



## CHAPTER FIVE

# UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

### PURVIEW OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

The Executive Committee of the High Commissioner for Refugees (UNHCR) was established as part of the United Nations High Commissioner for Refugees by the United Nations General Assembly on 14 December 1950. The agency's mandate is to lead and coordinate international action to protect refugees and resolve refugee problems worldwide. The UNHCR strives to ensure that all refugees can exercise the right to seek asylum and find safe refuge in another state and to return home voluntarily. Its actions are guided by the United Nations Convention Relating to the Status of Refugees and its 1967 Protocol, as well as by other instruments of international refugee law. The Executive Committee of the UNHCR meets annually in Geneva to approve the programs and budget of the UNHCR and to give advice on issues within the agency's mandate.

**Website:** <http://www.unhcr.org/>

### REFUGEE PROTECTION AND SEXUAL VIOLENCE

The United Nations High Commissioner for Refugees (UNHCR) defines a refugee as someone who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.” Generally considered one of the groups most vulnerable to human rights abuses, refugees are of great concern to the United Nations and the international community. The total number of people forcibly displaced in the world today has reached 45.2 million, 15.4 million of whom are classified as refugees; this is the highest level of displaced persons in nearly two decades.

While rates of basic human rights abuses are much higher among refugee populations, one of the most prevalent is in the form of sexual violence, including assault and rape. Primarily but not exclusively affecting women and girls, this violence occurs both during flight and while in exile. The many challenges facing refugees—especially the lack of legal documents, proof of identity and a disputed legal status in the host State—can limit refugees' ability to access legal recourse and protection. Without access to legal institutions and the protections normally available in communities, many victims live in shame, fearful of social stigma or retaliation. Though there are marked decreases in rape and sexual exploitation in post-conflict situations, refugees remain vulnerable to victimization. Even worse, the vulnerability accompanies the displaced person through their whole displacement, leaving them at risk through their flight, temporary housing and eventual repatriation.

Until the twentieth century, rape and sexual violence were considered aspects of war. As the laws of war evolved during the early twentieth century, so too did the community's view on the need to provide protection for civilians. The League of Nations coordinated international aid for refugees in Russia in 1921, and the United Nations formed the UNHCR in 1950 to assist European refugees following World War II. In 1951, the international community drafted the Convention relating to the Status of Refugees, which established the first definition of

who is considered a refugee and required States to cooperate with the UNHCR. This initial document was expanded in 1967 by the Protocol relating to the Status of Refugees. Together, these documents outline not only the social rights of refugees but also their obligations to host governments. With a number of basic rights and protections agreed upon, the international community moved to address the prevalence of sexual violence against refugees with the Guidelines on Preventing and Responding to Sexual Violence Against Refugees in 1995. This handbook addresses the conditions that affect the rate of sexual violence, the emotional and psychological effects of that violence and outlines strategies for aid workers to address the issue.

Regional efforts to address the problem have also progressed in parallel, such as the Organization of African Unity's 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa and Latin America's 1984 Cartagena Declaration on Refugees. In the 1969 Convention, the African Union was able to come to a consensus on the definition of a refugee, the basic human rights pertaining therein and made the commitment to work closely with UNHCR on refugee issues. In the 1984 Cartagena Declaration, States recommitted themselves to the 1951 Convention and to upholding and cooperating with the work of the UNHCR. These regional agreements showcase States taking accountability for their neighbors; the resistance of States to the work of the UNHCR is one of the largest roadblocks to affecting change. In the international arena, the General Assembly adopted the Declaration on the Protection of Women and Children in Emergency and Armed Conflict in 1974, emphasizing the particular danger that women and children face. This also elevated the issue in the public consciousness and shined a light on the plight of refugees, particularly women and children.

In spite of the evolution in international law protecting refugees from sexual violence, implementation and enforcement of these provisions remains difficult, especially in conflicts with non-State actors. Sexual violence continues to be a tool of oppression in modern conflicts. Ongoing conflict in the Central Africa Republic, Syria, Nigeria and other regions highlight that the obligations and efforts of the UNHCR continue to grow in importance and urgency. While the Central African Republic supports provisions of international law as well as integrating refugee populations into local populations, an escalation of violence in early 2013 weakened the government and led to a decrease in the governmental monitoring of refugee populations and enforcement of protections. The Special Representative of the Secretary-General on Sexual Violence in Conflict visited in early 2014 and documented cases of inter-religious and inter-communal attacks with recurring instances of rape and gang rape, forced marriage, sexual mutilation, abduction and sexual slavery. This is simply one example of how increased violence and conflict continue to bring the threat of sexual violence, especially against women and children, to refugee populations across the globe. While the UNHCR works tirelessly to document and prevent sexual violence against refugees, there are clear capacity limitations.

The core challenges going forward include a shortage of aid, limited access to official forms of identification and the hesitancy of victims themselves to report cases of sexual violence. The UNHCR continues



to advocate education for both refugees and those who assist them, underscoring the importance of providing care to those who have already experienced sexual violence. States themselves could improve methods of prevention, could increase police protection among refugee camps and could work with the UNHCR and non-governmental organizations to better recognize the conditions and circumstances that leave refugees more vulnerable to sexual violence. Convincing States to actively adhere to both the 1951 Convention and the 1995 Guidelines will be crucial. Equally important is ensuring that the UNHCR is able to monitor the situations of sexual violence against refugees around the world.

Questions to consider from your government's perspective on this issue include the following:

- How can the question of sexual violence be tackled in conflict areas, and how must sexual violence be handled differently when State institutions are non-existent?
- What protections could be strengthened in order to protect refugees from sexual violence?
- What can be done to encourage victims to report their abuse?

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## INTERNALLY DISPLACED PERSONS

Since 1998, the United Nations High Commissioner for Refugees (UNHCR) has been assisting and protecting Internally Displaced Persons (IDPs). IDPs are people displaced by armed conflict, generalized violence, human rights violations and natural disasters within their home country. IDPs legally remain under the protection of their own government, even though that government might be the cause of their flight. They are distinct from refugees, who have been displaced across an international border. Because IDPs are not covered under the 1951 Convention relating to the Status of Refugees, most were unrecognized by international law until the 1998 Guiding Principles on Internal Displacement. The international response to internal displacement has been selective, uneven and, in many cases, inadequate. Large numbers of IDPs receive no humanitarian assistance or protection whatsoever. Sovereignty and the principles of territorial integrity and non-interference in the internal affairs of states present significant challenges to the protection and delivery of humanitarian assistance to IDPs.

According to the Internal Displacement Monitoring Centre (IDMC), which began monitoring IDPs in 1998, conflict and violence have created 28.8 million IDPs globally, with over 6.8 million people displaced in Syria and the Democratic Republic of the Congo alone. Additionally, natural disasters displaced 143.9 million between 2008 and 2012. Many of the countries affected by recent natural disasters also continue to experience violent conflicts. While the UNHCR manages to assist over half of all IDPs globally, it is clear that more remains to be done.

Historically, there has been little recognition of de facto refugees within their own national borders. Because they do not cross an international border, internal displacement was long considered a domestic issue. This began to change as States created regional refugee agreements referencing IDPs, such as the 1984 Cartagena Declaration on Refugees, which called for the same standards of recognition and treatment to apply for internally displaced persons as refugees. Due to continued pressure, the Secretary-General appointed a representative to monitor the status of IDPs in 1992. The Special Representative conducted new research into the causes and consequences of internal displacement and implications



with international law, while working with non-governmental organizations (NGOs), Member States and United Nations partners to come up with a plan to combat the problem. This led to the Guiding Principles on Internal Displacement, the first comprehensive review of current laws and gaps in the law on IDPs. In 1998, the Interagency Standing Committee on Humanitarian Assistance created the Internally Displaced Monitoring Centre, tasked to monitor IDPs and provide important information and training to NGOs and States.

The current response model for IDPs took shape following the 2005 Humanitarian Reform Agenda. This reform defined several specific areas of assistance provided in response to humanitarian crises, including health, education and logistics, and defined clusters of humanitarian organizations responsible for coordinating all of the response efforts within those areas. The UNHCR is the cluster lead for protection and shares responsibility for shelter and camp coordination and management. Under this system, when States are unable or unwilling to meet the needs of IDPs, the international humanitarian response efforts can deploy to work in parallel of the State's efforts, with that State's permission. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) plays a key role in the coordination in crisis situations. OCHA also promotes efficient interaction between civilian and military actors in humanitarian operations, bridges gaps in environmental emergency management, and maps global emergency relief stockpiles on behalf of the whole humanitarian community. OCHA is responsible for coordinating the United Nations agencies, NGOs and civil society whose services help internally displaced men, women and children in need. The International Organization for Migration (IOM) is another important partner; IOM works to help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people. Though focused on migration, IOM often becomes involved in efforts to assist IDPs because many States frame the issue as one of internal migration.

Recent natural disasters and the ongoing effects of the Arab Spring emphasize the continuing need for a consolidated approach to aiding the internally displaced. In January 2010 the earthquake in Haiti displaced 2.3 million people; as of June 2013, 280,000 remain displaced. Despite some progress, many IDPs do not feel safe. In March 2014, cholera victims in Haiti filed a class action lawsuit against the United Nations, citing United Nations Peacekeepers as the source of the disease. The lack of a response or investigation from the United Nations, along with a continued failure to halt the spread of disease, underscores the neglect that many IDPs face daily.

The Syrian Civil War continues to perpetuate one of the worst current refugee crises. In a July 2013 report, the Special Rapporteur on the Human Rights of Internally Displaced Persons described the plight and mass displacement of over six million Syrians. The report recommends action be taken to ensure unimpeded delivery of humanitarian aid to IDPs and the end of forced displacement in accordance with international law. However, the situation in Syria continues to deteriorate and illustrates that the lack of a political solution is the greatest impediment to humanitarian aid.

Finding a solution to effectively assist and protect IDPs is complex and difficult. One of the successes of the last five years is the 2009 Kampala Convention, the first regional agreement to specifically set out the

rights of internally displaced peoples and the obligations of governments to provide legal protections. Brokered by the African Union, it not only addresses conflict-based crises but also displacement due to environmental disasters, including those attributed to climate change. Although the effects of the agreement are still in their infancy, this could serve as a model for a more widespread and comprehensive legal convention.

Looking ahead, the greatest challenge facing the UNHCR is convincing Member States to recognize the plight of IDPs and work toward addressing the root political causes of internal refugee crises. Displacement is often worse in conflicts where Member States refuse to acknowledge the problem and local actors and organizations do not become fully engaged with NGOs and international aid groups. As it continues to be a gray area of human rights law, the UNHCR will need to put pressure on all States to bring IDP issues to the same level of awareness that refugees receive. Until Member States are willing to reconsider the scope of sovereignty and allow organizations like the UNHCR to work within their borders, an insecure environment and uncooperative host governments will be the largest impediments to creating a lasting solution to serve IDPs.

Questions to consider from your government's perspective on this issue include the following:

- How can the United Nations work with Member States who may not recognize or be sympathetic to the situation of their internally displaced persons?
- What lessons can be learned from a more regional approach, like the 2009 Kampala Convention?
- How has the current multi-agency 'cluster' approach worked thus far in improving assistance to IDPs? Are there options for improvement?

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