



UNHCR
The UN Refugee Agency

THE 1951 REFUGEE CONVENTION

UNHCR FACTSHEET

The Convention Relating to the Status of Refugees is the foundation of international refugee law. The Refugee Convention defines the term "refugee" and sets minimum standards for the treatment of persons who are found to qualify for refugee status.

It was the first truly international agreement covering the most fundamental aspects of a refugee's life. It spelled out a set of basic human rights which should be at least equivalent to freedoms enjoyed by foreign nationals living legally in a given country and in many cases those of citizens of that state. It recognized the international scope of refugee crises and the need for international cooperation, including burden sharing among states, to tackle the problem.

QUESTIONS AND ANSWERS



WHAT IS CONTAINED IN THE 1951 CONVENTION?

It defines what the term 'refugee' means. Then it outlines a refugee's rights including such things as freedom of religion and movement, the right to work, education and accessibility to travel documents. It also underscores, in turn, refugees' obligations towards their host governments. A key provision stipulates that refugees should not be returned to a country where they fear persecution. It also spells out individuals or groups of people who are not covered by the Convention.

WHAT IS CONTAINED IN THE 1967 PROTOCOL?

It removes the geographical and time limitations written into the original Convention under which for the most part only Europeans involved in events occurring before 1 January 1951, could apply for refugee status. As a result it turned the Convention into a truly universal instrument that could benefit refugees everywhere. Three-quarters of the world's states have signed up to both the 1951 Convention and its Protocol.

:: Who are refugees?

"A refugee is a person 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 or, owing to such fear, unwilling to avail himself of the protection of that country."

~ 1951 Convention Relating to the Status of Refugees, Article 1(a)(2)



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WHAT IS 'PROTECTION'?

A properly functioning government provides its citizens with a range of civil, political, economic, cultural and social rights and services including, for example, protection by the police, legislation and courts from crime and persecution. If that system of 'national protection' breaks down – either because the country is at war or is suffering from serious unrest, or because the government is itself persecuting certain categories of citizens – then people may flee to another country. Those among them who qualify as refugees are then entitled to receive 'international protection.'

WHO PROTECTS REFUGEES?

Host governments are primarily responsible for protecting refugees and the 147 states that have ratified the Convention and/or the Protocol are obliged to carry out its provisions. UNHCR maintains a 'watching brief,' intervening if necessary to ensure refugees are granted asylum and are not forcibly returned to countries where their lives may be in danger. The agency seeks ways to help refugees restart their lives, either through local integration, voluntary return to their homeland or – if that is not possible – through resettlement in 'third' countries.

The United Nations wants to "assure refugees the widest possible exercise of... fundamental rights and freedoms."

Preamble to the 1951 Convention



CAN THE CONVENTION RESOLVE REFUGEE PROBLEMS?

People become refugees, either on an individual basis or as part of a mass exodus, because of political, religious, military and other problems in their home country. The 1951 Convention was not designed to tackle these root causes, but rather to alleviate their consequences by offering victims a degree of international legal protection and other assistance and eventually to help them begin new lives. Protection can contribute to an overall solution, but humanitarian work cannot act as a substitute for political action to prevent or solve crises.

IS THE CONVENTION MEANT TO REGULATE MIGRATORY MOVEMENTS?

No. Millions of 'economic' and other migrants have taken advantage of improved communications in recent years to seek new lives in more developed countries. However, they should not be confused with refugees, who are fleeing persecution or war – rather than moving for financial or personal reasons. Modern migratory patterns can be extremely complex and contain a mix of economic migrants, refugees and others. Separating genuine refugees from the various other groups through fair asylum procedures, in accordance with the 1951 Convention, can be a daunting task for governments.



"Every refugee has duties to the country in which he finds himself..."

- Article 2

HOW ARE REFUGEES AND ECONOMIC MIGRANTS DIFFERENT?

Economic migrants normally leave their country voluntarily to seek a better life. If they choose to return home they will continue to receive the protection of their government. Refugees flee because of the threat of persecution and cannot return safely to their homes unless there is a fundamental shift in the situation (for example a durable peace agreement or change of government).

DOES THE CONVENTION OBLIGE STATES TO GIVE PERMANENT ASYLUM TO ALL REFUGEES?

The Convention does not provide automatic protection for all time. Many refugees have integrated permanently in their country of asylum, but some stop being a refugee when the basis for their original asylum claim ceases to exist. Voluntary repatriation of refugees to their home country is UNHCR's 'preferred' solution – and indeed is the commonest outcome – but only when conditions make it possible for them to return home safely.

WHAT OBLIGATIONS DOES A REFUGEE HAVE?

Refugees are required to respect the laws and regulations of their country of asylum.

CAN NON-CONVENTION COUNTRIES REFUSE TO ADMIT REFUGEES?

The principle of *non-refoulement* – the idea that people should not be forced to return to countries where they face persecution – has become part of customary international law and is binding on all states. Therefore no government should expel a person in those circumstances.

WHO IS NOT COVERED BY THE CONVENTION?

A person who has committed a crime against peace, a war crime, a crime against humanity or a serious non-political crime outside the country of asylum.



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CAN A SOLDIER BE A REFUGEE?

A refugee is a civilian. Former soldiers may qualify, but a person who continues to take part in military activities is not eligible for refugee status.

DOESN'T THE MERE FACT THAT A STATE HAS SIGNED THE CONVENTION ACT AS A 'PULL' FACTOR, CAUSING THE NUMBER OF ASYLUM SEEKERS TO SOAR?

No. Some of the states hosting the largest refugee populations are not parties to the 1951 Convention. Historical, geographical or family links are more likely to influence the choice of destination.

CAN ANY COUNTRY BE DECLARED 'SAFE' ON THE GROUNDS THAT IT DOES NOT PRODUCE REFUGEES?

No. Even asylum claims from nationals of states where there is almost no risk of persecution should be considered, because aberrations can occur in even the most benevolent of societies. Such claims can, however, be channeled through an 'accelerated procedure' under which the asylum seeker should still receive a fair hearing.



ARE SOME COUNTRIES BEING SWAMPED BY ASYLUM SEEKERS?

Countries around the world, including some in Europe, believe they are being overwhelmed by asylum seekers. The global number of asylum seekers did increase in the 1980s and 1990s, but then decreased sharply during the first years of the new millennium. The concerns of individual states are relative. The bottom line is that some nations in Africa, Asia and the Middle East – states with far fewer economic resources than the major industrialized countries – sometimes host much larger numbers of refugees over much longer periods.

DOES ACCESSION INFRINGE UPON STATE SOVEREIGNTY?

Sovereignty is never absolute. The refugee instruments reconcile state interests with human rights protection. The granting of asylum, for instance, has not been incorporated into the refugee instruments and continues to be at the discretion of individual governments. *Refoulement* (that a person should be forced to return to a country where he/she faces persecution), on the other hand, is clearly prohibited.

HOW CAN ACCESSION BE PRESENTED TO A CONCERNED GOVERNMENT OR LOCAL POPULATION

Some domestic concerns are linked to misperceptions. The Convention and Protocol simply provide a general legal framework on which states can build their own refugee policy, and obligations imposed on governments are not as constraining as sometimes suggested. Merely tolerating refugees, without fixing a legal basis for their presence, can create a 'grey zone' which may fester and lead to problems both for the refugees and their host society.

States "shall not impose penalties, on account of their illegal entry or presence, on refugees..."

- Article 31