REFUGEES,
ASYLUM
SEEKERS, AND INTERNALLY
DISPLACED
PERSONS

50 Years On: What Future for International Refugee Protection?

How countries treat those who have been forced to flee persecution and human rights abuse elsewhere is a litmus test of their commitment to defending human rights and upholding humanitarian values. Yet, fifty years after its inception, the states that first established a formal refugee protection system appeared to be abandoning this principle, and the future of the international refugee regime was under serious threat.

The year 2000/2001 marked the fiftieth anniversary of the establishment of an international refugee protection regime, set up primarily by European states to respond to the needs of some 30 million people displaced during the Second World War. In December 1950, the Office of the United Nations High Commissioner for Refugees (UNHCR) was established and in July 1951 an international instrument to protect the rights of refugees—the 1951 Convention relating to the Status of Refugees (1951 convention)—came into effect.

At the core of the international refugee regime is the fundamental right of any individual to seek and enjoy asylum from persecution in other countries. Enshrined in article 14 (1) of the 1948 Universal Declaration of Human Rights, the principle of asylum recognizes that when all other forms of human rights protection have failed, individuals must be able to leave their country freely and seek refuge elsewhere. The availability of asylum can literally be a matter of life or death for those at risk of persecution or abuse.

A Changing Climate for Refugees

Until the 1990s most refugee movements were a consequence of Cold War politics, and refugees often had a strategic geopolitical value in the arena of superpower rivalry. Their existence was used either to discredit countries of origin, or to bolster the image of receiving countries and strengthen alliances with superpower partners, as in the case of Nicaraguan refugees in Honduras, Afghans in Pakistan, and Cambodians in Thailand.

Several factors coincided at the beginning of the 1990s to change the political environment for refugees. First, the end of the Cold War era caused refugees to lose much of their geopolitical and military value. Host countries preferred to establish good political and economic relations with their neighbors and refugees were
viewed as a potential irritant. Many refugee hosting countries, affected by regional economic crises, claimed that fewer resources were available to host large, long-term refugee populations or fund lengthy and expensive asylum determination procedures. Refugees were made scapegoats for many countries’ domestic problem and blamed for threatening national or regional security, draining resources, degrading the environment, and rising crime. Politicians shamelessly employed xenophobic rhetoric to win electoral support and, with the popular press, peddled images of “floods” of refugees and immigrants pouring into their countries. In the industrialized states, particularly, many governments became obsessed with erecting barriers to keep people out, rather than providing protection.

While this was occurring, the convergence of political and economic instability throughout much of the world with the increasing global accessibility of international communications and travel meant that larger numbers of people were on the move—some to escape the misery of economic privations, others to escape persecution, conflict, and gross human rights abuse. As legal channels of migration were curbed, people turned increasingly to alternative methods to reach their country of destination, including the services of opportunistic, exploitative and often dangerous human trafficking and smuggling rings that were able to circumvent routine migration controls. By the end of the 1990s, governments, particularly in industrialized states, viewed the trafficking and smuggling of persons as one of the most serious aspects of transnational organized crime and joined forces in a concerted drive to end the practice. Unfortunately, protecting the human rights of trafficked and smuggled persons was not the primary motive behind these efforts. Instead, combating human trafficking and smuggling became these governments' primary response to the asylum and migration issue. Much less attention was paid to why asylum seekers and migrants made use of such methods to reach their country of destination or to the root causes of such outflows, and even less to the need to preserve the right of all persons, regardless of their means of travel, to seek and enjoy asylum from persecution.

**Industrialized States: The Beginning and the End of Refugee Protection?**

**Western Europe**

Nowhere was the retraction in protection more pronounced than in the industrialized countries of Western Europe, North America, and Australia—the very countries responsible for establishing the international refugee regime. Western European countries made particularly vigorous and visible efforts to control inflows of asylum seekers and perceived abuse of the asylum system. The pursuit of a zero immigration policy throughout Western Europe since the 1970s, and the closure of almost all alternative legal channels of immigration, coupled with the global trends described above, led to a marked increase in the number of people applying for asylum in Western European countries between 1985 (157,280 applicants) and 1992 (673,947 applicants). Governments perceived that the asylum system was being abused by individuals who were leaving their countries for economic reasons rather than in pursuit of international protection. Racist violence rose in many countries, fueled by the anti-immigration rhetoric of politicians and the media, creating a hostile environment for refugees and migrants throughout the region.

**Harmonization of European Asylum Policy**
During the 1990s, European Union (E.U.) countries sought to harmonize their immigration and asylum policies. This process started in the early 1990s with various non-binding resolutions adopted by member states of the then European Community on different aspects of asylum policy. Two important treaties, the Schengen Agreement on common border controls, and the Dublin Convention establishing arrangements for identifying state responsibility for assessing asylum applications came into effect in 1997 and 1994, respectively.

The 1997 Treaty of Amsterdam, effective from May 1999, further advanced harmonization, as states determined common criteria for dealing with asylum applicants, reception of asylum seekers, family reunification, and deportation policies. A disturbing protocol to the treaty restricted the right of E.U. citizens to seek asylum in another E.U. state.

In an effort to proceed from the agenda established in the Amsterdam Treaty, in October 1999 a “Special Meeting of the European Council on the Establishment of an Area of Freedom, Security and Justice” was held in Tampere, Finland. The Presidency Conclusions of the Tampere European Council were generally viewed as a positive development by advocacy groups as they included a reaffirmation of the right to seek asylum, and a commitment to work towards the establishment of a common European asylum system based on the full and inclusive application of the 1951 convention and to harmonize European asylum policies with “guarantees to those who seek protection in or access to the European Union.” Less positive, however, was the continuing emphasis on common policies to contain and control asylum and migration movements.

In December 1998, the E.U. High Level Working Group on Asylum and Migration was set up to produce Action Plans on the root causes of migration in six major refugee and migrant producing countries. The Action Plans focused on integrated strategies to control migration outflows both from the regions of origin and into E.U. countries.

In July 2000, the French government, then holding the E.U. presidency, issued an “action plan to improve the control of immigration.” Similar to other such E.U. initiatives, the French proposed an information exchange, early warning, and response system to coordinate E.U. member states’ response to “waves” of immigration, characterized as a “fire-brigade policing” approach. In addition, they proposed establishing a network of E.U. immigration liaison officers in principal migration source countries to help control migration flows.

**Access to Asylum Barred**

Central to the right to seek asylum is the principle of freedom of movement and the right of an individual to leave any country, including their own. Yet European asylum policy systematically obstructed these rights during the 1990s. Most explicit was the introduction of visa requirements for nationals of common refugee producing countries, including those with well-documented human rights problems, such as China, Burma, Sudan, the Democratic Republic of Congo, Sierra Leone, Turkmenistan, and Rwanda. Beginning with a September 1995 Regulation, the E.U. maintained a common list of countries whose nationals were required to obtain visas before entering the territory of any E.U. state. The October 1999 Presidency Conclusions of the Tampere European Council, and a draft 2000 European Commission (E.C.) Regulation on a common visa regime, also contributed to a standardization of visa imposition across the European Union. As no would-be refugee was likely to be able to obtain a visa to come to a Western European country, this effectively forced
asylum seekers either to travel on false or forged documents, or with no documentation.

At the same time, E.U. countries introduced legislation that penalized asylum seekers who traveled on forged or false documents and the companies that transported them. Carriers' liability legislation, resulting in heavy fines for airlines and shipping companies that transported undocumented or incorrectly documented migrants, became a requirement under the Schengen Agreement on border controls. Private travel companies were effectively made responsible for front-line immigration controls and they began to take proactive measures to avoid the fines, including rigorous pre-departure immigration checks by airline staff.

The E.U. adopted a new policy on border control in October 1996, establishing “airline liaison officers.” By July 2000, the U.K., Danish, German, and Dutch governments were all using immigration officers in their embassies and consulates in main refugee-generating countries to assist airline staff in checking the authenticity of travel documents. In a July 2000 report, UNHCR criticized efforts to intercept potential asylum seekers at the point of departure without a substantive review of their asylum claim as an obstruction of the right to seek asylum which could amount to constructive refoulement if individuals were thereby prevented from leaving countries where their lives and freedom were threatened.

Those asylum seekers who did manage to evade pre-departure border controls and reach their country of destination faced punitive measures on arrival. Increasingly, asylum seekers who arrived in E.U. countries with false, forged, or no documents were immediately detained—ostensibly for short periods to allow the authorities to verify their identity, but in practice often for weeks or months. Illegal entry also impacted negatively on refugee status determination procedures. Asylum seekers who entered illegally were often given fast-track assessments, or considered as “manifestly unfounded” cases, and their means of entry contributed to negative assessments of credibility.

Article 31 of the 1951 convention explicitly exempted refugees who come directly from the territory where they fear persecution from punishment for illegal entry, provided that they present themselves without delay to the authorities and show good cause for their illegal entry or presence. Long before the virtual cordon sanitaire was created around Western Europe, the drafters of the 1951 convention recognized that many refugees must leave their countries under extreme circumstances and have little opportunity to obtain legal travel documents or permission to enter their country of asylum.

Containment in the Region

E.U. and other states also sought increasingly to contain refugee movements within their region of origin. This began in January 1998 with the E.U.’s “Action Plan on the Influx of Migrants from Iraq and the Neighboring Region,” a panicked response to fears of a possible “mass influx” of Turkish and Iraqi Kurds into Western Europe. The proposal set the tone for Action Plans on Somalia, Afghanistan, Morocco, Iraq, and Sri Lanka prepared by the E.U. High Level Working Group on Asylum and Migration. These dealt cursorily with preventive measures such as conflict resolution, development, and poverty reduction in refugees’ countries of origin, but focused primarily on exporting migration controls, such as airport liaison officers, anti-immigration information campaigns, and readmission arrangements to the source countries. While welcoming the comprehensive approach to migration that addressed root causes as well as migration policies, advocacy groups criticized the action plans for failing effectively to address human rights violations in countries of origin and the need for refugee protection for those who fled such violations. Like the first
Iraq action plan, the overriding aim of the High Level Working Group action plans appeared to be containing migration in the region and preventing flows of asylum seekers and migrants to E.U. countries.

1951 Refugee Convention Under Threat

Western European governments sought to dilute their obligations under the 1951 convention and its 1967 protocol, despite reaffirming the centrality of these treaties in both the 1997 Amsterdam Treaty and the 1999 Presidency Conclusions of the Tampere European Council. In particular, they applied the refugee definition in an overly restrictive way, not intended by the drafters of the convention, thereby excluding many people at risk of persecution from international refugee protection. Those excluded included people who fled persecution by non-state agents, such as the Taliban in Afghanistan, or situations of generalized violence and civil conflict, as in Colombia. Governments also insisted that asylum seekers demonstrate actual persecution, not just a credible fear of future persecution. Advocacy groups, such as the non-governmental European Council on Refugees and Exiles, argued that these narrow interpretations were inconsistent with international refugee law.

E.U. states also introduced various alternative, or complementary, protection regimes as substitutes for 1951 convention protection. Under most of these regimes, states granted asylum seekers temporary leave to remain on humanitarian grounds, but did not extend to them the full rights and protection of 1951 convention refugee status. These alternative regimes were often highly discretionary with no consistency between E.U. states regarding the length of stay allowed or the rights afforded to the individual. Moreover, temporary protection—which was initially intended to deal with mass influx emergencies where states were unable to conduct individual refugee status determination—was increasingly applied as a subsidiary form of refugee protection.

Taken together, the overly restrictive application of the 1951 convention and the increasing use of alternative, subsidiary forms of protection resulted in states narrowing their obligations under the 1951 convention, the denial of meaningful protection for those in need, and serious erosion of the international refugee protection regime. Added to this, between 1998 and 2000 various E.U. governments proposed drastic revisions to the 1951 convention in order to make it more “relevant” to contemporary migration challenges. The Austrian government, while holding the E.U. presidency, first proposed this in a July 1998 strategy paper that depicted the 1951 convention as a product of the Cold War period that had never been intended to deal with contemporary large-scale refugee movements caused by civil war, inter-ethnic violence, and persecution by non-state agents. The Austrians proposed a comprehensive, integrated approach to migration that addressed trade and development, as well as migration policy. This proposal, particularly its reference to the need to amend the 1951 convention, was considered too radical by most E.U. states at the time.

British Home Secretary Jack Straw reopened the issue in June 2000, at a conference organized by the Portuguese E.U. presidency on a common European asylum system, launching a vigorous attack on the relevance and efficacy of the 1951 convention. He claimed that the European asylum system was massively abused by economic migrants who had no credible asylum claim and who were brought to Europe by highly organized criminal trafficking or smuggling syndicates. He characterized the 1951 convention as inadequate
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and never intended to deal with contemporary “massive intercontinental migratory movement.”

He proposed a new approach to refugee protection whereby E.U. states would designate those countries and ethnic groups most at risk of persecution, agree on quotas of asylum seekers from these countries, and determine asylum claims within regions of origin. He also proposed a list of “safe countries” which would include “all E.U. states, the U.S., Canada, Australia and many others” (our emphasis) from which applications for asylum would not be considered. A third group would include “the accession states and others” where there would be a general presumption of safety and asylum claims would be considered under an accelerated process.

The British proposal was a worrying return to the notion of “safe countries of origin” and highlighted yet again the lack of commitment amongst European governments to upholding the right of all individuals to leave their countries and seek asylum.

Australia: Xenophobia and Threats to Asylum

Australia also increasingly pursued a punitive asylum policy and showed little regard for either abiding or being judged by international human rights standards. Despite only receiving a tiny proportion of the world’s refugees—9,450 asylum applicants in 1999, compared with 95,110 applicants in Germany—Australia reacted with disproportionate zeal to a perceived threat of being overwhelmed by “floods” of foreigners brought in through illegal people trafficking and smuggling.

Australia pursued a draconian policy of mandatory detention for all asylum seekers and other non-citizens who arrived through “illegal” channels with forged, illegal, or no documents, and who declared themselves as asylum seekers on arrival. In July 2000, the U.N. Human Rights Committee criticized Australia for its mandatory detention policies and for not informing, nor allowing, NGOs access to inform detainees of their right to seek legal advice. Asylum seekers were kept in remote detention centers thousands of miles away from major population centers.

In October 1999, Australia made amendments to its 1958 Migration Act that, according to UNHCR, seriously undermined refugee protection. Refugees arriving in an unauthorized manner were refused family reunification rights for a minimum of thirty months after they received refugee status and were not provided with travel documents in violation of article 31 of the 1951 convention; article 28 of the 1951 convention, which provides for travel documents for refugees that permit re-entry; and fundamental principles of family unity upheld in the 1951 convention, in UNHCR Executive Committee Conclusions, and in other international human rights instruments.

On August 29, 2000, the Australian government stated that it would restrict future cooperation with U.N. bodies and in particular reject treaty bodies’ requests to delay the deportation of unsuccessful asylum seekers. This followed two high profile interventions by the U.N. Committee against Torture seeking a delay in the return of asylum seekers until it had considered their claims that they would face torture in the countries they had fled. The government also announced that it would undertake a comprehensive review of the interpretation and implementation of the 1951 convention and consider the need for remedial legislation.

The Global Picture

The anti-refugee policies and xenophobic attitudes of industrialized states had significant global export
value. Traditionally generous hosting countries in Africa, Asia, and the Middle East referred to the example set in the West when defending their own increasingly restrictive policies and practices. Nevertheless, the world’s poorer nations continued to host the vast majority of the world’s refugees and in times of crisis endeavored to keep their doors open to those fleeing civil conflict and gross human rights abuse.

Africa

Traditionally one of the most generous refugee hosting regions in the world, recent years saw a significant shift in African refugee policies. The plethora of violent internal and regional conflicts that plagued so many African countries over the past decade meant that at the turn of the century few countries were immune from refugee crises. Yet the presence of militia groups within refugee settlements and the fear that mass refugee movements would result in instability and conflicts spilling over national borders made host countries increasingly wary and contributed to more restrictive refugee policies and, in some cases, lack of safe asylum. The Great Lakes refugee crisis—sparked by the Rwandan genocide in 1994 and subsequent and continuing mass movements of refugees across as many as nine countries, and the conspicuous and destabilizing presence of military and political elements in refugee camps—heralded the end of the legacy of generous asylum and open-door policies for refugees in Central and East Africa.

West Africa

By mid-2000, a similar scenario was unfolding in West Africa, where a deteriorating security situation threatened the safety of hundreds of thousands of refugees. Host to the second largest refugee population in Africa, Guinea earned a reputation as a generous country of refuge. By September 2000, there were nearly half a million refugees—330,000 Sierra Leoneans and 126,000 Liberians—inside Guinea.

This pattern of generous hospitality was seriously threatened by the deteriorating security situation in the region in 2000. A rapid influx of refugees into Guinea from Sierra Leone from May onwards and fears of infiltration by Sierra Leonean rebels, prompted the Guinean government to close its borders with Sierra Leone in early August, although “vulnerable” groups were subsequently allowed entry following interventions by UNHCR. Tensions rose between Guinea, Sierra Leone, and Liberia from late July onwards, as each country accused the other of supporting rebel activity. A series of cross-border attacks from both Liberia and Sierra Leone between August and October claimed the lives of hundreds of Guinean civilians and injured many others. Most of these attacks occurred close to the Sierra Leonean and Liberian borders in exactly the same areas where the refugee camps were located.

The attacks resulted in serious reprisals against Sierra Leonean and Liberian refugees in Guinea, both in the border camps and in the cities. On September 9, Guinean President Lansana Conte made an inflammatory broadcast in which he blamed refugees for harboring rebels and urged the Guinean population to round-up all foreigners. For several days, armed groups of civilian militias, police, and soldiers broke into the homes of Sierra Leonean and Liberian refugees in Conakry, beat, raped, and arrested them, and looted their belongings. Over five thousand people were detained and hundreds more sought refuge in the Sierra Leonean and Liberian embassies. Hundreds of refugees fled Guinea, many of them by boat back to Sierra Leone. Despite pleas for calm and assurances by government officials that Guinea would remain a safe country of asylum for refugees, President Conte made further anti-refugee statements in a speech marking the
anniversary of Guinea’s independence on October 2.

The situation for refugees in camps along the Liberian and Sierra Leonean borders was also critical. Several camps in the Forecariah region on the border with Sierra Leone were attacked by Sierra Leonean rebels and by Guinean civilians, forcing thousands of refugees to flee back into rebel-controlled areas of Sierra Leone. At the same time, Guinea’s borders with Sierra Leone and Liberia remained closed to refugees fleeing conflict and human rights violations, and refugees in Guinea were faced with the unenviable choice of remaining unprotected in Guinea, or returning to Liberia and Sierra Leone.

Guinea in Perspective

Security versus Asylum: The Case of Thailand

The situation in Guinea exemplified two worrying trends. The first was governments’ readiness to indiscriminately blame and take actions against foreigners and refugees when faced with national security threats. In Thailand, for example, the government reacted harshly when Burmese gunmen seized the Burmese embassy in Bangkok in October 1999 and took five hundred people hostage in the Ratchaburi provincial hospital in January 2000. Following these events, the authorities announced that all refugees should move to camps along the border and Maneeloy Student Center, a camp for dissident Burmese refugees, would be closed. Thai authorities deported five Burmese, four of whom had applied for refugee status with UNHCR, to the border town of Myawaddy where they were arrested by the Burmese authorities. Provincial admission boards were set up to determine asylum claims, and refugee protection was restricted only to those fleeing fighting in Burma. All other Burmese were declared to be illegal immigrants and risked forcible repatriation to Burma. In June, the Thai authorities expelled 116 refugees from Don Yang refugee camp in Kanchanaburi Province, and in August, Thai officials returned around one hundred ethnic minority Karen from Nu Pho Camp in Rak province.

Disparity in International Response: The Kosovo Factor

The second trend highlighted by the Guinea crisis was the gross disparity in the international response to refugee crises. Despite the similarities with the situation in Macedonia during the Kosovo emergency in 1999, the difference in the international response to the two situations was striking. Unlike Macedonia, where the international community poured in resources and reacted quickly to evacuate refugees and thus relieve the pressure on Macedonia and help to keep the borders open, the international response to the crisis in Guinea was negligible. The crisis hardly touched the world media headlines, international funding was seriously lacking, and there was certainly no airlifting of refugees to safety in Western countries.

Attacks on Humanitarian Workers Threaten Refugee Protection

A major threat to refugee protection throughout 2000 was the alarming spate of attacks on humanitarian workers. The brutal murders of three UNHCR staff members in Atambua, West Timor, on September 6, and the murder of the head of the UNHCR office and abduction of another staff member in Macenta, Guinea, on September 17, highlighted the extreme dangers for humanitarian workers worldwide. The murders provoked a global protest and prompted UNHCR to withdraw all staff from West Timor, as well as from the border
areas of Guinea. At the same time, they left refugees in these areas almost completely unprotected and unassisted with no outside witnesses to abuses.

**West Timor**

Despite the return of over 170,000 refugees to East Timor since mass forced expulsions in 1999, as many as 125,000 refugees remained in camps in West Timor where many of them had been held hostage by the same militia leaders responsible for the violence that had erupted in East Timor following the pro-independence referendum vote in September 1999. Human Rights Watch charged continuously throughout 1999 and 2000 that the Indonesian authorities and army had failed to disarm the militia or prevent attacks on refugees in the camps and on humanitarian workers assisting them. In September 2000, UNHCR reported a total of 120 incidents of attacks, harassment, and intimidation of humanitarian workers and refugees since it established a presence in West Timor a year earlier. In August 2000, UNHCR was forced to close down its operations in the camps when three of its staff members were attacked and seriously injured while delivering assistance to Naen camp, outside Kefamenanu town. The murder of the three staff in Atambua occurred within a week of UNHCR resuming its operations.

Following the withdrawal of nearly all international staff from West Timor, the camps were largely cut off from any international assistance or protection and there was little information about conditions inside. Most critically, Human Rights Watch and local NGOs expressed serious concerns that the registration of the refugees by the Indonesian authorities without minimal safeguards to ensure freedom of choice and in the absence of international monitoring could result in the forcible relocation of refugees to other parts of Indonesia against their will. The U.N., on the other hand, insisted that they would not return staff to West Timor until credible security guarantees were in place. These included the arrest and trial of the perpetrators of the UNHCR murders and other attacks on humanitarian workers; the complete disarming and disbanding of the militias; and the restoration of law, order and security in the camps in West Timor. More than a month after the killings, although the Indonesian authorities had arrested six suspects, there was no evidence that the militias had been brought under control or that law and order had been restored to the camps.

The situations in Guinea and West Timor posed a grave dilemma for the international community. On the one hand, it was clearly unacceptable for humanitarian workers to be the targets of deliberate and vicious attacks. On the other, the withdrawal of all international staff considerably increased the vulnerability of displaced people and their exposure to attacks, forced return, and other abuses. Until governments are able to ensure the security of humanitarian workers, the protection of some of the world’s most vulnerable populations will be seriously at risk.

### Protecting Refugee Women and Children

Throughout the year, refugee women were victims of sexual and domestic violence. In Guinea, for example, women were targeted in the retaliatory attacks on refugees in the wake of President Conte’s inflammatory anti-refugee declarations. Human Rights Watch reported on the rape of Sierra Leonean and Liberian refugee women by groups of armed civilian militia, police, and soldiers in the September attacks in Conakry. Women, some of them as young as fourteen, were raped—in many cases gang raped—sexually
assaulted, and humiliated, often in the presence of family members. Many of the women had fled Sierra Leone to escape gross human rights violations, including rape and other sexual assault. Human Rights Watch charged that UNHCR and the international community were slow to publicly condemn these brutal attacks against refugee women and called on the Guinean government and UNHCR to immediately investigate the incidents of rape and bring the perpetrators to justice. In 2000, Human Rights Watch issued a report on the high levels of sexual and domestic violence against Burundian refugee women in camps in Tanzania. The situation in Guinea and Tanzania highlighted the persistent dangers for refugee women and lack of effective protection against or rapid response to sexual violence in emergency situations and to domestic violence in refugee settlements.

**Protracted Refugee Crises: The Right to Return**

Throughout the world, millions of refugees remained in exile unable to return to their homes either because of continuing political instability and insecurity, or because of deliberate obstructions by states unwilling to take them back. In South Asia, despite high level visits by U.N. High Commissioner for Refugees Sadako Ogata to Nepal and Bhutan in April and May 2000, and U.S. Assistant Secretary of State for Refugees, Julia Taft, to Nepal in October 1999, and to Bhutan in January 2000, more than 100,000 Bhutanese refugees were denied their legitimate right to return to Bhutan and remained in camps in southeast Nepal. The refugees, many of whom were arbitrarily stripped of their Bhutanese nationality despite having lived in Bhutan for several generations, were expelled from the country in the early 1990s during a government crack-down on Bhutanese of ethnic-Nepali origin living in southern Bhutan. Since then, the Bhutanese government has systematically blocked the refugees’ return, claiming that the majority are not Bhutanese citizens, and has shunned international offers to assist in resolving the situation.

Elsewhere, in Bosnia and Herzegovina, over one million people remained displaced, the majority of them internally, and unable to return to minority areas due to bureaucratic obstructions and lack of available housing. There was, however, some progress in 2000, and by June UNHCR had registered 19,751 returns, many of them spontaneous, as compared to 7,709 during the comparable period in 1999.

Palestinian refugees remained the largest and most protracted refugee situation in the world. In 1997, UNHCR estimated that there were 6.4 million Palestinian refugees worldwide, about half of whom were believed to be stateless. In March 2000, 3.7 million Palestinian refugees were registered with the United Nations Relief and Works Agency (UNRWA) in Jordan, Syria, Lebanon, and the Israeli-occupied West Bank and Gaza. The Israeli government has made the return of Palestinian refugees both legally and practically impossible since their exodus following the 1948-49 Arab-Israeli war, and the 1967 war, thus denying Palestinian refugees their legitimate right to return to their own country. Although the resolution of the refugee crisis was a key issue on the agenda of the final status negotiations between Israel and the Palestinian Liberation Organization (PLO), little progress was made in 2000. Human Rights Watch supported a rights-based approach to the resolution of the refugee problem that upheld the right of Palestinian refugees to return to their own country, as well as opportunities for local integration in host countries or third country resettlement. Individuals should be able to choose freely and in an informed manner their preferred option. In the event that individuals are unable to return to their original homes or place of residence, they should be able to return to the vicinity and compensation should be provided according to international standards.
The Challenge of the New Millennium: Protecting the Internally Displaced

Debate over Institutional Responsibility

The plight of internally displaced persons dominated humanitarian debate throughout 2000. The year began with an impassioned statement by U.S. Ambassador to the U.N. Richard Holbrooke during a Security Council session on humanitarian assistance to displaced persons in Africa in January. Having recently returned from a trip to Angola, Holbrooke expressed dismay at the lack of an effective international response to the problem of internal displacement. He challenged the very distinction between a refugee and an internally displaced person (IDP) and made a controversial call for a single agency to take responsibility for providing protection to IDPs, citing UNHCR as the most appropriate choice.

Holbrooke’s statements triggered a frenzied response within the U.N. system. While there was a general consensus that the existing system of responding to internal displacement crises was inadequate, there was widespread opposition to giving UNHCR lead agency responsibility for IDPs. To a certain extent, the debate turned into an ugly turf battle between rival U.N. agencies unwilling to yield more power and responsibility to UNHCR. But there were also more substantive reasons for the reservations to Holbrooke’s proposals.

Refugee experts pointed out the dangers of collapsing the terms refugee and internally displaced person in legal and protection terms. Refugees, by definition, are unable, or unwilling, to avail themselves of the protection of their own country and have crossed an international border in search of protection. Governments have an obligation under international law to provide refugees with protection and UNHCR’s mandate is to ensure that governments abide by these obligations. Internally displaced persons, on the other hand, remain, if only technically, under the protection of their own governments and do not automatically trigger an international response. Refugee advocates feared that UNHCR’s involvement in providing in-country protection to internally displaced persons could provide an excuse for asylum countries to return refugees to their countries of origin. Indeed, Western European and other industrialized states were already denying asylum to refugees for whom they believed “internal flight alternatives” or “in-country” protection existed in their country of origin.

In a July 2000 address in New York, U.N. High Commissioner for Refugees Sadako Ogata also expressed reservations about eroding the distinction between refugees and IDPs, because of the specific nature of protection required by each group. Ogata also criticized the international community for focusing too much on the question of the institutional response to internal displacement, and too little on the underlying political, economic and social root causes.

Despite Holbrooke’s resolute support for a lead-agency model, the U.N. sided with a collaborative approach. A senior inter-agency network was established to review the U.N.’s response to situations of internal displacement, under the auspices of the Office for the Coordination of Humanitarian Affairs (OCHA), and a special focal point on internal displacement was created in the U.N. secretariat.

Human Rights Watch: Focus on Protecting Internally Displaced Persons

While Human Rights Watch did not take a position on specific inter-agency responsibility for internally displaced persons, the organization continued to advocate for more consistent and effective protection for
IDPs and for more active adherence by governments with the Guiding Principles on Internal Displacement and other human rights and humanitarian standards pertaining to the internally displaced. Human Rights Watch monitored and reported on a wide range of situations of internal displacement worldwide. These included longstanding situations of internal displacement, such as in Sri Lanka, Turkey and Colombia, as well as new displacement crises.

The escalation of the border conflict between Ethiopia and Eritrea during May 2000 provoked massive displacements of both Eritreans and Ethiopians. Nearly 1.5 million Eritreans were uprooted by the conflict, including 90,000 who sought refuge in Sudan—more than a quarter of whom had returned to Eritrea by October 2000. In Angola, a new wave of internal displacement was sparked by the intense fighting following the governmental campaign launched in October 1999 to flush out UNITA from their traditional strongholds in the central highlands. More than 200,000 persons were displaced during the first half of 2000, and at the end of June, the total number of IDPs was estimated at 2.5 million. In Colombia, some 134,000 persons were displaced during the first part of 2000, most by paramilitaries as well as guerrillas and the armed forces, adding to the estimated total of 1.8 million IDPs and 80,000-105,000 refugees from Colombia in Venezuela, Ecuador, and Panama at the end of 1999.

The eastern part of the Democratic Republic of Congo (DRC) experienced a rapid deterioration in the humanitarian situation from the start of the year, with fighting in the South and North Kivu areas resulting in major population displacements. By July 2000, a total of 1.6 million people were displaced in the DRC. In the Moluccan islands region of Indonesia, clashes between members of Muslim and Christian communities since early 1999 left three thousand or more people dead and displaced hundreds of thousands. In Russia, hundreds of thousands of Chechens remained displaced in the neighboring republic of Ingushetia following the conflict in Chechnya in 1999.

Human Rights Watch identified a wide variety of serious protection problems facing internally displaced persons worldwide.

Access to Safety Denied

Russian authorities continued to deny displaced Chechens access to safety in Ingushetia and elsewhere in the Russian Federation. On a number of occasions between October and December 1999, Russian forces fired on convoys of fleeing Chechen civilians resulting in scores of deaths and injuries. In October 1999, for example, at least eleven people were killed when a Russian tank fired on a bus carrying displaced persons near the Russian-controlled town of Chervlyonnaya. On October 29, a large civilian convoy, including Red Cross vehicles, was attacked outside Shaami-Yurt. Serious abuses, including widespread extortion, theft, arbitrary arrests, beatings, and in some cases rape, were common at the Russian check points. Young males were particularly targeted, discouraging many from trying to leave. Russian officials also repeatedly closed the borders between Chechnya and Ingushetia, Dagestan, Stavropol, and North Ossetia. In November 1999, for example, 40,000 civilians were stranded for days in heavy fighting when the Russian authorities closed the Ingush-Chechen border. In January 2000, the authorities announced that males between the ages of ten and sixty would not be allowed to leave Chechnya, although this policy was later retracted under international pressure.

In Sri Lanka, between May and July 2000, both the armed separatist Liberation Tigers of Tamil Eelam
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Forced Round-ups and Relocation Programs

In other situations, government or rebel forces deliberately rounded-up civilians and held them in camp-like settlements. In Burundi, for example, 350,000 people had been forced into “regroupment” camps around the capital, Bujumbura, by January 2000 as part of the government’s counter-insurgency program. Soldiers used force and threats to move civilians into the camps, killing and injuring dozens. Despite concerted pressure from the international community, including Nelson Mandela, it was not until June that the authorities began to systematically disband the camps. By October most of the camps around Bujumbura were closed, but officials continued using “temporary” regroupment to make it easier for soldiers to “cleanse” areas of rebels.

Restrictions on Freedom of Movement

Human Rights Watch reported on numerous situations where freedom of movement was obstructed and the movement of displaced persons manipulated by both government and rebel forces. In Aceh, Indonesian soldiers reportedly emptied IDP camps by force and prevented others from leaving their homes. Acehnese rebels, on the other hand, reportedly encouraged displacement, preventing displaced persons from staying with relatives and forcing them into large, more visible centralized camps. In Congo Brazzaville, rebel militia groups held displaced persons hostage in camps for much of 1999 and prevented them from returning to their homes. Government authorities also restricted the return of IDPs. In May 1999, the government facilitated a mass return of IDPs from their hiding places in the forests of southern Congo back to the capital with promises to guarantee their safety. Instead, soldiers at roadblocks raped and assaulted hundreds of women and girls, and extrajudicially executed scores of young men who were randomly accused of being rebels.

Lack of Access to Humanitarian Assistance

A serious problem facing internally displaced persons everywhere was lack of access to humanitarian assistance. Infant and maternal mortality and morbidity rates amongst IDPs were, as a result, some of the highest in the world. There were three main reasons for lack of humanitarian access:

First, in places such as Chechnya, the Democratic Republic of Congo (DRC), Burundi, Congo Brazzaville, Sri Lanka, Indonesia’s Moluccan islands, and Angola, the extremely dangerous security conditions, lack of security guarantees, landmines, and inaccessibility of camps prevented humanitarian workers from having access to thousands of internally displaced persons. In the DRC, for example, the U.N. estimated that only one million of the 1.6 million IDPs had access to any humanitarian assistance due to the precarious security conditions in South Kivu. As a result, infant mortality rates amongst the displaced were the highest in the region and the maternal mortality rate was the highest in the world;

Second, were deliberate obstructions to the delivery of humanitarian assistance by government authorities or rebel forces, as in Burundi, Congo Brazzaville, the DRC, Sri Lanka, Aceh, Indonesia’s Moluccan islands, and Chechnya. In Aceh, for example, Indonesian authorities in some cases tried to obstruct local NGOs and
student groups in their efforts to assist IDPs through physical attacks, detention, torture, and harsh treatment of volunteers, destruction of volunteer posts, and seizure of medical supplies. In Burundi, soldiers occasionally blocked international agencies trying to bring assistance to the camps, and even when access was resumed many of the camps were inaccessible to relief agencies;

Third, humanitarian assistance was limited by inadequate international response and lack of coordination. In Angola, for example, a U.N. interagency mission in March 2000 concluded that there were serious gaps in the planning, delivery, and monitoring of humanitarian assistance. And in October 1999, the relief agency, Medecins Sans Frontieres (Doctors Without Borders), decried the “unbearable silence of the international community” toward the “forgotten war” in Congo Brazzaville.

**Forcible Return of Displaced Persons**

Finally, Human Rights Watch reported on the forcible return of displaced persons to areas where their safety could not be guaranteed, in blatant violation of international humanitarian law and the Guiding Principles on Internal Displacement. In December 1999, for example, the Russian military compiled a list of twenty-four towns and village under Russian control designated as “safe areas” for IDP return. In a letter to the then prime minister Vladimir Putin, Human Rights Watch declared that while the armed conflict continued in Chechnya it was not safe for displaced persons to return. Documented cases of summary executions of civilians by Russian soldiers, as well as arbitrary arrests, looting, rape, beatings, and extortion in Russian-controlled villages were further evidence of this. Despite these protests, the Russian authorities took measures to forcibly return displaced persons. These included physically returning railway carriages housing displaced persons in Ingushetia to war zones in Chechnya, refusing to register displaced persons for assistance, and denial of food and shelter.

**The Way Forward**

As the world marked the fiftieth anniversary of an international regime to protect the rights of refugees, the largest group of forcibly displaced persons worldwide—the internally displaced—remained largely excluded from any consistent form of international protection and their rights were persistently violated. Protecting the rights of internally displaced persons, while at the same time preserving and strengthening the right to asylum for refugees, were the two critical challenges facing the international community at the end of 2000.

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