

The Question of the Rights of Child Refugees

Background Information

The 1951 Convention Relating to the Status of Refugees was written shortly after the second world war which had created a large number of refugees who had suffered terribly, and were continuing to suffer. The Convention meant that countries agreed to relieve the suffering of the refugees until they could be returned safely to the land that they came from, or could be resettled in another country. The UNHCR was formed to support and resettle these refugees. While these measures were originally designed to address only people who were refugees from event before 1951, they had been extended to include events after that.

UNHCR helps refugees voluntarily repatriate to their homeland if conditions warrant, or helps them to integrate in their countries of asylum. However, there are situations in which resettlement to a third country is the only safe and viable durable solution for refugees. UNHCR has three solutions for refugees:

Voluntary repatriation:

According to the office of United Nations High commission for Refugees (UNHCR), repatriation is not an option if it is not voluntary. Forced repatriation is merely another forced migration. « Forced repatriation is the expulsion” which is expressly forbidden by the 1951 Refugee Convention and international custom.

However within the domain of international human rights law, repatriation is consistently promoted by international and national human rights organizations, and is transitioning from a ‘customary law’ to a hard law.

The Universal Declaration of Human Rights cites, « Everyone has the right to leave any country, and to return to his country. »

While repatriation is generally defined, voluntary repatriation is not established as clearly in the annals of the UN; merely provisions attempting to prevent the refoulement of refugees, defined in Article 33 of the 1951 Convention with regards to the Status Refugee as the state’s expulsion of a refugee “in any manner whatsoever to the frontiers of territories where refugees would be exposed to persecution.”

Moreover, the prohibition of refoulement relies heavily on the subjective feelings of the refugee, defined in Article I of this Convention as the implication that fear should have ceased, the « well-founded fear of persecution. »

Local Integration:

Local integration is the process in which refugees settle permanently in the host country. However, for a series of political and practical reasons, local integration is not a common solution.

In fact, there is a great obstacle to local integration as a solution for refugee crises is the lack of political will of many host states especially poor countries.

Many countries consider refugees a « burden », and not capable of any meaningful social and economic contribution. Again, they are seen as a threat to national security.

The first obstacle, the perception of refugees as a temporary inconvenience to the host country because they rely heavily on government and international assistance, creates the sentiment that if locally integrated refugees are not able to sustain refugees without the outside assistance that was available in the camps.

Resettlement:

Resettlement involves the selection and transfer of refugees from a country in which they have sought protection to another country which has agreed to admit them.

When resettlement occurs, refugees are transferred from the country in which they found refuge to another country which agrees to welcome them. The UNHCR generally gives priority to individuals with a high protection need, as well as women and highly vulnerable families. In some cases the UNHCR, in collaboration with relevant countries, can also resettle groups or specific categories of refugees. This kind of resettlement is generally recommended for populations that are victims of protracted situations, and when neither repatriation nor local integration seems possible. The UNHCR proceeds to resettlement based on the willingness of host countries. The main countries which regularly participate in resettlement programs are Australia, Canada, Denmark, the United States, New Zealand and Sweden. Within the European Union, Sweden and Denmark lead the way in resettlement programs.

The refugees created in WWII were principally in Europe, and moved from one country to another, so were clearly international responsibilities. However things changed considerably afterwards:

1. The types of causes of refugees varied considerably. International wars became less common, but civil wars, political oppression and famine continued.
2. Most refugees came from poor countries, and sought refuge in neighbouring countries which were also poor. These countries of refuge had very limited resources to support the refugees. This situation placed great demands on the UNHCR.
3. Many refugees moved within their own countries, so they were not an international issue, but were still a major humanitarian issue. The UN, had to extend its mandate to address internal refugees.
4. The term 'economic' refugees was created to describe people fleeing from poor economic areas, and more recently 'climate' refugees those fleeing from the effects of climate change.
5. Many refugees had no access to the UNHCR to enable them to be officially classified and supported.
6. Many children were completely separated from their families.
7. Some refugees, instead of seeking refuge in adjacent countries, would travel considerable distances to other countries which they felt were in a better position to meet their needs.
8. It was difficult at times to distinguish the different types of refugees, as they might be taking refuge from a variety of causes.
9. Receiving countries wanted to guard against receiving terrorists or other undesirable people who were pretending to be genuine refugees.
10. Some receiving communities were very unhappy about refugees bringing in very different cultures and competing for jobs and housing.
11. Communities in some developed countries suspected that many refugees were coming principally to gain better economic benefits, and demanded that their governments toughened up on acceptance conditions. These governments adopted a policy of imprisoning people who were suspect in 'mandatory detention centres'. Thus whole families may be imprisoned for years while their position was clarified.
12. There was also concern that countries with internal conflict were not taking the responsibility for the demands that refugees were placing on neighbouring countries.

For these reasons, it has proven very difficult to establish fair guidelines to ensure humane treatment of refugees, and to ensure that they are effectively observed.