical reasons, be difficult to realize. Even for individuals in countries where asylum systems are structured to provide for refugees remaining permanently with a wide range of rights and entitlements, including citizenship, this solution is made decreasingly available. Some States prefer to grant limited and

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<sup>44</sup> See article 34 of the 1951 relating to the status of refugees, as well as the statute of the office of the United Nations High Commission for Refugees.

temporary forms of asylum, in the expectation that those persons benefiting will return to their country of origin - either voluntarily or at the request of the authorities - as soon as it is safe to do so. In other parts of the world, where refugees are confined to camps or designated zones, self-reliance is discouraged and voluntary repatriation is presented as the solution which will be pursued, even in situations where conditions in the country of origin remain unsafe or unstable. Indeed, in a number of States, limiting self-reliance becomes a means to promote early repatriation<sup>45</sup>.

A comprehensive strategy will need to recognize the proper place of local integration and self-reliance in the pursuit of durable solutions. Such an approach is particularly important to resolve protracted refugee situations<sup>46</sup>, to which UNHCR and States have been paying concerted attention recently, following the initiative to explore new approaches in Africa launched by UNHCR in the aftermath of the Ministerial Meeting of the Global Consultations last year.

#### **4.4.3      DEFINING LOCAL INTEGRATION<sup>47</sup>**

Local integration in the refugee context is the end product of a multifaceted and ongoing process, of which self-reliance is but one part. Integration requires preparedness on the part of the refugees to adapt to the host society, without having to forego their own

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<sup>45</sup> Ibid 'RESETTLEMENT: A VITAL INSTRUMENT OF INTERNATIONAL PROTECTION' chapter 1

<sup>46</sup> A protracted refugee situation is one where, over time, there have been considerable changes in refugees' needs, which neither UNHCR nor the host country have been able to address in a meaningful manner, thus leaving refugees in a state of material dependency and often without adequate access to basic rights (e.g. employment, freedom of movement and education) even after many years spent in the host country.

<sup>47</sup> While both Article 34 of the 1951 Convention and UNHCR's Statute, make reference to 'assimilation', the international community has always rejected the notion that refugees should be expected to abandon their own culture and way of life, so as to become indistinguishable from nationals of the host community. In this respect, 'local integration' is the more appropriate term and should be used when referring to this durable solution.

cultural identity. From the host society, it requires communities that are welcoming and responsive to refugees, and public institutions that are able to meet the needs of a diverse population.<sup>48</sup> As a process leading to a durable solution for refugees in the country of asylum, local integration has three inter-related and quite specific dimensions.<sup>49</sup>

First, it is a legal process, whereby refugees are granted a progressively wider range of rights and entitlements by the host State that are broadly commensurate with those enjoyed by its citizens. These include freedom of movement, access to education and the labour market, access to public relief and assistance, including health facilities, the possibility of acquiring and disposing of property, and the capacity to travel with valid travel and identity documents. Realization of family unity is another important aspect of local integration. Over time the process should lead to permanent residence rights and in some cases the acquisition, in due course, of citizenship in the country of asylum.

Second, local integration is clearly an economic process. Refugees become progressively less reliant on State aid or humanitarian assistance, attaining a growing degree of self-reliance and becoming able to pursue sustainable livelihoods, thus contributing to the economic life of the host country.

Third, local integration is a social and cultural process of acclimatization by the refugees and accommodation by the local communities, that enables refugees to live amongst or alongside the host population, without discrimination or exploitation and contribute actively to the social life of their country of asylum. It is, in this sense, an interactive

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<sup>48</sup> See the definition as developed by the International Conference on the Reception and Integration of Resettled Refugees, which took place in Norrköping (Sweden) from 25 to 27 April 2001. See also *New directions for resettlement policy and practice* discussed at the 21st meeting of the Standing Committee in June 2001, and ExCom Conclusion on International Protection No. 90 (LII), para 1.

<sup>49</sup> See also the recommendations on local integration resulting from “The Refugee Perspective”, a meeting with refugees which took place in Rouen from 14 to 16 September 2001, available on UNHCR’s website (Global Consultations).

process involving refugees and nationals of the host State, as well as its institutions. The result should be a society that is both diverse and open, where people can form a community, regardless of differences.

#### PROMOTING SELF-RELIANCE

Promoting self-reliance and reducing the need for external support is in the interests of refugees, host States and the international community generally, whatever the durable solution may ultimately be. For the purposes of this paper, self-reliance is understood to mean that refugees are able to provide for themselves and their community members in terms of food and other living expenses, including housing, health services and education; can cope with unexpected events; and are no longer dependent on outside assistance.

Promoting self-reliance helps refugees to seize whatever opportunities are available to establish livelihoods. At the same time, self-reliance contributes to the realization of durable solutions at a later stage, since self-reliant refugees have acquired skills and experience that they will be able to put to use wherever they are: in the country of origin upon return; in a country of resettlement; or in the country of asylum, should local integration become the durable solution. The process of local integration is greatly facilitated by refugees becoming self-reliant, since they are better able to interact with the local population economically and socially, and thereby contribute to local development as an asset rather than a “burden”. Self-reliance also facilitates the voluntary repatriation solution as self-reliant refugees are better equipped to restart their lives and contribute to the development, reconstruction, and peace building processes in their own country.

A self-reliance strategy should address, variously and as appropriate the following areas:

- community-development activities promoting community organization and leadership structures, if possible, linked to local structures, with representation of the various community groups;
- targeted assistance packages to enhance the economic self-reliance of refugees through: provision of agricultural land and related support, income-generation and micro-finance activities, job-oriented skills development programmes, and grants for education or scholarships;
- projects to strengthen the absorption capacity of local communities by investing in the infrastructure, community services, and local economy, as well as preserving or remedying the natural habitat;
- building and/or strengthening multi-faceted partnerships among the various stakeholders to include information-sharing, joint strategic planning and programming, coordination and division of labour with different actors, as well as joint management of projects and programmes implemented by different partners within and outside the UN country teams;
- full involvement of refugees and their communities, including host communities, in the design, development and monitoring of programmes;
- Development of legal and institutional frameworks that foster productive activities and protect relevant civil, social and economic rights (related, for example, to land, employment, education, freedom of movement, identity documents, access to the judicial system).

Self-reliance can, however, only be achieved if there is an enabling environment. This includes a viable economic situation, availability of affordable housing or access to land, as well as receptive attitudes within the host community. The skills and capacities of refugees also determine their potential for self-reliance. For example, refugees with professional qualifications are more likely to be productive in an urban environment where they are permitted to use their skills professionally than farmers and agriculturalists who would need access to land.

The design of self-reliance strategies for protracted refugee situations in Africa<sup>50</sup> has already been looked at in some detail.

#### **4.4.4 RELATIONSHIP BETWEEN LOCAL INTEGRATION, SELF-RELIANCE AND LOCAL SETTLEMENT**

Local integration and self-reliance are, as indicated earlier, related but different, one from another. For the purposes of this paper, the following distinction can be made.

Local integration is commonly referred to as one of the three 'durable solutions' available to refugees. It is based on the assumption that refugees will remain in their country of asylum permanently and find a solution to their plight in that State. Ideally, that will involve the acquisition of citizenship.

Self-reliance, on the other hand, does not presuppose that refugees will find a durable solution in the country of asylum. Rather, it should be seen as the precursor to any of the

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<sup>50</sup> See also the UNHCR *Discussion Paper on Protracted Refugee Situations in the African Region* (prepared for the Panel Discussion of 3 October 2002, during ExCom's 52nd session) together with the UNHCR paper *Addressing Protracted Refugee Situations in Africa* (prepared for the Informal Consultations on New Approaches and Partnerships for Protection and Solutions in Africa, 14 December 2001).

three durable solutions. In the context of local integration as the durable solution, self-reliance can be seen as part of a continuum, progressively leading to local integration.

The relationship between the concept of local integration and that of local settlement is somewhat ambiguous, complicated by the tendency of some commentators to use them interchangeably. Local settlement is situated somewhere in between self-reliance and local integration. It was practiced widely in developing countries, particularly in Africa, between the 1960s and 1980s it is still practical at Mayukwayukwa in western Zambia, at a time when large-scale influxes were met in a number of host countries by recognition of new arrivals on a *prima facie* basis, coupled with provision of land where the refugees could establish new settlements, engage in farming and other economic activities. In some instances, locally settled refugees might indeed remain in their country of asylum and become progressively integrated there. But in other instances, local settlement is a temporary phase, allowing refugees to become self-reliant, pending the time when they are able to benefit from the solution of voluntary repatriation.

#### **4.4.5 WHEN IS LOCAL INTEGRATION APPROPRIATE**

In recent times, the three durable solutions have taken on a hierarchy, with voluntary repatriation taking clear priority over the others. Many refugees are eager to return to their country of origin and will do so once this is feasible, which supports the designation of voluntary repatriation as the most preferred solution. The preference has also been prompted by other considerations. They include:

- Concern about the negative economic and environmental impact of large-scale refugee populations in countries which are struggling to meet the needs of their own citizens;

- The reluctance of host States to accommodate large numbers of refugees, resulting in part from a perception that the international community is not sufficiently committed to burden-sharing;
- a belief that exiled populations represent a threat to local, national and regional security, especially in situations where *bona fide* refugees are mixed with armed elements;
- Popular antagonism to the presence of refugees, mobilized in some cases by the media and politicians; and,
- An increasingly restrictive climate, associated with a fear that States are losing their ability to control the movement of people across international borders.

As a result of these factors, some countries in different parts of the world have become more reluctant to admit large numbers of asylum-seekers and refugees. They are generally also disinclined to take any action that would imply the long-term or permanent presence of such people on their territory.

While it is important to recognize this reality, it is equally important to acknowledge that refugee problems - and the problems of refugees - cannot be adequately addressed by means of voluntary repatriation alone.

First, it has become clear that a significant proportion of the world's refugees are destined to remain in their countries of asylum for long periods of time, due to the protracted nature of the conflicts which have forced them to leave their homeland. It has become equally clear that confining refugees to camps for years on end, deprived of the right to freedom of movement and without access to educational and income-generating opportunities, has many negative consequences. It prevents refugees from developing

their human potential and limits their ability to make a positive contribution to the economy and society of the country which has granted them asylum. It creates a situation in which refugees are more prone to become involved in illicit and anti-social activity. It means also that refugees will lack the skills and motivation they need once it becomes possible for them to return to and reintegrate in their country of origin.

Second, there are situations in which the promotion of local integration has good potential to succeed. Such is the case when refugees share a language, a culture or an ethnic origin with the host community. Similarly, when refugees bring particular skills to their country of asylum, when they move into areas where land is available, and when their presence can attract resources and investments which would not otherwise be available to the area, a response based solely on the expectation of an eventual repatriation movement is not necessarily the most effective one.

Third, while many of the world's refugees do yearn for the opportunity to return safely to their homes, it must also be recognized that others feel unable or will not be able to do so. This may be because they have established close economic or social links to their country of asylum due to the long duration of stay. It may also be for valid protection reasons that refugees cannot return, either because the circumstances may not have changed and persecution upon return is still a reality, or because the circumstances which forced them into exile were so traumatic that they cannot be expected to return, as the 1951 Convention recognizes. The general cessation clause does not, indeed, apply if the

refugee is able to invoke compelling reasons for not returning arising out of previous persecution.<sup>51</sup>

Fourth, while it is true that the pursuit of local integration has received relatively little support from the international community, it would be wrong to give the impression that refugees are incapable of settling peacefully and productively in the countries where they have found asylum. Indeed, there is evidence to suggest that in developing regions, most notably in Africa, large numbers of refugees are “self-settled”, supporting themselves without international assistance and living in harmony with the local population. The analysis presented above suggests that an approach to the solution of refugee problems, focusing predominantly on voluntary repatriation, ignores a number of important issues, namely that:

- a significant proportion of the world’s refugees are currently unable to repatriate in safety and dignity; long-term care and maintenance programmes<sup>52</sup> bring few lasting benefits to host countries, donor States or to refugees themselves;
- refugees who are unable to attain a certain degree of self-reliance or to benefit from local integration are more likely to move on to urban areas or to other countries and regions, thereby exacerbating the problem of irregular migration;
- the promotion of self-reliance, leading perhaps to the local integration of some, can in certain circumstances be an appropriate and viable means of addressing refugee situations.

#### **4.4.6 CONCLUDING OBSERVATIONS**

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<sup>51</sup> See Article 1 (C) 5.

<sup>52</sup> These are programmes, which provide for the basic needs of refugees but do not capacitate them.

Against this background, it is suggested that a comprehensive durable solutions strategy, which recognizes the value of self-reliance and provides, where called for, for local integration, has the greatest likelihood of success. Such a strategy should reflect appropriately the following considerations:

- While voluntary repatriation will continue to be the durable solution sought and attained by the largest number of refugees, a comprehensive durable solutions approach will also have to focus on the situation of those refugees who are unable to return to their country of origin, or for whom local integration is otherwise the preferable of the three solutions.
- Refugees who have already attained a marked degree of socio-economic integration should be actively considered for the grant of secure legal status and residence rights, including the opportunity to become naturalized citizens of the country of asylum.
- Even in situations where local integration does not appear to be a viable solution for a refugee population, self-reliance should be vigorously pursued, pending the resolution of displacement through voluntary repatriation or resettlement.
- It is important to recognize that a solutions strategy, which includes the promotion of self-reliance, does not preclude the possibility of voluntary repatriation once this becomes safe and feasible. Self-reliant refugees are better equipped for the challenge of return and reintegration than those who have been condemned to an unproductive existence for many years on end. This in turn contributes to preventing the reasons for recurring movement back to the host country.

- Host States should allow refugees to exercise effectively the rights granted to them by the 1951 Convention, particularly those rights which make it possible for refugees to engage in income-generating activities, such as farming, trading or paid labour.
  - The placement of refugee settlements in an economically viable environment is of equal importance.
  - A burden-sharing approach should ensure that the necessary resources are available to promote self-reliance and local integration, in a manner, which also contributes to the economic viability of local communities affected by their presence.
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- A partnership approach with international and regional development actors will be essential to underpin local integration as the long-term solution, given not least the limited competence of UNHCR and other humanitarian organizations in this domain.

## CHAPTER FIVE

### CONCLUDING REMARKS, OBSERVATIONS AND RECOMMENDATIONS

The discussion reveals a basic pattern: whereas a state is free to grant asylum to any person in its territory to the extent that it has not bound itself by treaty to the contrary, it may only provide asylum in places under its control. In this connection we must take note of the fact that generally “diplomatic asylum” is not recognized. This does not however preclude a state from giving shelter on diplomatic premises on foreign territory to persons whose surrender is not demanded by the territorial authorities, nor from providing temporary refuge in exceptional circumstances, for instance in the case of breakdown of law and order. Such temporary refuge is not considered a matter of right, however, but an instance of humanity.

### RECOMENDATIONS

“Change is the essence of life, and as humanity progresses, revision and supplementing existing laws to meet new facts of life is inevitable. Thus, if and when the need arises the Convention of 1951 and the protocol of 1967 could be revised and another protocol undertaken to meet the requirements of the changed situation. There should be no hesitation in taking such a step whenever felt necessary.”<sup>53</sup>

The policy adopted by Zambia towards the refugees problems during the 1960s which was solely for security reasons and avoidance of political unrest in the country has

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<sup>53</sup> Singh, Nagendra, (1984) “The Role and Record of the United Nations High Commissioner for Refugees”, p76

remained deep rooted in the commitments. The Refugee (Control) Act needs to be amended so that it is in line with the international definitions. As regards substantive rights of refugees, recommendations are made as follows:

In order to enhance the protection of fundamental human rights and freedoms, there is need for an express provision in the Act that all the rights recognized under the 1951 Convention are to be recognized with respect to refugees, except where it is otherwise provided.

There is also need for an effective system of enforcement of the provisions of the convention to avoid instances where contracting states blatantly disregard the provisions of the convention. For example the Republic of Zambia has made a lot of reservations some of which are not allowed like the one made to Article 16(1).

Reform is necessary under the African convention and the Zambian Act so that they expressly provide for the various rights and freedoms provided for under the 1951 convention (with the proposed amendments). The Zambian Refugee (Control) Act shall further have to be amended to the effect that the substantive rights recognized under the 1951 convention and the African convention (together with the proposed amendment) become enforceable before Zambian Courts of Law.

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THE REFUGEE (CONTROL ACT) NO 40 OF 1970

## APPENDIX 1

### *Addressing Protracted Refugee Situations in Africa,*

Prepared by UNHCR for the Informal Consultations on New Approaches and Partnerships for Protection and Solutions in Africa

Geneva, 14 December 2001

(Excerpts)

"...

9. An effective strategy to address protracted refugee situations and prevent possible future refugee crises from becoming protracted should be based on the following elements:

a. Compile an inventory of best practices for self-reliance strategies and provide governments with practical operational tools to turn such principles into real measures, including guidelines and manuals for the development of specific projects and programmes. UNHCR needs to draw up a menu of available options/practical tools to ensure that today's emergencies do not become tomorrow's protracted refugee situations.

b. Promote policies that allow refugees to contribute to the socio-economic activities of the host communities and thereby focus on refugees as potential "agents of development". This would involve integrating them into the development planning process of the countries of asylum so that they can receive more attention and "investment" from donor countries, bilateral development banks and other financial institutions. More specifically, there should be better linkages between UNHCR's activities and national development plans, in particular with poverty alleviation initiatives.

c. Ensure that, from the outset, assistance programmes for refugees have a limited emergency relief and care and maintenance phase and that strategies for self-reliance/empowerment are integrated into UNHCR's programmes at the start of a new operation. This would include designing programmes in order to increase the absorption capacity of host countries and mitigate the impact of refugees on local host communities.

d. Adopt community-based assistance as a central pillar of UNHCR's programmes in existing and future refugee situations, including making social services and amenities destined for refugees available to the entire host community, and initiating joint economically productive activities, particularly in agriculture, but also activities for urban refugees.

e. Ensure that refugees, in particular refugee women and adolescents, and host communities themselves participate in the design and development of self-reliance and development programmes. Programmes concretely benefiting host communities would also ensure greater sustainability.

f. Devise programmes based on a relief-substitution strategy, which would involve both refugees and local communities in producing certain items (e.g. cooking oil, flour, blankets, stoves etc.) for the initial care and maintenance programmes rather than continuing to import them.

g. Seek to increase investment in education and skills training, which would not only benefit self-reliance strategies and increase local economic activity, but also constitute transferable skills for the refugees upon return to their countries of origin.

h. Develop legal and institutional frameworks that would enable refugees to exercise their civil, social and economic rights (e.g. access to land, right to work and education,

freedom of movement, provision of identity documents, access to the judicial system), in order to engage in productive activities.

i. Reinforce partnerships with governments and the international community to include information-sharing, joint strategic planning and programming, co-ordination and division of labour with different actors and joint management of projects and programmes implemented by different partners within and outside the UN country teams.”

SOURCE: EC/GC/02/6 [www.unhcr.org](http://www.unhcr.org)