



# THE 1951 REFUGEE CONVENTION

QUESTIONS & ANSWERS



**A Hungarian amputee,** waiting for his own chance to start a new life, waves to other asylum seekers in Austria, in 1957.

# THE 1951 REFUGEE CONVENTION

## QUESTIONS & ANSWERS

Cover:

**Young World  
War II refugees**  
await help.



©BPK/DEU-1945

- 4** THE CONVENTION'S HISTORY
- 6** THE IMPORTANCE OF THE 1951 CONVENTION
- 8** WHAT IS PROTECTION?
- 9** REFUGEES AND ECONOMIC MIGRANTS
- 11** THE INTERNALLY DISPLACED
- 15** WHAT IS TEMPORARY PROTECTION?
- 16** 'ATTRACTING' ASYLUM SEEKERS
- 18** NON-REFUGEE PRODUCING COUNTRIES

### Tables

- 10** TABLE 1  
Refugee numbers in the last  
half century.
- 17** TABLE 2  
States parties to the 1951  
Convention and/or the 1967  
Protocol relating to the Status  
of Refugees: as at 1<sup>st</sup> July 2003.



ARNOLD ARCHIVES/CH-205

**In the beginning:** The Geneva Refugee Convention was adopted on 28 July 1951 and opened for signature.



**T**HE PROCESS OF DEVELOPING A body of international law, conventions and guidelines to protect refugees began in the early part of the 20<sup>th</sup> century under the League of Nations, the predecessor of the United Nations. It culminated on 28 July 1951, when a special U.N. conference approved the Convention relating to the Status of Refugees.

The Convention clearly spells out who is a refugee and the kind of legal protection, other assistance and social rights he or she should receive from states parties to the document. Equally, it defines a refugee's obligations to host governments and certain categories of persons, such as war criminals, who do not qualify for refugee status.

THE UNITED NATIONS  
WANTS TO "ASSURE REFUGEES  
THE WIDEST POSSIBLE  
EXERCISE OF...  
FUNDAMENTAL RIGHTS  
AND FREEDOMS."

*Preamble  
to the 1951 Convention*



Several months before the Convention's passage, the fledgling United Nations High Commissioner for Refugees had begun its work on 1 January 1951. In the subsequent decades, the document has been the foundation of the agency's efforts to help and protect more than 50 million refugees.

This first instrument was limited to protecting mainly European refugees in the aftermath of World War II, but a 1967 Protocol expanded the scope of the Convention as the problem of displacement spread around the world. The original document also inspired

regional instruments such as the 1969 Africa Refugee Convention and the 1984 Latin American Cartagena Declaration.

A total of 145 states have acceded to one or both of the U.N. instruments (*see page 17*). But as the pattern of global migration changed and the number of people on the move increased dramatically in recent years, the relevance of the 1951 Convention has been called into question, especially in Europe, ironically its very birthplace.

UNHCR currently helps more than 20 million people and the Convention, which has proved to be remarkably flexible in rapidly changing times, continues to be the cornerstone of refugee protection. Following are some of the most common questions about the Convention.

"CONTRACTING STATES  
SHALL APPLY THE  
PROVISIONS OF THIS CONVENTION  
TO REFUGEES WITHOUT  
DISCRIMINATION."

Article 3

# WHO IS A REFUGEE

## ■ Why is the Convention important?

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 necessity of international cooperation, including burden sharing among states, in tackling the problem.

## ■ What is contained in the 1951 Convention?

It defines what the term 'refugee' means. 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, but it also underscores a refugee's obligations to a host government. A key provision stipulates that refugees should not be returned to a country where he or she fears persecution. It also spells out people or groups of people who are not covered by the Convention.

Article 1 of the Convention defines a refugee as

“A PERSON WHO IS OUTSIDE HIS/HER COUNTRY OF NATIONALITY OR HABITUAL RESIDENCE; HAS A WELL-FOUNDED FEAR OF PERSECUTION BECAUSE OF HIS/HER RACE, RELIGION, NATIONALITY, MEMBERSHIP IN A PARTICULAR SOCIAL GROUP OR POLITICAL OPINION; AND IS UNABLE OR UNWILLING TO AVAIL HIMSELF/HERSELF OF THE PROTECTION OF THAT COUNTRY, OR TO RETURN THERE, FOR FEAR OF PERSECUTION.”

## ■ What is contained in the 1967 Protocol?

It removes the geographical and time limitations written into the original Convention under which mainly Europeans involved in events occurring before 1 January 1951, could apply for refugee status.

# FUGEE?



**International protection** is the key to UNHCR's efforts to help millions of refugees. A field officer helps a newly returned Guatemalan couple in 1996 with their papers and documentation.



UNHCR/L. TAYLOR/DIAGRAM/2007

**Crises, such as those in West Africa, still scar many parts of the world, underlining the importance of the 1951 Convention.**

### ■ What is protection?

Governments are responsible for enforcing a country's laws. When they are unable or unwilling to do so, often during a conflict or civil unrest, people whose basic human rights are threatened flee their homes, often to another country, where they may be classed as refugees and be guaranteed basic rights.

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.

### ■ Is the Convention still relevant for the new millennium?

Yes. It was originally adopted to deal with the aftermath of World War II in Europe and growing East-West political tensions. But though the nature of conflict and migration patterns have changed in the intervening decades, the Convention has proved remarkably resilient in helping to protect more than 50 million people in all types of situations. As long as persecution of individuals and groups persists, there will be a need for the Convention.

### ■ Who protects refugees?

Most governments are primarily responsible for protecting refugees and the 145 parties to the Convention and/or the Protocol are obliged to carry out its provisions. UNHCR maintains a 'watching brief', intervening if necessary to ensure bona fide refugees are granted asylum and are not forcibly returned to countries where their lives may be in

STATES  
"SHALL NOT IMPOSE  
PENALTIES, ON ACCOUNT OF THEIR  
ILLEGAL ENTRY  
OR PRESENCE, ON  
REFUGEES."

Article 31

## ■ Is the Convention meant to regulate migratory movements?

No. Millions of ‘economic’ and other migrants have taken advantage of improved communications in the last few decades to seek new lives in other, mainly western, countries. However, they should not be confused, as they sometimes are, with bona fide refugees who are fleeing life-threatening persecution and not merely economic hardship. Modern migratory patterns can be extremely complex and contain a mix of economic migrants, genuine refugees and others. Governments face a daunting task in separating the various groupings and treating genuine refugees in the appropriate manner—through established and fair asylum procedures.

STATES “SHALL ACCORD TO REFUGEES THE SAME TREATMENT AS IS ACCORDED TO NATIONALS WITH RESPECT TO ELEMENTARY EDUCATION...”

Article 22



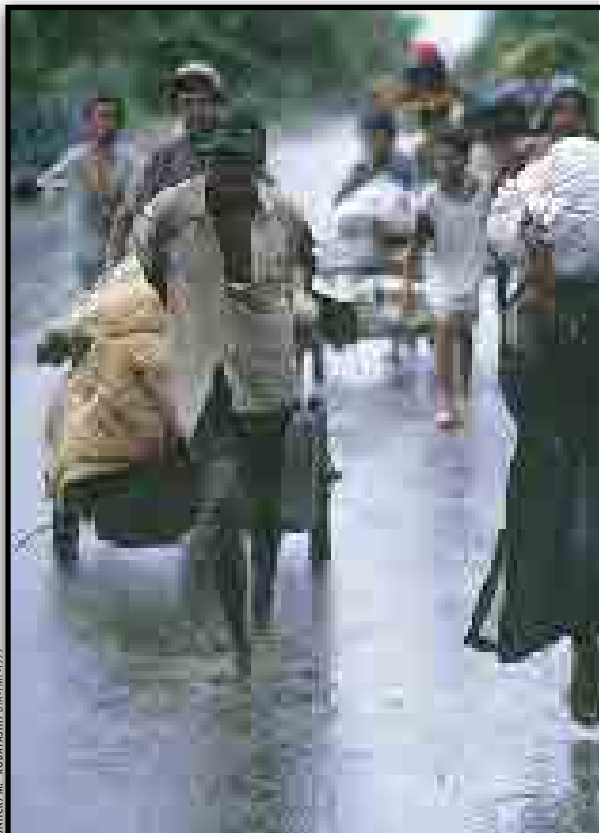
UNHCR/A. HOLLMANN/CRH-22120

The search for asylum is often complicated by the movement of millions of economic migrants. A Nigerian awaits his fate at Zurich airport.

## Number of Refugees: annual totals worldwide

[ AS AT 31 DECEMBER OF EACH GIVEN YEAR ]

1951	2, 116,000
1960	1, 516,000
1970	2, 480,000
1977	4, 531,000
1978	5, 070,000
1979	6, 298,000
1980	8, 439,000
1981	9, 696,000
1982	10, 300,000
1983	10, 602,000
1984	10, 710,000
1985	11, 844,000
1986	12, 614,000
1987	13, 103,000
1988	14, 319,000
1989	14, 706,000
1990	17, 370,000
1991	16, 829,000
1992	17, 802,000
1993	23, 033,000
1994	27, 419,000
1995	26, 103,000
1996	22, 729,000
1997	22, 376,000
1998	21, 460,000
1999	22, 257,000
2000	21, 814,000
2001	19, 762,000
2002	20, 557,000



UNHCR/M. KOBAYASHI/DIA/TMP/1999

**UNHCR helps several million internally displaced persons, including safeguards for this 'category' of uprooted people.**

### How are refugees and economic migrants different?

An economic migrant normally leaves a country voluntarily to seek a better life. Should he or she elect to return home they would continue to receive the protection of their government. Refugees flee because of the threat of persecution and cannot return safely to their homes in the circumstances then prevailing.

*"EVERY REFUGEE HAS DUTIES TO THE COUNTRY IN WHICH HE/SHE FINDS HIMSELF/HERSELF..."*

Article 2

TABLE 1



ing these people in Timor, but there are no specific legal

international debate currently underway on how this group of uprooted people can be better protected and by whom.

### ■ 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 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 their lives anew. Protection can contribute to an overall solution, but as the number of refugees increased dramatically in recent decades, it has become clear that humanitarian work cannot act as a substitute for political action in avoiding or solving future crises.

### ■ Does the Convention cover internally displaced persons?

Not specifically. Refugees are people who have crossed an international border into a second country seeking sanctuary. Internally displaced persons (IDPs) may have fled for similar reasons, but remain within their own territory and thus are still subject to the laws of that state. In specific crises, UNHCR assists several million, but not all of the estimated 20-25 million IDPs worldwide. There is widespread

### ■ What obligations does a refugee have?

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

■ **Is a Convention signatory required to give permanent asylum to all refugees?**

The Convention does not provide automatic or permanent protection. There will be situations where refugees will integrate permanently in their country of asylum, but alternatively a person may cease to be a refugee when the basis for his or her refugee status ceases to exist. Voluntary repatriation of refugees to their country of origin is UNHCR's 'preferred' solution, but only when conditions in that state permit their safe return.

**Voluntary repatriation**, in this case to Laos, is the 'preferred' solution to end crises.



LUNNICK/J.M. - MICAUD/DJA • LAO © 1991



Asylum seekers should never be forcibly returned while their h

**"NO CONTRACTING STATE SHALL EXPEL OR RETURN... A REFUGEE... TO THE FRONTIERS OF TERRITORIES WHERE HIS/HER LIFE WOULD BE THREATENED..."**

Article 33



© S. SALGADO

homelands are in chaos, as Rwanda was in 1995 after that country's infamous genocide.

### ■ Can non-Convention countries refuse to admit would-be refugees?

The principle of *non-refoulement*—the non-forcible return of people to countries where they face persecution—is part of customary

international law and is binding on all states. Therefore no government should expel a person in those circumstances.



**Kosovar refugees**  
arriving in the United  
States where they  
received 'temporary'  
protection in 1999.

## Who is not covered by the Convention?

Persons who have committed crimes against peace, a war crime, crimes against humanity or a serious non-political crime outside the country of refuge.

## ■ Who or what is an ‘agent of persecution’?

This refers to a person or organization—governments, rebels or other groups—which force people to flee their homes. The origin of the persecution, however, should not be decisive in determining whether a person is eligible for refugee status. What is important is whether a person deserves international protection because it is not available in the country of origin.

## ■ What is ‘temporary protection’?

Nations at times offer ‘temporary protection’ when they face a sudden mass influx of people, as happened during the conflict in the former Yugoslavia in the early 1990s, and their regular asylum systems would be overwhelmed. In such circumstances people can be speedily admitted to safe countries, but



© G. ULUTUNCOZ/LAIFZ/BR

**Gunmen or soldiers are NOT covered by the Convention.**

## ■ Can a soldier be a refugee?

A refugee is a civilian. Former soldiers may qualify, for instance, but a person who continues to take part in military activities cannot be considered for asylum.

without any guarantee of permanent asylum. Thus ‘temporary protection’ can work to the advantage of both governments and asylum seekers in specific circumstances. But it only complements and does not substitute for the wider protection measures, including refugee asylum, offered by the Convention.

■ Are some countries, such as those in Europe, being swamped by asylum seekers?

Countries around the world, including some in Europe, believe they are being overwhelmed by asylum seekers. And while it is true that numbers have increased inexorably in the last few decades in many areas, the concerns of individual states are all relative. The bottom line is that some nations in Africa and Asia—states with far fewer economic resources than industrialized

STATES "SHALL ISSUE  
IDENTITY PAPERS  
TO ANY REFUGEE IN THEIR  
TERRITORY..."

Article 27

countries—sometimes host larger numbers of refugees for far longer periods of time.

■ But does the very fact of accession to the Convention provide a 'pull' factor for increasing numbers of asylum seekers?

No. Some states hosting the largest refugee populations are not parties to refugee instruments. Geopolitical considerations or family links play a more crucial role as far as 'attractiveness' of destination is concerned.



Some European countries claim they are 'swamped' by asylum seekers. Swiss soldiers helped process large numbers of asylum seekers, including this youngster from the Balkans, in the late 1980s.

UNHCR/C. SCHUBER/CHES-26103

■ Date of entry into force:  
22 April 1954 [Convention],  
4 October 1967 [Protocol]

■ At 1<sup>st</sup> July 2003:  
Total number of States Parties to the 1951 Convention: 142

■ Total number of States Parties to the 1967 Protocol: 140

■ States Parties to both the Convention and Protocol: 137

■ States Parties to one or both of these instruments: 145

■ States Parties to the 1951 Convention only: Madagascar, Monaco, Namibia, Saint Kitts and Nevis, Saint Vincent and the Grenadines

■ States Parties to the 1967 Protocol only: Cape Verde, United States of America and Venezuela

# States Parties to the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees

[ LIST OF 145 STATES AT 1<sup>ST</sup> JULY 2003 ]

Albania	Denmark	Korea (Republic of)	Saint Kitts and Nevis
Algeria	Djibouti	Kyrgyzstan	Saint Vincent and the Grenadines
Angola	Dominica		Samoa
Antigua and Barbuda	Dominican Republic	Latvia	Sao Tome and Principe
Argentina		Lesotho	Senegal
Armenia	Ecuador	Liberia	Seychelles
Australia	Egypt	Liechtenstein	Sierra Leone
Austria	El Salvador	Lithuania	Slovakia
Azerbaijan	Equatorial Guinea	Luxembourg	Slovenia
	Estonia		Solomon Islands
Bahamas	Ethiopia	Macedonia	Somalia
Belarus		(former Yugoslav Rep. of)	South Africa
Belgium	Fiji	Madagascar	Spain
Belize	Finland	Malawi	Sudan
Benin	France	Mali	Suriname
Bolivia		Malta	Swaziland
Bosnia and Herzegovina	Gabon	Mauritania	Sweden
Botswana	Gambia	Mexico	Switzerland
Brazil	Georgia	Moldova	
Bulgaria	Germany	Monaco	
Burkina Faso	Ghana	Morocco	Tajikistan
Burundi	Greece	Mozambique	Tanzania (United Republic of)
	Guatemala		Timor-Leste
Cambodia	Guinea	Namibia	Togo
Cameroon	Guinea-Bissau	Netherlands	Trinidad and Tobago
Canada		New Zealand	Tunisia
Cape Verde	Haiti	Nicaragua	Turkey
Central African Republic	Holy See	Niger	Turkmenistan
Chad	Honduras	Nigeria	Tuvalu
Chile	Hungary	Norway	
China			Uganda
Colombia	Iceland	Panama	Ukraine
Congo	Iran (Islamic Republic of)	Papua New Guinea	United Kingdom
Costa Rica	Ireland	Paraguay	United States of America
Côte d'Ivoire	Israel	Peru	Uruguay
Croatia	Italy	Philippines	
Cyprus		Poland	Venezuela
Czech Republic	Jamaica	Portugal	
	Japan		Yemen
Democratic Republic of the Congo	Kazakhstan	Romania	Yugoslavia
	Kenya	Russian Federation	
		Rwanda	Zambia
			Zimbabwe

■ Does accession infringe upon state sovereignty?

Sovereignty is never absolute. International relations imply a reasonable and acceptable level of compromise. The refugee instruments reconcile state interests with 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.

■ Can any country be declared 'safe' in the sense that it cannot produce refugees?

No. Even in states where there is generally no serious risk of persecution, claims by nationals must still be considered. These may be channeled through an 'accelerated procedure' provided that the asylum seeker is given a fair hearing.

■ How can accession be presented to a concerned government or local population?

Some domestic concerns are linked to a misreading or misconception. The Convention and Protocol are nothing more than a general legal framework on which states can build their refugee policy and obligations

imposed on governments are not as constraining as often suggested. To tolerate refugees instead of giving them legal existence might create a 'grey zone' which could fester and turn into a serious security or political problem.

REFUGEES WILL BE ACCORDED  
THE SAME FREEDOM AS NATIONALS "TO  
PRACTICE THEIR RELIGION... AND THE RELIGIOUS  
EDUCATION OF THEIR CHILDREN..."

Article 4



**UNHCR**  
UNITED NATIONS  
HIGH COMMISSIONER  
FOR REFUGEES

PUBLISHED BY:

**UNHCR**

Media Relations  
and Public  
Information Service

P.O. Box 2500  
1211 Geneva 2  
Switzerland

[www.unhcr.ch](http://www.unhcr.ch)

For information  
and inquiries,  
please contact:

Media Relations  
and Public  
Information Service  
[hqpioo@unhcr.ch](mailto:hqpioo@unhcr.ch)

**Going home  
is always the  
best solution  
for refugees  
worldwide.**

UNHCR / H / O/A CONVENTION / ENG 5  
JULY 2003

