



THE ROLE OF UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

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Introduction

The history of an organized response to the refugee problem can be traced to the birth of the League of Nations. By 1920 it became increasingly clear that large scale refugee movements in Europe could not be dealt without inter Governmental co operation. In 1921 *Dr. Fridtjof Nansen* assumed the office of the High Commissioner for Russian Refugees. Subsequently his services were used to deal other refugee flows. In 1921, the Assembly set up the *Nansen* International Office for Refugees which was liquidated in 1938. An International Committee on Refugee (ICR) was established in 1938 as an independent International Refugee Organization outside the framework of the League of Nations.

Background of the UNHCR

The office of the United Nations High Commissioner for Refugees was established by the UN General Assembly in 1950.¹ This was one of several attempts by the International Community in 21st Century to provide protection and assistance to refugees. The League of Nations the took of the UN, named *Fridtjof Nansen*, a Norweigan scientist and explorer to the post of High Commissioner as early as 1921.The World War II then provided the inputs for several new Organizations such as the United Nations Relief and Rehabilitation Agency and the International Refugee Organization and subsequently UNHCR.

International Refugee Organization

The International Refugee Organization established in 1946. It had a life for five years and was liquidated in 1952.² It differed from the UNRRA and ICR in the fact that it did not merely provide supplies and a live but was coupled to the resettlement programme.³ It represented the

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¹. Resolution 428(v) of 14 December 1950.

². Holborn. L.W, 'The International Refugee Organization', Oxford University Press, London, 1956, P. 25.

³. Louise W. Halborn, 'The International Refugee Organization: A Special Agency of the United Nations-its History and work, Oxford University Press, London,

culmination of earlier more piecemeal efforts on behalf of refugees which dated back to the end of the First World War.⁴

UNHCR in the cold war period

The International Refugee Organization was followed in 1951 by the establishment of the office of the UNHCR. Its mandate like the 1951 Refugee Convention was shaped by the Cold War. As Salomon has noted there was a political logic in the development from UNRRA and the IRO to the UNCHR. Refugees were defined by the statute of the UNHCR using the same ideological criteria as in the 1951 Refugee Convention albeit without placing temporal or geographical limitations.

Evolution and Growth of the office

The legal standing and evolution and growth of the office of the UNHCR in international law its relationship with the General Assembly of the United Nations and the establishment of the Executive Committee to advise the office of the High Commissioner. The end of the Cold War to be expected a profound impact on the Organization. It is said that the UNHCR has been transformed from a Refugee Organization into a more broadly based Humanitarian Agency.⁵

Place of UNHCR office

UNHCR Headquarter in Geneva, Switzerland, the office of the United Nations High Commissioner for Refugees (UNHCR) established December 14, 1950,⁶ protects and support refugees at the request of a Government or the United Nations and assists in their return or resettlement. All refugees in the world are around the UNHCR mandate except Palestinian Arabs who fled the future Jewish state between 1947 and 1948 are under the jurisdiction of the UNHCR. UNHCR provides protection and assistance not only to refugees, but also to other categories of displaced or needy people. These include asylum seekers, refugees who have returned home but still need help in rebuilding their lives.⁷ Local civilian communities directly affected by the movements of refugees stateless people and so called internally displaced people are civilians who have been forced to flee their homes but who have not reached a neighbouring country and therefore unlike refugees, are not protected by international law and may find it hard to receive any form of assistance. As the nature of war has changed in the last few decades with more and more internal conflicts replacing interstate wars, the number of Internally Displaced Persons (IDPs) has increased significantly to an estimated 5 Million people world wide. It succeeded the earlier International Refugee Organization and the even earlier United Nations Relief and Rehabilitation Administration.

⁴. UNHCR Note on International Protection, Executive Committee of the High Commissioner's Programme 55th Session, A/AC.96/989, July 2004.

⁵. UNHCR, The state of the world's Refugees: In Search of Solutions, Oxford University Press, Oxford, 1995. p. 48

⁶. UNHCR global report. 2004, P.343.

⁷. UNHCR, 2004 Global Refugee Trends, Geneva, 20 June 2005, PP. 5.

Role of UNHCR in Refugee Protection

The office of the United Nations High Commissioner for Refugees was established pursuant to a decision of the General Assembly of the United Nations on 1 January 1951. According to the statute the High Commissioner for Refugees is called upon to provide international protection and assistance under the auspices of the United Nations to refugee falling within the competence of the office.

The Statute of the UNHCR

Under its mandate UNHCR is established to provide international protection to refugees and to seek permanent or durable solutions to refugee problems.⁸ These solutions are voluntary repatriation, local integration and resettlement, UNHCR is a humanitarian and non political Organization. UNHCR has a supervisory role with regards to the implementation of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol to which there are currently 145 state parties⁹. Initially it was given a limited three year mandate to help resettle refugees. In the intervening decades, as the problem of the displaced persons became more complex and took a global dimension, UNHCR changed to accommodate the problem. Its mandate has been alerted to that of being extended for every five years.

International Protection through UNHCR

United Nations after the Second World War for protection of internally displaced and refugees and war victim's necessity to for all these people protection open the UNHCR. Because refugees lack the option of relying upon their own Government for protection recourse to an alternate agent is needed. This is the basis on which the notion of international protection was founded. It must be noted that the primary responsibility for protecting refugees rests upon host states. Thus the 145 state parties to the 1951 Refugee Convention and the 1967 Protocol were obliged to carry out its provisions. UNHCR maintain a "watching briefly" over refugee situation intervening if necessary to ensure that the Human Rights and physical security of the individual are respected and that the person will not be returned voluntarily to a country where he or she has reason to fear persecution a process known as refoulement. International protection is intended to be a temporary substitute until such time as the benefit of national protection can again be extended to the individuals.¹⁰ This shows that the refugee problem must be dealt with on temporary protection.

Examples of UNHCR Activities

UNHCR can offer effective protections for like basic needs, for examples shelter; food, water, medical care, and sanitation. This is especially the case in emergency situations. Recognizing these basic provisions of its mandate with regard to the assistance activities of UNHCR were expanded by

⁸. General Assembly resolution 54/146 Office of the United Nations High Commissioner for Refugees.

⁹. State parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol as of 1st December 2004. Available from UNHCR website www.unhcr.ch. 22.09.2009.

¹⁰. Article 33 of the 1951 Convention, 'Principle of Non Refoulement.'

the General Assembly in its resolutions. Thus the Agency coordinates the provisions of humanitarian items, such as food, tents, and clothing. UNHCR blue plastic sheeting became a recognizable symbol in major emergencies that in the last decade have included in the various countries.¹¹

UNHCR Functions Relating To Refugees

UNHCR functions relating to refugees may be broadly divided into nine categories

a. Promotion to grant of Asylum

The first thing a potential refugee thinks of is to seek entry into the neighbouring state. This may be called grant of initial asylum. States are not enthusiastic to grant asylum to people from outside. States are very firm in keeping within their power the right to grant asylum. Lurking suspicion of the refugee home state considering the grant to asylum by a neighboring state as an unfriendly act weighs greatly with the latter. Because of the large number of persons seeking asylum into a neighbouring state as an unfriendly act weighs greatly with the latter. Because of the large number of persons seeking asylum into a neighboring state the latter has to be careful with the grant of asylum.¹²

b. Family reunification

Family reunion is one of the essential efforts of UNHCR. Promotion of the family unit is a humanitarian imperative. The final Act of the Geneva Diplomatic Conference on Refugees in 1951 recommended the Governments to take measures to ensure that the unity of the family is maintained or restored. UNHCR has played a great part in arranging family reunion of refugees with the help of the ICRC, which has expertise in tracing the separate members of a family. ICEM generally takes care of the transportation.¹³

c. Non- Refoulement

A refugee always a lurking fear that he may be turned back by the state of asylum by his own state, for political or other reasons. Sometimes refugee's custody is demanded on the basis extradition treaty. UNHCR has seen to it that the doctrine of non refoulement is scrupulously observed by all states including the bordering state of asylum. Sometimes states of asylum have threatened to expel refugees but thanks to UNHCR diplomacy not many such violations have occurred. Nor should refugees be returned to the original state on the pretext of extradition.

d. Maintenance and material assistance

UNHCR has become a focal for the maintenance of and material assistance to refugees. UNHCR has assumed the primary responsibility for the maintenance of refugees in different parts of the world. Today the world refugee population stands between 10 and 12 Millions. UNHCR looks

¹¹. UNHCR statistical Yearbook 2003, P.54.

¹². Batchelor Carol A, 'UNHCR and issues Related to Nationality,' 14 Refugee survey quarterly, 1995, p. 91-112.

¹³. Goodwin Gill. S, 'The Refugee International Law, Clarendon Press, Oxford, 1996, PP. 161-7.

after the various needs of these refugees so as not to burden the state of asylum. It is on this account that the UNHCR budget has increased from a partly 300 thousand dollars in 1951 to 500 Million dollars in recent years. The amount is spent in the maintenance of and material assistance to refugees to become self supporting wherever possible.

e. Voluntary repatriation

Refugees are encouraged to return to their country of origin if they so desire. However, repatriation is absolutely voluntary. No coercion is exercised. UNHCR arranges any such voluntary repatriation. It has done so in the case of Bangladesh refugees in 1971, Pakistan refugees in 1972 and Burma refugees and 2000 Sri Lankan Tamil Refugees in 1979. Besides these UNHCR has been responsible for much voluntary repatriation to Afghanistan Angola, Uganda, Zaire, the Sudan, Zimbabwe and a few other countries. In many cases UNHCR has extended post rehabilitation facilities in Zimbabwe, Ethiopia, Uganda and Equatorial Guinea.¹⁴

f. Assimilation or resettlement

UNHCR strives for the assimilation or resettlement of non repatriated refugees. The task in this respect is not always easy because there are many bottle necks and obstacles in the process. Nevertheless UNHCR has so far been able to permanently resettle about 25 Million refugees in different parts of the world by the process of naturalization or liberalization of residence requirements. UNHCR has also tried for the assimilation of refugees in the state of temporary asylum until their final resettlement in that very country or elsewhere.

g. Supervision

Under Article 35 of the 1951 Refugee Convention UNHCR may be considered a custodian to supervise various provisions of the Geneva Convention 1951 and to see that refugees get the rights stated in the Convention. It is indeed a through job to supervise over the actions of sovereign states. But UNHCR has tried to do the job tactfully, without offending the susceptibilities of the states. The 1951 Refugee Convention has given legal status to the refugees, who have found in UNHCR their real protector to enjoy their rights to identity cards, religion, and acquisition of property, access to courts, gainful employment and welfare activities.¹⁵

h. Co ordination

In its task of protection and welfare of refugees it is not possible for any single Organization to work single handedly. For this UNHCR have to co ordinate its activities with a number of Organizations, Government's institutions and Agencies. Article 8(g), (h) and (i) of the UNHCR statute contemplate these functions of UNHCR. In this connection UNHCR co ordinates its activities with UNESCO, WHO, FAO, UNICEF, Council for Europe, the OAU, ICRC the League of Red

¹⁴. UNHCR Handbook on Voluntary Repatriation: International Protection, Geneva, 1996.

¹⁵. Gowlland Debbas, Vera, and Klaus Samson, 'Problems and prospects of Refugee Law,' Graduate Institute of International Studies, Geneva, 1992.

Cross Societies, ICVA, Caritas, and Oxfam and many other similar agencies developed to the service of refugees, UNHCR's co ordination has been much appreciated. It helps various Governments in the determination of refugee status or individuals. UNHCR has permitted coastal states to check and punish acts of sea piracy near their borders against potential refugees.¹⁶

i. Public relations

UNHCR has to keep its public relations with Government Organizations and the news media for disseminations of its activities problems faced by refugees promoting international awareness for the protection of refugees and raising funds from voluntary donations to meet the rising costs of maintenance and repatriation or resettlement of refugees. It also has to promote more ratifications of the 1951 Refugee Convention as part of international solidarity in the protection of refugees.¹⁷

UNHCR in the protection of refugees

UNHCR has actively encouraged states to accede to the 1951 Refugee Convention on the Status of Refugees and the 1967 Protocol. 134 States acceded to either or both these basic refugee instruments. An increasing number of states have also adopted domestic legislation and administrative measures to implement the international instruments, particularly in the field of procedures for the determination of refugee status. Such measures provide an important guarantee that refugee will be accorded the standards of treatment which have been internationally established for their benefit. In recent years UNHCR has formulated a strategy designed to address the fundamental causes of refugee flows it has attempted to deal with the problems of military attacks on refugee camps, by formulating and encouraging the acceptance of a set of principles to ensure the safety of refugees. It also seeks to address the specific needs of refugee women and children. UNHCR assistance activities are divided into General and Special programmes. The former includes a programme reserve, a general allocation for voluntary repatriation and an emergency fund. The latter are undertaken at the request of the UN General Assembly the Secretary General of the UN or member states in response to particular crisis.¹⁸

The first phase of assistance operation uses UNHCR's capacity of emergence preparedness and response. This enables UNHCR to address the immediate needs of refugees at short notice, for example, by employing specially trained emergency teams and maintaining stockpiles of basic equipment, medical aid and material. A significant proportion of UNHCR expenditure is allocated to the next phase of operation providing care and maintenance in stable refugee circumstances. The assistance can take various forms including the provision of food, medical care and essential supplies. Also covered in many instances are basic services including education and counseling. In the early 1990s UNHCR aimed to consolidate efforts to integrate certain priorities into its

¹⁶. UNHCR, Note on International Protection, 2004, Para. 11.

¹⁷. UNHCR's note on International Protection for Refugees 2000 to 2005. Also Amnesty International Protection, Gaps: Amnesty International's Concern to UNHCR's Standing Committee, 8-9 March 2005.

¹⁸. Simma Bruno, 'The Charter of the United Nations: A Commentary,' Oxford University Press, 1995.

programme planning and implementation as a standard discipline in all phases of assistances. The considerations include

1. Awareness of specific problems confronting refugee women.
2. The needs of refugee children
3. The environment impact of refugee programmes
4. Long term developmental objectives.

In an effort to improve the effectiveness of its programmes, UNHCR has initiated a process of delegating authority as well as responsibility for operational budgets to its regional and field representatives increasing flexibility and accountability.¹⁹

UNHCR Programme of Action

The programme of action as suggested in the Ministerial Declaration outline six goals which are as follows.

1. Strengthening implementation of 1951 Refugee Convention and 1967 Protocol
2. Protecting refugees within broader migration movements.
3. Sharing of burdens and responsibilities more equitably and building of capacities to receive and protect refugees
4. Addressing security related concerns more effectively
5. Redoubling the search for durable solutions
6. Meeting the protection needs of refugee women and refugee children.²⁰

It envisaged that the UNHCR would carry out a survey of the difficulties which the non signatories to the 1951 Refugee Convention have in acceding to or implementing the provisions of the Refugee Convention. It has been suggested that a new approach aimed at supplementing the Convention in areas that it does not cover would be explored. UNHCR has established a forum consisting of a group of experts which would consider developing special agreements to encourage wider acceptance of the 1951 Refugee Convention. Other areas under consideration include agreements on secondary movement's mass influx situation and improved burden sharing. UNHCR has also established an action group on asylum and migration in the nexus between asylum and migration and to develop policies and programs on asylum and migration in co operation with the interested states and the International Organization (IOM). As regards measures to improve the protection of women and children, UNHCR is considering revision of its 1991 guidelines on the Protection of Refugee Women, taking into account the recent development and other issues of concern.

¹⁹. Feller. E. V. Turk, F. Nicholson, 'Refugee Protection in International Law. UNHCR's Global Consultations on International Protection, Cambridge University Press, Cambridge, 2003.

²⁰. Chimini, B.S., 'The Meaning of words and the Role of UNHCR in Voluntary Repatriation', International journal of Refugee Law, 1993, p. 49-110.

Conclusion

As reported on 31st December, 2022 India is a home of 62, 853 Sri Lankan refugees. They are mostly settled in Tamil Nadu. Tamil Nadu has also had about 40,000 Sri Lankan refugees living outside the camps. They were originally welcomed to India but the belief that the assassination of former Prime minister of India Rajiv Gandhi took place at the hands of some suspect of Liberation of Tamil Tigers Ealem a suicide bomber turned public sentiment and Government authorities against them. India therefore commenced a programme of voluntary repatriation and repatriated 23,000 refugees without any international supervision. The action was legally challenged in Court which stopped this programme and allowed the UNHCR to intervene by conducting interviews of the returning Sri Lankans. UNHCR could however not have access to the refugee camps but could only talk to those of them who had already expressed their consent to leave India.²¹

According to the reports of the Human Rights Documentation Center the facilitation to refugees in Tamil Nadu vary from district to district for example not being the same in Madras and Pooluvapath. Lack of shelter, electricity, sanitation, malnutrition and vagaries of the camp authorities are the main problems. Refugees living in camps away from Madras find it difficult to contact UNHCR and Sri Lankan Deputy High Commissioner in Madras.²² Special camps were established by the Tamil Nadu Government for militant refugees in former jails about which the National Human Rights Commission of India has observed that many young Tamil males have been detained there since the day of Rajiv Gandhi's killing making use of the Foreigners Act, 1946.

²¹. UNHCR, Global Report 2004, pp. 238 and 288.

²². SHRDC News, Vol. no. 2, July/Aug. 1995.