

UNDERSTANDING INTERNATIONAL HUMANITARIAN EFFORTS:

The lasting impact of humanitarian interventions on refugees' lives and  
opportunities

by

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## **I. Certificate**

This is to certify that the thesis entitled “UNDERSTANDING INTERNATIONAL HUMANITARIAN EFFORTS: The lasting impact of humanitarian interventions on refugees’ lives and opportunities“ by Ekaterina Porras Sivolobova for the award of a Masters Degree in International Cooperation Policy, embodies original work done solely by Ekaterina Porras Sivolobova.

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### **III. Acronyms**

CHFs common humanitarian funds

DRR - disaster risk reduction

ERFs - emergency response funds

EU – European Union

GHD - Good Humanitarian Donorship

HC - Humanitarian Coordination

ICESCR - International Covenant on Economic, Social and Cultural Rights

IDPs – Internally Displaced Persons

IOM - International Organization for Migration

NGO – Non-Governmental Organization

NRC - Norwegian Refugee Council

PRS – Protracted Refugee Situations

RTG - Royal Thai Government

TBBC - Thailand Burma Border Consortium

UNDP - United Nations Development Programme

UNHCR - United Nations High Commissioner for Refugees

UNICEF - United Nations Children’s Fund

UNKRA – United Nations Korean Reconstruction Agency

UNRRA - United Nations Relief and Rehabilitation Administration

UNRWA – United Nations Relief and Works Agency

WFP - World Food Programme

WHO - Work Health Organization

## **Executive Summary**

The protection, promotion and guarantee of second and third generation rights for refugees are not and will not be possible in the current refugee system. Second generation rights, based on the ideas of equality and guaranteed access to essential social and economic goods, services and opportunities, provide refugees the opportunity to be self-reliant. Third generation rights, the right to sustainable development, to peace, to a healthy environment and to communication, provide refugees to just live in better conditions.

Current mechanisms to refugee crisis confine refugees to crowded settlements where their rights and dignity are taken away. Especially for protracted refugee situations, the United Nations High Commissioner for Refugees (UNHCR) has created various policies in order to make an effort to find long-term solutions and provide to the needs of the refugees as well as to address economic security, peace, opportunities and a more overall sustainable livelihoods for refugees. However, these policies have become more concern with UNHCR self sustaining interests than those of refugees, focusing on the reduction of material assistance in order to meet UNCHR's budgets rather than focusing on the goal oriented solving of the apparent problem.

This thesis focuses on the circumstances that contribute to the refugee's inability to have successful livelihoods, essential to rely on their own power and resources

as well as shortcomings of the refugee systems' current approach to protracted situations that prevent any progress in this issue.

This thesis, for better understanding of the topic has been divided into five sections with four main chapters. The first section presents a general background with the definition of various concepts used throughout the thesis. Chapter one focuses on the concept of “refugee”, it includes the definition as well as contemporary issues related, *inter alia*, to refugee rights and the failure of the 1951 Convention to meet today's challenges. Chapter two is dedicated to refugee camps, in particular, on its structure and its limitations to provide and promote second and third generation rights. Chapter three presents a broader concept how the humanitarian system works, in particularly focusing on how funding is used for humanitarian aid. Chapter four gives a case study where the previous examples have been put into a context in order to understand the current challenges faced by the refugee system from an actual example, rather than only based on theory. In the last section, a conclusion and recommendations to the various important actors is presented.

#### **IV. Background**

Refugees do not present a problem but rather the solution to the growing challenges faced by the humanitarian system. The problem is rather due to imposed restraining policies by host states, lack of communication between humanitarian aid agencies and their approach to meet short-term needs on

situations that have lasted for over twenty years. To understand the immensity of the problem, we only need to look at the statistics published yearly by the UNHCR, in which in 2011 accounted for over 42 million displaced people. And as we celebrate more than 60 years since the establishment of the UNHCR to protect refugees, it is also a time to reflect on the current refugee situation and how it needs to be changed in order to overcome today's challenges.

The UNHCR was first established for a phenomenon that was considered temporary and geographically static. Nevertheless, for the following 60 years, since the creation of the UNHCR, conflicts have diversified and increased causing millions of people to leave their homes in search of a safer environment. As a result of this trend, it has become an important debate within the international community.

Today, more than any other time, refugees have become part of a complex phenomenon where political, ethnic, religious, economic, environmental and human rights factors are combined. Thus, the solution must come from a multidisciplinary context where all of these factors are considered as part of one another, rather than individual challenges.

Causes of forced displacement are not disappearing. In the last two years we have seen various conflicts in North Africa, Sudan, Syria and other places that have caused people to leave their homes fearing for their lives. And not to forget the

millions of Palestine refugees that continue unable to return to their homes after decades of exile.

However, although it is concluded that the causes for displacement of people will continue, it is still not clear how regions, nations and organizations will respond to these challenges. In particular, as protracted refugee situations continue to be present and at the same time as aid is withdrawn by states and the humanitarian agencies from these situation, truly sustainable solutions must be developed and implemented.

In order to give an overview on the basic concepts, which form the humanitarian system as it is regarded here, the following section gives a short introduction.

### *Refugee*

Through the 1951 Convention a definition of who is a refugee was set creating its legal entity. A refugee is defined as 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 country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is

unable or, owing to such fear, is unwilling to return to it. (1951 Convention relating to the Status of Refugees, Article IA)

### *Humanitarian aid*

‘Humanitarian aid/relief’ is assistance that aims to save lives, alleviate suffering and maintain and protect human dignity during and in the aftermath of man-made crises and natural disasters and it is intended to be a short-term assistance in particular in the immediate aftermath of the humanitarian crisis (Global Humanitarian Assistance, 2011).<sup>1</sup>

### *Protracted Refugee Situations (PRS)*

According to the UNHCR, PRS are situations where refugees have been in exile ‘for 5 years or more after their initial displacement, without immediate prospects for implementation of durable solutions’.

### *UNHCR durable solutions*

Durable solutions to help refugees has been an often topic of debate. The Convention states that a refugee status is not permanent but rather only a temporary status. Exile is not a permanent solution but rather a separation from the homeland temporarily.

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<sup>1</sup> In actual practice, it is difficult and often a topic of debate to say when the aftermath of a

However, due to the increase of PRS, in 2008 the UNHCR responded with a change on its policies on how to approach PRS. This change was necessary since the responses to chronic displacement needed different responses to emergencies, because the *status quo* was no longer acceptable, and because refugees should be encouraged to pursue self-reliance and to find durable solutions.

There are three durable solutions promoted by the UNHCR, these are repatriation, local integration and resettlement. In general, repatriation is the most favorable, nevertheless, it is a solution dependent on the stability of the country of origin where refugees can return and their lives and liberty will no longer be in danger. Local integration, also considered a durable solution becomes also dependent on the amount of the cooperation and participation of the host country, thus becoming also dependent on factors that refugees cannot change. The third durable solution, resettlement, same as the previous two solutions, it depends on the cooperation and interest of other states to welcome refugees into their communities. Usually the process of resettlement is lengthy and unfortunately is possible only to few.

### *Self-reliance*

According to the UNHCR's Handbook for Self-Reliance, self-reliance is defined as:



The social and economic ability of an individual, a household or a community to meet essential needs (including protection, food, water, shelter, personal safety, health and education) in a sustainable manner and with dignity. Self-reliance, as a programme approach, refers to developing and strengthening livelihoods of persons of concern, and reducing their vulnerability and long-term reliance on humanitarian/external assistance (UNHCR, Reintegration and Local Settlement Section Division of Operational Support, 2005).

#### *Second and third generation rights*

Enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and in the Universal Declaration of Human Rights, these rights refer to how people live and work together and the provision of basic necessities of life. Economic rights include the right to work and to an adequate standard of living. Social rights refers to full participation in the life of society, such as the right to education and the right to found and maintain a family and the rights to recreation, health care and privacy and freedom from discrimination. Cultural rights would refer to, *inter alia*, the right to freely participate in cultural activities.

Third generation should enjoy those rights that go beyond economic, social and cultural, these are rights that ensure the right to development, peace, to a healthy environment, to share in the exploitation of the common heritage of mankind, to communication and to humanitarian assistance. However, due to mainly the

interest of state sovereignty, these rights cannot be found in legally binding documents

### *The International Refugee System*

Most definitions of the international refugee regime have been based on the 1951 Refugee Convention, however, for the purpose of this paper, I would like to define the international refugee regime *as a set of international actors, rules, norms, treaties, responsibilities that guide for the protection of, grant rights to, and aim to improve the living conditions eliminating any undesirable situations of the world's refugee populations.*<sup>2</sup> This definition should be more holistic since it includes state and non-governmental actors as well as international institutions; it considers all relevant conventions as well as customary laws; it allows to find the presence of limited rights and protection gaps; and it includes the aim of the regime to improve the living situations and eliminate any undesirable situation in accordance to their rights.

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<sup>2</sup> This definition is based on the book *Refugee Manipulation: War, Politics, and the Abuse of Human Suffering* by Stedman, John Stephen and Fred Tanner.



## **V. CHAPTER 1. THE REFUGEE IN CONTEXT: law and politics**

Numerous forced migration caused mostly by civil wars have led to complex and emergency situations (Sudan, Somalia, Liberia, Angola, Burundi, Congo, Rwanda, Bosnia, Chechnya, Albania, etc..) leading to the “problem” of refugees as one of the central problems faced by the international community today.

Since the 1970s, most forced displacements have occurred in Asia and Africa, especially after various states went through a tumultuous period of decolonization. In Central America, systematic rape, widespread of human rights violations and suppressions of freedoms in the 1980s also caused massive forced displacement.

A constant increase in the number of displaced people due to persecution, violence or armed conflict since the mid 1970's intensified in the years following the end of the Cold War, especially in the period between 1989 and 1993.

For example, in 1975 the UNHCR accounted a total of 2.4 million refugees around the world, by 1989 this number increased to 14.8 million and by 1993 it reached a record of 18.2 million. For 2011, the UNHCR accounted a total of 42.5 million displaced people from which 15.2 million were registered refugees.

The geographical distribution of refugees indicates that most of the refugee crises after the 1970s are from impoverished regions of the world. Thus, the traditional

international community's response to these crises have been based on the assumption that local infrastructure is not able, without outside help, to address to this situations of massive population displacements. Thus, over time refugees have become the center of a vast and complex network of institutionalized assistance known as and referred to as the "international refugee regime". The aim for this support scheme, composed by the UNHCR, NGOs (non-governmental organizations) and host governments, is to provide legal and physical protection and material assistance to the refugee population.

#### **A. Causes for refugee flows**

Disasters can be defined as a sudden overwhelming and unforeseen event (The Johns Hopkins and the International Federation of Red Cross and Red Crescent Societies). The degree of the disaster can be measured in various ways. The most common measure may be the amount of fatalities or the amount of people affected. However, other ways to measure the degree of a disaster can be done by measuring the physical losses such as physical constructions and loss of productions. Other measures can be done by focusing on the nature of the emergency, the social consequences and the specific impacts it has within the scope being studied.

Disasters can be classified into three types (The Johns Hopkins and the International Federation of Red Cross and Red Crescent Societies):

1. Disasters from forces in nature: Tropical storms, floods, droughts, volcanoes, earthquakes, landslides and tsunamis. Millions of people have been forced to move because their natural environment has ceased to support them or has become just an uninhabitable place. Also, others have been forced to move due to natural disasters. However, the official term for defining environmentally induced migration remains unclear and debatable.
2. Natural disasters increased by humans: Mudslides caused by deforestation, famine, desertification
3. Disasters directly caused by humans e.g. through conflicts or industrial events: Explosions, release of hazardous materials and pollution, transportation events.

- a. Civil wars or instability in the country

The causes for refugees are mainly due to an increasing number of wars, violent conflicts and other instabilities. These conflicts are not usually targeted acts of individual persecution, but rather from a general violence that endangers peoples lives.

- b. Racism

A series of expert papers, particularly by Professor Pita Agbese, have pointed out that ethnic or racial factors were main root causes of refugee flows (UN Preparatory Committee, 2000).

- c. Economic Crisis

Poverty inevitably can cause tensions with minority people in particularly being more vulnerable. Economic poverty is a major cause for instability and conflict.

d. Famine

When the basic needs are threatened and disrupted by war, famine and disease often become a reason to flee and seek the basic needs of life somewhere else.

Some disasters are also planned ahead, e.g. the building of dams which result in flooding of homes of thousands of people (The Network On Humanitarian Assistance).

All of the above-mentioned disaster types are, however, rooted in, strongly related to or increased by the lack of availability of natural resources. In other words, control for resources and/ or resource scarcities is strongly related to conflicts and the production of refugees (Diamond, 2005).

**B. Current statistics by refugee characteristics and geography**

According to the UNHCR global trends for 2011, there were 42.5 million forcibly displaced people worldwide becoming the highest number in the last 15 years. Of these 42.5 million 25.9 million people were under the protection of the UNHCR, 15.2 million refugees (10.4 million refugees under UNHCR mandates), 26.4

million internally displaced people (IDPs) and 2 million people displaced by natural disasters. Another 12 million people remained stateless.

To these figures we must not forget to add the nearly five million<sup>3</sup> Palestinian refugees in the West Bank, the Gaza Strip and other areas of the Middle East (Jordan, Syria, Lebanon), and that they are not assisted by UNHCR but rather by the United Nations Relief and Works Agency for Palestine Refugees (UNRWA).

From the total number of refugees, there are approximately 7.1 million people living in a protracted situation. From the 10.4 million refugees under the UNHCR mandate, this makes up for almost three quarters of the total population. UNHCR has defined a protracted refugee situation as one “in which 25,000 or more refugees of the same nationality have been in exile for five years or longer in any given asylum country” (UNHCR, 2011).

Regarding the geographical distribution of the refugee population, according to the UNHCR 2011 data, most were located in Asia mainly from Afghanistan with close to 27 million refugees. For the main host countries, four of every five refugees were being hosted by a developing country. Pakistan was host to the largest number of refugees worldwide (4.7 million) representing approximately 45% of the world’s refugees.

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<sup>3</sup> Data from the 2011 UNRWA statistics.



In regards to resettlement during 2011, 92,000 resettlement applications were submitted by the UNHCR. Of these total, close to 62,000 refugees were resettled. The United States of America received the highest number, accounting for 51,500 people.

### **C. The concept of a refugee established in the 1951 Convention**

Definitions are important in international law, they determine who is a refugee and who is eligible for assistance. Second World War left approximately 30 million displaced people. This number was becoming a problem with no simple solution and with no control from the United Nations and the international community. Facing such challenge, the General Assembly declared that “the problem of refugees is of international competence and it is its obligation to help those who have decided not to go back to their country of origin for justifiable reasons” (Gordenker, 1987). For this growing concern, a legal definition had to be created.

Through the 1951 Convention a definition of who is a refugee was set creating its legal entity. A refugee is defined as 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 country of his nationality and is unable,

or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (1951 Convention relating to the Status of Refugees, Article IA)

In the UNHCR's 1967 Protocol Relating to the Status of Refugees (hereafter 'the Protocol' or 'the 1967 Protocol') the geographical and time limitations on the original definition of a refugee were removed, broadening the definition of a refugee.

Although these two documents apply to all refugees, various regional institutions have also made a step further and adopted definitions modifying and adding responsibilities according to the regions' need. For example, in 1969 the Organization for African unity adopted the Convention Governing the Specific Aspects of Refugee Problems in Africa. Its definition of a refugee is any person who is compelled to leave his or her country

[...] owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality. (Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969, Article 1 (1&2))

States in Latin America also adopted the Cartagena Declaration which in addition to the 1951 Convention and the Protocol, the term refugees includes

persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order. (Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 1984, III (3))

#### **D. The elements for recognition for a Refugee Status**

While the definition of refugee is of a legal matter, the recognition of a refugee remains mostly political and it varies according to region. However, in theory and as a general rule it is based on the definition enshrined in the 1951 Convention and in the 1967 Protocol mentioned above. The UNHCR has issued a handbook on *Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*. It was first issued in 1979 and later re-issued with new amendments. This handbook helps to

establish basic foundations of refugee status, such as its eligibility to become refugees.<sup>4</sup>

There are four 'degrees' of refugee recognition. These are 'prima facie', or de facto status, asylum seeker, Convention and unrecognized status. The most common type of recognition are those by 'prima facie' which allows people to be recognized as refugees collectively due to their nationality. This is more likely to occur in places where civil conflicts have increased, obliging people to leave in large numbers.

If the host country does not recognize prima facie status, then the refugees must seek asylum, which is a lengthy process, and although according to international law, asylum seekers and refugees are entitled to the same rights, in practice it is not the same. Convention recognized refugees are more likely to enjoy more rights and freedoms due to the 'greater' degree of legitimacy.

The last category is the 'unofficial' refugee, those individuals who are just not recognized as refugees although they fulfill all the criteria necessary for refugee status. Unofficial refugees do not enjoy the same rights and are not protected as refugees and are often more known as illegal immigrants, thus subject to the laws of immigration where they often face deportation.

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<sup>4</sup> Refugees that are not recognized as such, basically are in an illegal status.

## **E. The scope of International Refugee Rights**

Human rights are universal. Civil, political, economic, social and cultural rights belong to all human beings, including refugees and IDPs. Asylum seekers and refugees are entitled to all fundamental rights and freedoms set out in international human rights instruments. These rights include the right to life, protection against torture and ill-treatment, the right to a nationality, the right to freedom of movement, the right to leave a country, including his own, and to return to his country and the right not to be returned by force.

The main task of the international protection agencies, such as the UNHCR, includes the prevention of a refugee to be returned – every person has the right not to be returned to a country where their lives are in danger. These protections include the assistance in the process to seek asylum, provide legal advice and assistance, the proper arrangements for the physical security of refugees and to help resettle refugees.

The prohibition of forced repatriation of refugees, known as non refoulement, is one of the most important principles of international law for the protection of refugees. Non refoulement is considered as a *jus cogens* principle in international law and it is specified in Article 33 of the 1951 Convention, which says that "no Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be

threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."

Some asylum seekers are detained during the asylum process or while awaiting deportation (which in this case can be considered refoulement). Such applicants may have been or could become victims of imprisonment and torture in the country they have fled, and therefore, the consequences of an arrest can be particularly serious. Article 31 of the Refugee Convention says that refugees should not be penalize if they have entered a country illegally and if they come directly from a place where they were at risk. Therefore, asylum seekers should not be detained.

Articles 12 to 30 of the 1951 Convention specify the rights that belong to individuals once they have been recognized as refugees under the terms of the Convention:

All refugees should be provided with identity papers and travel documents that allow them to leave the country and refugees should receive the same treatment as nationals with respect to the following rights:

- The free practice of religion and religious education
- Free access to the courts system (including legal aid)
- Access to basic education
- Access to public relief and assistance

- The protection provided by social security
- The protection of intellectual property such as inventions and trademarks
- The protection of literary, artistic and scientific property
- Fair treatment by tax authorities
- Access to public relief and assistance
- The protection of intellectual property such as inventions and trademarks

Refugees should receive treatment as favorable as that granted to nationals of foreign countries. These rights include:

- The right to join a union
- The right to belong to other apolitical and non-profit organizations
- The right to obtain productive employment

Refugees should receive treatment as favorable as possible, which must be at least as favorable as that given to foreigners who are in the same circumstances. These rights include:

- The right to property
- The right to practice a profession
- The right to self-employment
- Access to housing

Also, refugees should receive the same treatment given to foreigners in regard to the following rights:

- The right to choose their place of residence
- The right to move freely within the country

As one can observe, these rights enshrined in the 1951 Convention often relate to the second-generation rights. Thus, becoming a duty for states to guarantee and protect these rights.

## **F. The challenges to guarantee refugee rights**

### **1. Rejection at the border**

Border officials do not have the authority to decide on the application of an asylum seeker. These applications are supposed to be referred to the proper authority responsible for examining requests for refugee status.

However, in practice it is different and often people seeking refugee are denied by border officials to enter the country to seek asylum. These people have then no option to return to their homeland where they face a risk for their lives and/or liberties or are forced to enter the country of asylum illegally and risking to be caught and punished for 'illegal entry'.

### **2. Refugee Rights and its Practice**

Refugees have rights, before, during and after seeking asylum. This respect for human rights is a fundamental condition for both preventing and solving today's 'problem' of refugee flows. Unfortunately, this disregard of refugee's minimum



rights is one of the most problematic issues. In theory, host states can only pose restrictions on refugee rights during times of “war, or grave and exceptional circumstances”<sup>5</sup>, however, in practice the reality is different.

It has already been known that one of the major causes of mass exodus is the violation of human rights, leading to efforts to stop this at the source and prevent people of having to leave their homes. However, there has also been a growing attention of violation of human rights that refugees encounter after they leave their homes. There are three main issues of particular concern (Amnesty International, 2001).

#### *Asylum Refusal and Detention*

The first issue is the increasing tendency to refuse asylum seekers. The restrictive trends in asylum worldwide, ultimately, have contributed to an increased pressure on the international refugee regime, which enters into a process of gradual transformation that does not favor protection and assistance to the refugees, but on the contrary, it makes increasingly vulnerable.

The increase in the last decades of refugee flows has led to increasing restrictive policies towards immigration and asylum seekers. Some governments have introduced very restrictive measures which do not permit asylum seekers access to their territory. While seeking asylum, many people face restrictive measures and

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<sup>5</sup> Article 9, 1951 Convention.

are often detained or forcibly returned to the area where they first left to be safe. Measures that obstruct the entry of asylum seekers, including restrictive visa measures, are incompatible with articles 31<sup>6</sup> and 33<sup>7</sup> of the 1951 Convention.

Detention practices have increased in order to deter and hinder refugees from seeking asylum. For example, in Australia any person seeking asylum and arriving without prior authorization will be subject to detention. In other countries, group of asylum seekers are detained because their applications are considered ‘manifestly unfounded’. Other countries detain people whose application was rejected and wait to be deported. Even in cases where the person is detained legitimately, it should not be confined for longer than necessary. Also, in some cases some asylum seekers might face physical assault and detention for extended and undetermined period of time without legitimate reasons and not offering information.

#### *Violation of minimum refugee rights*

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<sup>6</sup> Article 31(1) The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence. (2) The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

<sup>7</sup> Article 33 (1) No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. (2) The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

The second issue is the violation of the minimum rights of asylum-seekers during the process of asylum as well as after the refugee status has been granted. In some cases there is an improper determination procedures where the minimum standards are not respected.

Other violation of refugees' minimum rights includes freedom of movement, which is a right that has had one of the most effect on refugee lives. This freedom is stated in Article 26 of the 1951 Convention: "Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances". In other words, refugees are entitled to choose where to live and should be able to move without any restrictions.

The right to pursue economic activities and the right to work are both enshrined in the 1951 Convention as well as in the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). These rights can be specifically found in Article 17 (1) and Article 18 of the 1951 Convention and Article 6(1) of the ICESCR. Nevertheless, although these rights are both addressed in international treaties, for refugees to pursue these rights remains highly constrained. For example, 25 states that have ratified the 1951 Convention had made a declaration or a reservation for article 17(1) of the 1951 Convention.

### *Voluntary repatriation*

The third issue is the persistent human rights violations in the countries of origin and the need to stop this violence before refugees can be voluntarily repatriated. This refers to an increase and continuance of human rights violations in refugee origin countries, leading to prolonged exiles and in many cases worsening of living situations for the refugees. In these cases, there must be an assurance that refugees will not voluntarily return while their lives remain in danger.

Repatriation can be a solution only as long as it is done on a voluntary basis and when human rights of the refugees are respected. Thus, as long as violations of human rights continue to occur in the country of origin, it will be very unlikely for refugees deciding to return voluntarily. In other words, the restoration of peace in the country of origin is a fundamental condition for the refugee to return voluntarily.

### *Security in refugee camps*

Refugee camps have become an easy target of attack and center for recruitment. These have often become targets of attacks by military or armed attacks, where young male children are often recruited to work for guerillas and forced to fight while girls often are subjected to physical and sexual abuse.

### **3. Reconsidering the 1951 Convention**

After 61 years of its adoption, the Refugee Convention is still the only international instrument for the protection of refugees. Since it was adopted to meet and solve different challenges than the ones we face today, there is an increasing doubt of its adequacy to meet today's role. The Convention was designed to cope with the challenges faced by the Cold War and based on the experiences of World War II, and not designed to face today's mass refugee outflows.

In 1998 the EU Presidency from Austria made the suggestion to replace the 1951 Convention with the EU asylum law in order to meet today's requirements (EU Presidency, 1998). In 2000 the UK Home Secretary, Jack Straw, made remarks to the Convention, stating that it is "too broad for conditions in the 21<sup>st</sup> century, and as no longer can adequate guide to policy in the age of mass air travel and economic migration" (The Telegraph, 2000). The Convention has been also subject to more criticisms and even review for its interpretation and implementation in Australia.

Since the 1980s there has been an increasing number of refugees, but despite the change, governments have not been inclined to expand or renew the Convention in order to work on today's challenges. This response from governments can be because the majority of people displaced come from poorer countries, such as from the Middle East, Asia and Africa and tend to be less welcomed. Also,

another possible reason is that there is also no longer a need to recruit foreign unskilled labor in developed countries and in general there is just no longer an advantage to give asylum.

Since the 1980s, most refugee movements have been caused by civil wars, ethnic conflicts and generalized violence and sometimes combined with natural disaster or famine and by an oppressive regime. Large movement of people is not longer for the same reason as it was 60 years ago, when the 1951 Convention was written and made into effect. In order to properly and effectively deal with today's challenges within the refugee regime, the 1951 Convention must be revised and updated in order to effectively work on a safety net where refugees can fall from the existing gaps of refugee law and the humanitarian system.

#### **4. Lack of Burden Sharing mechanisms**

The 1951 Convention is based on international cooperation and based on the need to share burdens and responsibilities, nevertheless, it does not suggest on how to do this, thus leaving it to the states.

Currently, the refugee system does not equally share burdens. For example, Pakistan has hosted more than 3 million Afghan Refugees for decades. Pakistan alone has to face increasing instability without any burden sharing such as worsening law and order situations, deteriorating economy, smuggling, environmental degradation and increasing violence.

A clear change must be made on how states respond to humanitarian needs. Burden sharing mechanisms must be stated clearly, followed and applied according to each nation's capabilities. An efficient burden sharing approach might also help relieve regions from further instability or from prolonged time of conflict within a region.

## **VI. CHAPTER 2. REFUGEE CAMPS: A space of exceptions**

A refugee camp is a space that has fallen outside the margin of protection and representation of a state, in other words, a refugee camp is a space outside the scope of citizen and constitutional protection leading to multiple vulnerabilities. Thus a refugee becomes a person subject to the authority of the hosting country. Since refugees become an exception, their rights as well as the opportunity to seek better livelihoods become highly restricted. For example, the freedom of movement becomes regulated and in many cases the right to work is denied. These spaces of exceptions have become a constant focus of debate and a growing concern. Creating refugee camps has been the most common way the international community responds to the sudden exodus of people.

Although there are positive reasons why the international community should respond with the creation of a refugee camp during the onset of a crisis, the challenges and questions then extends on how these spaces are and should be managed in order not to create spaces of exceptions where refugees become unable to be self-reliant and without the opportunity to use her or his best potential.

### **A. Looking back in history: the creation of refugee protection agencies**

Refugees have been a part of world history for hundreds of years. In order to understand how the refugee system came into being, the past must be looked at,



starting from 1648. It was in the 1648 Treaty of Westphalia where the notion of a sovereign state was born and territories were assigned for people belonging to. The first forced migration and instance of refugees can be traced back to 1685, when the Edict of Fontainebleau outlawed Protestantism, leading to hundred thousands of Protestants to flee from France out of fear of religious prosecution.

At the beginning of the 20<sup>th</sup> Century, old Empires had collapsed and nation states were on the rise, changing the nature of war. The Balkan wars and the 1917 Russian Revolution created the movement of over a million individuals, later, by the end of the First World War the numbers of refugees had dramatically increased, through which the first international coordination on refugee took place, leading to the creation of a High Commissioner for Refugees in 1921 led by Dr. Fridtjof Nansen by the League of Nations.

In 1922 Dr. Nansen created a document called “Nansen Passport” so that the refugees who were not able to identify themselves would still possess a juridical and legal status (Zarjevski, 1998). The Nansen Passport was a revolutionary concept, since it was a personal document given and guaranteed not by a sovereign state, but rather by an international institution.

Over the following years, Nansen began to establish the legal rights and status of refugees and created three ‘durable solutions’ as a fundamental part of the work with refugees: repatriation, resettlement and naturalization. In 1928 two

documents codified the rights of refugees and the duties of their host states, which are the;

*Arrangement Relating to the Legal Status of Russian and Armenian Refugees* and the *Arrangement Concerning the Extension to Other Categories of Refugees of Certain Measures Taken in Favor of Russian and Armenian Refugees*. These documents further contributed as the framework for the 1951 Geneva Convention Relating to the Status of Refugees.

In 1931 the Nansen Office International for Refugees was authorized by the League of Nations as an autonomous body under the authority of the League of Nations (Haberman, 1972). This office was set up to help not only the Nansen refugees, but all refugees that emerged due to conflict or separation of states.

With the rise of nationalism in Germany in 1933, a new problem emerged, leading to the establishment of a High Commission for Refugees Coming from Germany and later also from Austria and Sudetenland (southwest and western regions of Czechoslovakia). This commission and the Nansen Office were scheduled to dissolve on December 31, 1938, and so they did. However, on the following day, the Office of the High Commissioner for Refugees under Protection of the League was established.

In 1943 in Washington, 44 allied countries established the United Nations Relief and Rehabilitation Administration (UNRRA) to provide economic assistance to

European countries liberated and to repatriate more than six million people (United States Holocaust Memorial Museum, 2011). By 1946, the Economic and Social Council (ECOSOC) decided to substitute UNRRA for a temporary and independent specialized agency to work with all the activities related with the refugees. As a result the International Refugee Organization was established and worked until 1952. By then two more agencies were created, the United Nations Korean Reconstruction Agency (UNKRA) that worked until 1961 and the United Nations Relief and Works Agency for Palestine Refugees in the Near West (UNRWA) to reach refugees outside Europe (Alto Comisionado de las Naciones Unidas para los Refugiados, 1996).

After World War II, refugee camps seem to be the best solutions for the vast people being forced to migrate, primary in Europe, due to the conflict. By the 1970's the majority of the situations that caused a large amount of exodus was taking place in Asia and Africa, thus the refugees started to be perceived as a problem of the third world.

#### *The establishment of the UNHCR*

The displaced persons left by World War II became an enormous task to solve. Facing such a task, the United Nations General Assembly decided to establish the United Nations High Commissioner for Refugees (UNHCR) in December 1950.

The United Nations General Assembly at the creation of the UNHCR adopted the 1951 Convention relating to the Status of Refugees defining legally who is a refugee, their rights and the legal obligation of states. At the same time, an UNHCR statute was enacted in which its first articles establishes the main function of this new UN agency:

“The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting Governments and, subject to the approval of the Governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities” (United Nations High Commissioner for Refugees, 1951).

Originally, the 1951 Convention posed temporal and geographical limits on the work that the UNHCR could perform: temporal by restricting the recognition of refugees by any reasons before January 1<sup>st</sup> 1951 and; geographical by limiting to look at refugees only within the European continent. However, due to the emergence of new conflicts, in 1967 a new protocol was adopted removing this geographical and temporal restrictions and becoming the UNHCR agency as we know today.

## **B. The right to seek and receive asylum**

The concept of asylum<sup>8</sup> as existed since long times, it is believed that it began with the nomadic peoples through their practice of continuous movement creating among them the concept of giving asylum on tents. (UNHCR, 1996)

Also, in the ancient civilizations already existed the concept of asylum, the Greeks as well as the Aztecs had sacred zones where the persecuted could arrive to this zone and these could not be detained, taken away or expelled.

With the proclamation of the Universal Declaration of Human Rights in 1948 asylum was first mentioned in article 14, mentioning that every person has the right to ask for asylum in case of persecution. According to the UNHCR “ an asylum seeker is an individual who has sought international protection and whose claim for refugee status has not yet be determined”. And although the word “asylum” is not defined in international law, it has become known as an umbrella term for the total protection given by a country to refugees in its territory.

At the very least, asylum refers to the basic protection for a temporary period of time, in particular, the protection of no forcible return (refoulement) to the country of origin where the refugee’s live or freedom is threatened.

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<sup>8</sup> The word asylum is from the Greek origin *asulon*, ‘refugee’, the ‘a’ refers to ‘without’ and ‘sulon’ means ‘right of seizure’.

### **C. The basic characteristics and structure of refugee camps**

A refugee camp is a human settlement organized for an indeterminate amount of time and by a group of people who have been forced to migrate from their countries of origin or residence. Refugee camps have been the accepted model to 'organize' and 'acomodate' people fleeing their home countries. A space where these people can remain safe while being provided with their basic needs, ideally, until they can return home.

The camps are located in a territory of other than the country that the people have left, usually a neighboring country and where they can receive humanitarian assistance in form of food, shelter and medical assistance. The size, the density and the independent and socioeconomic structure vary widely from one camp to another.

In 2008, the UNHCR was responsible for over three hundred refugee camps, most of them located in Africa followed by Asia. In the Middle Eastern countries there are approximately 60 refugee camps for Palestinian refugees managed by the UN Relief and Works Agency (UNRWA) especially created for them (Agier, 2006).

There are also camps for the Internally Displaced Persons (IDPs) which account for the majority of camps. It is estimated that there are about 600 IDPs camps (Agier, 2006).

## **1. The prototype of refugee camps**

There has been a standardized approach to build refugee camps. This standardization, however, is not an efficient approach since not all refugee camps are the same. In general, to differentiate refugee camps from each other, these can be classified into four different types.

The first type of refugee camp is the camps that are self-installed and self-organized. Although these are not organized by the humanitarian agencies, these camps remain monitored by either humanitarian organizations or by national authorities who often transfer or destroy the camps.<sup>9</sup>

The second type of camp is known also as detention centers, sorting centers, transit centers, holding areas or camps of foreigners which are located at borders, serving to filter and control the movement of different types of migrants and refugees. These camps are normally run by the public service or by private police. Also, a space of limited or no freedom of movement and judicial exceptions. (Agier, 2006)

The third type, and the one that this paper focuses on, is the more traditional and most known type of a refugee camp. These camps are normally planned, organized and managed by the UNHCR or by their hired representative. Their size

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<sup>9</sup> In Europe, two well known self-installed and self-organized camps were the camps of Afghan refugees in Greece and in France. These were destroyed in 2009 by the local police.

and shape varies. These types of camps can be made of tents, bricks, dirt, or any available resource and it can extend to be a small community or look like a rural village.

The fourth type of camp is those camps of the internally displaced people. These camps constitute the largest type of camps. These camps are self-organized and without any type of protection.

## **2. Refugee Camp structure guidelines**

There are minimal norms for the establishment of a refugee camp. These norms are published by various organizations such as by the Norwegian Refugee Council (NRC) in the titled report *The Camp Management Toolkit* as well as by Oxfam who has published various guidelines including the *Oxfam Guidelines for Water Treatment in Emergencies* and by the UNHCR who's text references are various.

For a general understanding of how camps are structurally organized, a summary has been compiled by using the previously mentioned texts.

INITIAL REPORT. Before any planning begins, there must be an initial report of the situation being encountered. This initial report includes an initial evaluation that allows to understand the circumstances that have led to the present situation and analyze the possible threats to life, dignity, health and the mediums for survival of the affected people in order to determine the type of intervention that



should take place. In this report it must be considered that every situation is different, and thus appropriate solutions must be considered. In the majority of the cases a proper design of a camp is not possible since the refugees have already settled. In such a case, the humanitarian agencies must think of how these camps can be improved and only in extreme cases a different location can be proposed to transfer the refugees.

LOCATION. In general camps are located close to other cities, towns or settlement in more secure areas and preferably at a significant distance from the border. However, it is often the case that refugee camps are located in the least desired places of the host country, where resources are few.

SIZE AND DIMENSIONS. International Refugee Law does not specify what the size of the refugee camp should be. Size measured by the population size inside the camp varies according to the size of the crisis. When the number of refugees exceeds the 100,000 the humanitarian agencies try to establish various camps smaller in size since these are easier to manage in terms of security issues, diseases, etc. The preferable size would be 10,000 (according to some manuals) or 20,000 (according to other manuals). However, in reality these number are difficult to accomplish.

The reason for maintaining preferably small camps is to be able to maintain order and provide protection. On the other hand, if camps are large, these will most

likely be perceived as a threat to local communities, can be more prone to create conflicts, especially if the camps are inhabited by refugees of different ethnicities. Also, larger camps will have a larger negative impact on the natural environment.

Nevertheless, in regards to its size, density, its socioeconomic structure and its dependence on humanitarian assistance it varies widely from one context to another.

**PARTICIPATION OF THE REFUGEES IN THE DESIGN.** According to the manuals, it is considered important for the affected population to take part in the evaluation, design and construction of the camps as well as in the programs of humanitarian assistance. However, in reality how much the refugee population participates in the refugee camp design is not well known.

**LAYOUT AND STRUCTURE.** Usually, the layout of the camp is simply in a geometrical form. Nevertheless, in the report by the NRC it takes a slightly different approach. In this report the camp design is for 10,000 people. It is organized as a “compact city” subdivided according to functional criteria. It is essential that the plan allows and facilitates various activities, allows initiatives by the camp population, promotes a social life and that it allows a good administration structure. This model, although might seem ‘perfect’, is only to be used as a reference. The specific model will vary according to practical and

contextual issues (topography, vegetation, wind, cultural demands, etc.), which cannot be systematized nor generalized.

Normally the camp is organized by districts (for example three districts), the districts are organized by units (four units per district) and each unit into 'clusters' of homes (for example 10 clusters per unit and 16 homes per cluster). This would total for 1620 homes and if each home is composed of five people the population would equal 10,000.

In regards to surface, a cluster is about 3,200-3,800 m<sup>2</sup>. A unit is about 5 hectares. (220m × 220m) accounting for the total size of the camp to 60 hectares. This would be approximately 60m<sup>2</sup> per person.

**ENTRANCES AND SECURITY.** In general, the responsibility of security falls in the government hosting the refugee camps; they are normally protected by local police or military. In many cases, the refugees themselves further take the responsibility of securing the camp. The main objectives are personal security, prevention of aggression and violence and prevention of rape against women.

In some cases the refugees are surrounded by a fence, prohibiting the movement of refugees (such as in the case of Thailand) without the permission of the government, while in other cases the camp is totally open, allowing refugees enter and exit as they please.

STREET AND ROADS. Access to vehicles is also controlled. Inside the camp there should be good roads to allow the movement of vehicles for medical reasons and for the deposits of foods. However, between homes there are usually only walking roads. According to the UNHCR guidelines, streets and roads should be about 20-25% of the total surface.

HOMES. It is important to ensure that there is sufficient camp space per person, which includes space for daily activities and space for dignified living. The minimum surface recommended for homes is 3.5 m<sup>2</sup> per person in hot climates where the cooking is done outside the home. Otherwise, in colder climates where the cooking is often done inside the home, the size per person increases to 4.5-5.5 m<sup>2</sup> per person. The minimal distance from each home should be of 2 meters.

In general these homes are made of local and available materials (wood, branches, palm leaves, bamboo, plastic and available metals). In cases of emergency or no available materials, tents must be supplied. These homes should guarantee protection from the sun and the rain and with no danger to be exposed to insects transmitting diseases (provision of mosquito nets).

SERVICES: RECEPTION CENTER AND ADMINISTRATIVE INSTALLATIONS. The amount of space for services should account between 15-20% of the total surface of the camp.

The reception center is where the refugees should come first when arriving to the camp, and there they can be registered. The formality of registration helps to provide information in order to organize assistance to the new coming refugee. Through the registration it helps to know how many people live in the camp, what are their ages, how many women are pregnant, etc. Also, it is here where they should receive an initial package with food and other needed material such as cooking utensils. In some cases the refugees are able to receive medical attention and a house is assigned. The reception center is normally at the main entrance of the camp.

**INFRASTRUCTURES: WATER.** The minimum quantity of water required per person per day for survival is of 7L which is for drinking and cooking. When other uses of water are considered, such as for domestic and hygiene uses, the water rises to a minimum of 20L/person/day. This 20L covers only domestic and personal use, and if agricultural activities would be included, the amounts must be reconsidered and potential competition between agricultural activities and human needs must be considered. Other water needs to be considered in addition to the ones mentioned above are facilities such as hospitals, clinics and schools that also need water.

Studies have shown the importance of adequate amounts of water and proper sanitation as the primary preventative mechanisms for water-borne and water-

related disease prevention. Thus, the importance of water cannot be overemphasized.

In regards to the water source, it is important that not too many people rely on a limited source of water. It is stipulated that there should be one water source per every 200-250 people and should not be farther than 200m from any of the homes. This is very important in order to mitigate the social burden of water collection and to ensure that people collect adequate quantities and do not resort to unsafe water sources as well as not to put people at risk of attack when gathering water from a long distance.

Some camps have their own water supply, usually from a river or lake nearby and sometimes ground water supply. Nevertheless, the water should be treated in order to guarantee that it is not contaminated. In case there is no water supply in the camp, water is brought in by containers to the points of distribution.

**INFRASTRUCTURE: SANITATION AND WASTE.** It is ideal to have one toilet per family, but it is often not possible. At least there should be one toilet available per every 20 people. The toilets must be located strategically and away from any kind of source of provisions. It should also not be farther than 50m from any given house and not closer than 6m, and should be in a place well illuminated so as to safely use during the night hours. According to the camp population and its cultural background the toilets are built. Nevertheless, the basic criteria is

accessibility, no water contamination, preventing insects from being attracted to the toilet area, providing privacy, adapting to the local habits, etc.

In regards of safe disposal of waste, adequate collection and disposal is basic to maintaining good public health. In regards to the waste (solid waste), it has been calculated that in general one container of 100 liters is needed per every 50 people per day. If pits are to be constructed, these must be constructed as far from water points as possible to prevent contamination. The depth to water table should also be taken into account.

INFRASTRUCTRE: ENERGY. According to the Oxfam manual, electricity is provided by a diesel or gas generator which can vary from its potency from 8 and 500kW. Energy conservation practices are applied in such a manner as by using low energy consuming bulbs or fluorescent bulbs.

INFRASTRUCTURE: COMMUNICATIONS. Some organizations, such as the Global Catalyst Foundation, have helped camps to connect to the web. Although it has been limited the amount that camps are connected to the web and the refugees that use it, these steps can have an enormous effect on the lives of the refugees.

OTHER: SUSTAINABILITY AND ENVIRONMENT. It is necessary to protect the environment in order to maintain the camps. It is necessary to prevent

overexploitation, pollution and environmental degradation. It is difficult to estimate the amount of environmental degradation that is caused by the camps, however, it is estimated in some part of Africa in the Sub-Saharan region where camps have settled, that the rehabilitation of the environment would cost approximately 500 USD per hectare. This could mean that in Africa alone the environmental rehabilitation would cost up to USD150 million per year.

For example, in the beginning of the 1990's, approximately 20,000 hectares were deforested in order to supply wood to the refugee camps. On December 1996 in the region of Kagera, Tanzania, approximately 600,000 refugees from Burundi and Rwanda established their camps, consuming per day more than 1200 tones of wood.

**MEETING POINTS.** It is common to establish meeting points for different uses. For example, it can be a place where leaders or refugee representatives can gather. In general it consists of a simple area protected from the sun.

**SERVICES: HEALTH CENTERS.** The standards recommended by the UN are: one health center per 20,000 people and one hospital per 200,000 people. The medical assistance normally consists of first aid and primary health consisting of 30 to 40 medicines according to the most common health issues faced in the camp. Some camps will have a hospital but if there is access to a local hospital this can be used instead of building a new hospital inside the camp. Also, the



camps will have health ‘posts’, about one per ever 3-5000 people. People can seek medical assistance for common illnesses such as throat pain, fever, cuts, etc.

One of the most common health risks in the camps is cholera. Cholera can simply be contracted by drinking contaminated water or through the food. It causes diarrhea and severe vomiting, but without proper and quick treatment it can cause death to the 50% of the affected people due to dehydration. In one extreme case in a refugee camp for Rwandese about 10% of the population became affected by cholera resulting up to the death of 1,000 people a day. The risk is so high that once the first case appears it is important to stop it and control its growth.

According to a UNHCR manual, the most important indicators to measure the health of the camp population is through the mortality index and through the mortality in children under five.

**SERVICES: FOOD DISTRIBUTION.** The food is normally brought to a ‘deposit’ center which is located close to the administrative offices (for security reasons) and not far from the main entrance (for logistic purposes). For distribution there are various points of distribution centers, one center per every 5,000 people. There the refugees receive their food ratio once a week or once every two or three weeks. The distribution is intended to take place at different times from the other centers to prevent long lines of people. The type of food given is different according to where the camp is located and if possible according to the common

diet of the recipient. In some places the main food is rice and in others corn, depending on the cultures. But regardless of the difference in kind, the minimal ration is 2,100 calories per person per day.

Distribution of food is an important aspect of humanitarian assistance. When there are shortages it can cause social instability. In cases where the portion of food is reduced, it affects the health of all and primary the health of pregnant or lactating women as well as children and also may lead to possible unsafe ways to seek food ratios such as prostitution.

SERVICES: EDUCATION. Usually one school is planned for every 5,000 people. According to Save the Children schools help the children “maintain a sense of normality” in their lives. Providing schools for children also helps to continue learning and provides a healthy and productive activity to the child.

SERVICES: MARKET. In open camps markets are usually permitted. On the other side, in closed camps a market will be allowed only if the host government permits it. If allowed, in the market fruits and vegetables are sold as well as sometimes clothes and things for personal use such as soap.

Not all refugees are able to buy; some have money because they brought it with them, others receive money from family. Others sell the vegetables that they grow (if allow to grow) or other artifacts they make or already have.

SERVICES: JUSTICE. Commonly, humanitarian agencies or NGOs tend to put aside issues concerning political or justice issues, and they rather concentrate on more technical issues. Nonetheless, camps are facing a lack of justice mechanisms to solve their problems. The responsibility legally falls on the host government and not on the humanitarian agencies or NGOs. Some of the justice issues can be grave such as murder or rape, while other issues would also include stealing, violence, expropriation, etc.

However, due to the increased need to do something about justice inside the camps, various programs have been initiated to provide refugees access to justice. One of the cases is the case in Thailand where a program has been established to provide justice to the refugee population.

SERVICES: CEMETERY. The sanitary administration is also usually in charge of the spaces that can be used as cemeteries. Some of the main causes of death in a camp are diarrhea (and cholera), respiratory infections, malnourishment and malaria.

#### **D. Between the temporary and the permanent: Protracted Refugee Situations**

There is a perception that refugee situations are temporary crisis, however, experience has shown us that protracted refugee situations have become more of

the norm. According to the UNHCR, a “protracted refugee situation is one in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile”. Since 1993, the time spent in refugee camps has risen from an average of nine years to 21 years (UNHCR Executive Committee of the High Commissioner’s Programme, Standing Committee 30th Meeting, 2004). This increase of time of existing refugee camps has become a challenge to the current refugee system. A decreasing number of host countries are willing or can provide the needed resources to meet refugees’ needs once the emergency phase has passed.

As a result, protracted refugee situations (PRS) have become one of the most complex and difficult humanitarian challenges faced by the international community today. According to the UNHCR, PRS are situations where refugees have been in exile ‘for 5 years or more after their initial displacement, without immediate prospects for implementation of durable solutions’.

During the 1990s, protracted situations lasted for about an average of 9 years. Today, the average stay has risen to almost 20 years. The current number of refugees in this situation accounts for nearly two-thirds of the world’s refugees. This number, however, does not consider the millions of Palestine refugees, the millions of internally displaced people (IDPs) or the PRS in urban settings.

The reasons for PRS to exist according to the UNHCR, is due to: [...] *the result of political action and inaction, both in the country of origin (the persecution and violence that led to flight) and in the country of asylum. They endure because of ongoing problems in the country of origin, and stagnate and become protracted as a result of responses to refugee inflows, typically involving restrictions on refugee movement and employment possibilities, and confinement to camps* (UNHCR, 2004).

Basically, the origin of PRS is due to the combination of unstable situations in the country of origin and the responses, or the failure to respond, by the country of asylum. Nevertheless, it should be noted as well that humanitarian actors must also bear a responsibility for the PRS and not be solely attributed to the country of origin and the host country. Humanitarian agencies, perhaps cannot shorten the duration of existence of a refugee camp, but can improve their living conditions and expand their opportunities to seek better ways of lives.

#### ***E. Creating self-reliance policies: towards the right direction?***

With the increasing challenges in PRS, the UNHCR also thought to link refugee assistance with development aid creating among others, the idea for promotion of self-reliance. The idea behind this was to create an interest from donors that are interested in long-term development while at the same time assisting refugees to meet their own needs.

The concept of self-reliance is not new to the UNHCR. Since the 1960s this idea created agricultural-based camps with the intentions for refugees to become self-reliant through the production of small gardens. However, for over 50 decades of experience in refugee camps, this approach on self-reliance has shown that it does not produce effective self-reliance. Furthermore, it is also been argued that the approach to the UNHCR's concept of self-reliance is of self-interest, to mainly reduce assistance to refugees to meet the UNHCR's budget.

#### *Definition of self-reliance*

Self-reliance is a concept where an individual relies on its own power and resources rather than those of others to provide for its needs. According to the UNHCR's Handbook for Self-Reliance, self-reliance is defined as:

The social and economic ability of an individual, a household or a community to meet essential needs (including protection, food, water, shelter, personal safety, health and education) in a sustainable manner and with dignity. Self-reliance, as a programme approach, refers to developing and strengthening livelihoods of persons of concern, and reducing their vulnerability and long-term reliance on humanitarian/external assistance (UNHCR, Reintegration and Local Settlement Section Division of Operational Support, 2005).

This definition of self-reliance per se is positive. It focuses on the needs of humans and their rights, which forms the foundation for good livelihoods. Unfortunately, self-reliance is not the aim itself, but rather a tool to achieve other goals, in particular, the reduction of expenses for refugees.

To achieve truly self-reliance, a particular environment must be fostered. According to the Global Consultations on International Protection, “self-reliance can, however, only be achieved if there is an enabling environment. This includes a viable economic situation, availability of affordable housing or access to land, as well as receptive attitudes within the host community” (UNHCR Global Consultations on International Protection 4th Meeting, 2002).

The achievement of self-reliance depends on various factors, such as the guarantee for refugee rights to be respected, and as is often the case in PRS, this cannot be achieved since many refugees are confined to refugee camps and without access to resources.

## **F. Issues preventing refugee camps from becoming self-reliant communities**

### **1. Are refugee camps the best solution?**

In regards to the existence of refugee camps, there are two main arguments; one arguing the reasons why refugee camps are the best approach and the second one pressing reasons why refugee camps brings negative effects to the refugee communities. In other words, the arguments look at pro-encampment versus against encampment.

In theory, refugee camps seem to present various advantages for humanitarian work: it helps to identify people and the reunion of refugees; proper management of distribution of help; supervision of the health of the refugee community and; an easier accessibility to the camps (Black, 1998). On the other hand, other types of settlement would decrease the efficiency and reach of the humanitarian assistance and hinder proper management since the recipients are not clear and perhaps not all affected would be possible to be reached. Therefore, a refugee camp can be considered as the best viable option for the refugees.

Also, refugee camps offer practical advantages to deliver assistance, identification of the refugees, physical access, cost effectiveness to deliver aid and better monitoring. Adding that refugees outside a refugee camp may be excluded from assistance.



For governments hosting the refugees, it is in their interest to have refugee camps not because of their accessibility but rather to prevent possible conflicts between the refugees and the local population. Another, and perhaps a more important reason is to prevent dispersed settlements along the border and resulting in security implications where they can be attacked by parties involved in the conflict from which the refugees fled. However, although governments interest to seek control of refugees within their territory is legitimate, there has also been evidence that encampment does not necessarily provide an effective method of control.

However, these lines of arguments also bring one other main issue on the topic of refugee camps. This issue is whether refugee camps are actually politicized based on the interests of the donors and the humanitarian organizations as well as economic reasons (attraction of international assistance through a bigger visibility of refugees) and not so much on the real needs of the refugees.

Arguments against the establishments of refugee camps point out the negative social, economical, health and environmental impacts of living in a camp, not only to refugees but also to the local population and to the governments that take them in. One of these impacts is the overpopulation of many camps; the increase of refugees exposed to sickness, both physical and mental; the weakening or loss of self-dependency and becoming dependent on outside aid; pressure on the local environmental resources; the social and economical isolation of the refugees; the

increase of violence and insecurity inside the camps and; the restriction of freedom of movement of the refugees.

Advantages of refugee camps for efficient aid delivery and control is not always the case. For example, the experience of refugee camps for Rwandan refugees in Zaire and Tanzania in 1994-1996 showed the inability for international agencies to identify individuals and ensure distribution of aid. Even at some of the camps they became areas where international agencies could not enter and became zones for those responsible for the genocide to intimidate the people and divert the aid for their personnel. At least in this particular case, one can see that refugees were not put into refugee camps in order to ensure its accessibility.

Negative consequences will be different at different times and context, and different elements of encampment can be more or less relevant. However, it has been also long argued as well as researched on how in general, for social, economic, environmental and health reasons placing refugees in refugee camps brings often negative consequences to the refugees, the local communities as well as the governments of the hosting country. Furthermore, another negative consequences of refugee camps is the increasing dependence on outside assistance and the inability to provide for themselves.

Despite the criticism and controversy surrounding refugee camps, the establishment of organized settlements is still the most common and preferred

response of the international community to refugee crises. In these cases of establishments of refugee camps, UNHCR usually takes the leading role in the international humanitarian system, since it is the agency that coordinates and oversees the implementation of specific assistance programs in the various main sectors (nutrition, health, education, etc.), carried out by other organizations (WFP, UNDP, UNICEF), NGOs and host governments.

To summarize, rather than asking at this point, whether refugee camps should exist or not, we should ask on how to ensure that refugee camps provide proper standards of living, their basic rights and access to opportunities to reach their best potentials.

## **2. Standardization of refugee camps**

As mentioned previously, refugee camps are built based on a standardized plan, disregarding how suitable or not the plan is under a particular context. This form of approach, unfortunately, tries to reach the minimum living standards focusing only to meet the short-term survival needs and disregarding a long-term healthy and sustainable living.

The standardized plan approach to building refugee camps ignores the fact that refugees are not standardized, cultures are different, households size varies, physical abilities are different as well as personal resources, environment differs as well as the socio-political context. For example, as previously mentioned under

the section of 'layout and structure', "...the camp is organized by districts (for example three districts), the districts are organized by units (four units per district) and each unit into 'clusters' of homes (for example 10 clusters per unit and 16 homes per cluster)".

In this standardized model everything is predetermined, from the layout to the size of plots for households. All this is predetermined based on the belief of what is ideal, without considering the socio-political, environmental and demographic context of the refugee population.

One strong critic of this standardized approach is Manuel Herz, he describes how "there are only eleven pages in one single book that describes planning strategies for refugee camps. [...] the engagement with the theme is on a purely technical level only" (Herz, 2007).

To ignore the characteristics of individual refugee populations in order to understand the essential points in the design undermines refugee welfare. If such basic characteristics are ignored at the initial stage of the building of refugee camps, it predisposes refugees to struggle in the future to achieve and maintain healthy standards of living.

### **3. Location as a turning factor**

The location chosen for refugee camps will have a big impact on the opportunities that will be available for refugees to exercise sustainable livelihoods. Unfortunately, the location of refugee camps is often in the less desirable, underdeveloped areas often difficult to reach. Thus, the location determines the resources that will be available to them as well as the opportunities (or lack of) accessible to them.

The location is usually negotiated between the UNHCR and the hosting state. Usually the land is remote and underused, and local services and resources are unavailable or underdeveloped. These regions where refugee camps are settled, also tend to lack transportation and communication infrastructure as well as health and education services. Furthermore, since the area agreed on is usually the least attractive, it often tends to be a land with poor soil characteristics lacking essential nutrients, an area known for its unfriendly climate or other factors such as pests.

Werker, author of the article “Refugee Camp Economies” best explains how the location affects refugees:

*The types of policies that refugees face and the isolation (or lack thereof) of the camp combine to form the ‘institutional environment’, or the basic rules and constraints, of the camp. Here, many economic determinants such as transport, costs, transaction costs, information costs, risks of expropriation, and violation of*

*fee schedules are determined. In addition, these determinants affect malleable outcomes, such as the attractiveness of investment, the type of production and labour within the camps and the relative prices of goods inside the camps (Werker, 2007).*

To summarize, the ‘institutional environment’, as Werker calls it, tends to be negative, where its effects are economically negative, affecting the livelihoods of the refugees as well as any future opportunities to live productively. This ‘institutional environment’ furthermore affects the development of local services, where once the humanitarian agencies begin to withdraw their funding, the services begin to collapse since there was no funding for improvements for the long-term sustainability of services.

#### **4. Freedom of movement: limiting livelihoods**

Freedom of movement is one of the most basic human rights. Article 13 of the Universal Declaration of Human Rights stipulate:

*‘Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and return to his country.’*

This right is also enshrined in Article 26 of the 1951 Convention:

*'Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances'* (1951 Convention relating to the Status of Refugees, Article 26).

The right to freedom of movement, is the right which, perhaps above all others, has the most impact on the lives of refugees. The greatest factor that has seemed to restrict the movement of refugees was the refugee assistance structure itself as well as in particular cases, policies of the hosting country. The greatest restriction to improve the lives of refugees and their situation, which is the inability of mobility, is heavily dependent on the organization who are responsible for them, such as host countries, the UNHCR and their working partners.

Freedom of movement, furthermore, is a prerequisite for the enjoyment of other rights. Its absence undermines, *inter alia*, refugees' economic and social rights limiting their livelihoods entirely.

## **5. The challenges of agricultural livelihoods**

Previous sections demonstrated the characteristics of refugee camps and the restrictions posed upon them that inhibit sustainable livelihoods. It has long been believed that agricultural livelihoods in refugee camps is the solution for self-reliance and to obtain economic freedom. However, the expectation that refugees can live sustainably through agriculture, has been generally perceived wrong.

The possibility for refugees to successfully attain self-reliance through agriculture is dependent upon various factors. Besides the issues of camp structure, location and freedom of movement as mentioned above, an important characteristic that is not being considered is the demographic of individual households as well as the assumption that all refugees possess the skills and knowledge necessary to be successful farmers.

There are three important reasons why demographics in refugee camps' household is important. First, households where there are more dependents than people that can earn an income, will struggle to survive. For example, it has been studied that Rwandan households in refugee camps have approximately 4.5 children while, according to the Red Cross statistics, Somali households in refugee camps had 13 children on average, making them very difficult to live sustainably by solely agriculture. Second, agriculture being an unpredictable activity, makes it difficult for households to become economically stable by depending on an irregular income. At this point, a wage-labor becomes a better option since it tends to be predictable. And third, due to the fluctuation of food prices, sustainability solely from agriculture in the long term is threatened. Furthermore, this becomes more accentuated when the majority of a refugee community become dependent on the same source of activity.



When assuming that agriculture can provide the opportunity for refugees to become economically sustainable, it is also often mistakenly assumed that all refugees have the proper skills and knowledge to become successful at farmers. Successful agriculture requires extensive knowledge of growing, understanding the climate, crops and soil quality. On the other hand, there are also refugee communities that rely solely on cattles and just simply “they don't like vegetables, they don't want to grow vegetables, and don't want to eat vegetables” (Herz, 2007).

Furthermore, in many occasions fuel for cooking is more expensive than the food ratio itself, thus cooking becomes of higher value than the food itself. Due to this prices as well, many refugees are forced to sell large portions of their own food in order to purchase fuel. As a result, it cannot be assumed that what refugees produce through agriculture will be what they are able to consume (Wilson, 1992).

Agriculture, being an activity dependent on other resources, also induces competition for the same resources within refugee camps. The lack of resources within a refugee camp constrains the possibility for refugees to diversify their crops. Furthermore, since agriculture seasons for growth and harvest will be the same within one particular camp, it will be often the case that farmers will be selling the same product within the same amount of time increasing competition and reducing the opportunity to financially benefit from it.

Although agricultural work on refugee camps, with the proper skills and knowledge, can benefit refugee households, it is only a short-term approach to meet some of the needs by refugees. Solely dependent on agriculture does not lead to long-term improvement of livelihoods. There must be long-term investment for refugees as well as opportunities for innovation which are fundamental for sustainable livelihoods.

On the other hand, alternative livelihood activities such as the development of skilled trades, are often neglected, preventing refugees to seek other forms of self-reliance.

## **6. UNHCR dependency and its consequences**

The UNHCR, given its dependence on donors and asylum state cooperation, it is not fully in control of its own policies, often leading to the inability to implement policies that best protect and sustainably support refugees. As a result, the UNHCR often focuses on the more technical matters of the refugee camp such as layout, infrastructure and organization, rather than taking their attention to refugee rights. Their approaches have then been focused on institutional, implementation and funding issues, failing to understand how restrictions imposed on refugees will inhibit them to engage in sustainable livelihoods.

In the UNHCR's *Handbook for Planning and Implementing Development Assistance for Refugees* (2005), it is acknowledged the increasing preference on self-reliance policies in part due to donors' interests. However, for refugees to live truly sustainable, self-sufficiency policies must go beyond short-term basic needs and promote refugees to plan and invest on their own opportunities that will be further beneficial on the long term. In other words, as Sarah Meyer writes, that the UNHCR self-reliance policies are fundamentally just "a reduction of material inputs, without any other substantive changes in refugees' lives" (Meyer, 2006).

Furthermore, the UNHCR has failed to acknowledge various changing factors. For example, even in cases where land is given for agriculture, population continues to grow and it is difficult to provide land for further generations; as refugees continue to work the land continuously, the UNHCR has failed to address that the continuous use of land diminishes the nutrients in the soil, reducing the capacity of the soil.

Also, something else that should be considered is that the constant focus on short-term food self-sufficiency takes away the importance of long-term needs of refugees and refugee camps. This can be seen in the inability of refugees, for example, to repair water pumps or maintain wells, keeping them at all times dependent on external aid.

## **VII. CHAPTER 3. HUMANITARIAN SYSTEM: understanding international efforts**

*“In my view, a more sustainable approach would be to re-orient the focus of our efforts toward the concept of building up the capacity of governments, and civil society organizations, to meet their own responsibilities...Humanitarian organizations exist to meet basic human needs when responsible actors cannot, or when they fail to do so for political reasons; our first line of response must be to prevent this from occurring.”*

Sergio Vieira de Mello, 2000

A thorough evaluation of how the humanitarian ‘system’ functions would be an enormous task to undertake requiring more time and resources that are available for this thesis. Thus, this chapter in this thesis therefore will provide the basic background of the humanitarian ‘system’ to better understand how the international efforts stream down and how it impacts the aid receiver, which in this case refers to the refugee.

### **A. Defining the humanitarian system**

There is no unified understanding of what the humanitarian ‘system’ is, should be and can be. The humanitarian ‘system’ has been a topic of study for many years

and yet its size, reach, scope of action and capability remains little understood. (Harvey, Stoddard, Harmer, & Taylor, 2010).

Thus, the term ‘humanitarian system’ does not have one clear definition, but there are differences in opinions of what the term should include and what it should exclude. Borton, in a study conducted on the future of the humanitarian system, used the following definition: (Borton, 2009)

“In broad terms, the humanitarian system comprises a multiplicity of international, national and locally-based organizations deploying financial, material and human resources to provide assistance and protection to those affected by conflict and natural disasters with the objective of saving lives, reducing suffering and aiding recovery.”

In the book *Shaping the Humanitarian World*, Walker and Maxwell defined the humanitarian system with the following definition:

The international humanitarian system evolved. It was never designed, and like most products of evolution, it has its anomalies, redundancies, inefficiencies, and components evolved for one task being adopted to another. ... Humanitarian agencies sit between those who are suffering and those who have the resources to alleviate that suffering.” (Maxwell & Walker, 2009).

In its concluding chapter, Walker and Maxwell further add, “Its complexity of origins, multitude of players and ever-varying environment make humanitarianism a challenging system to describe and understand and an even more challenging system to predict” (Maxwell & Walker, 2009).

Within the humanitarian system, its actions tend to appear as institutional actors running within an ‘arena’ with “sifting alliances and competing interests that sometimes closely resemble the ‘clanic factionalism’ that aid workers so deeply experience in some societies they operate in” (Brabant, 1999).

### **B. Humanitarian principles: a guide for humanitarian actors**

Humanitarian principles can refer to the principles underlying international humanitarian law and the principles of humanitarian action that guide the work of relief agencies. Principles underlying international humanitarian law can be found, for example, in the Geneva Conventions and the two 1977 Protocols to the Geneva Conventions and the draft Humanitarian Charter of the Sphere Project. On the other side, the Red Cross / NGO Code of Conduct and the Good Humanitarian Donorship (GHD) is an example where principles to provide humanitarian aid can be found.

According to the Principles and Good Practice of Humanitarian Donorship, humanitarian aid is based by the principles of humanity, neutrality, impartiality and independence.

### *Humanity*

Humanity is the aim at saving human lives and alleviating suffering wherever it is found, with particular attention to the most vulnerable in the population such as children, women and the elderly. According to the International Court of Justice in the case *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)*<sup>10</sup> humanity is defined as the prevention and alleviation of human suffering, protecting life and health and ensuring respect for human existence.

### *Neutrality*

Neutrality means that the humanitarian assistance must be provided without engaging in hostilities or taking sides in controversies of a political, religious or ideological nature and while maintaining a distance from the hostilities, that is abstaining from actions that would help or hinder one party or the other.

### *Impartiality*

Impartiality is the implementation of actions solely on the basis of need without discriminating as to ethnic origin, gender, nationality, political opinions, race or

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<sup>10</sup> *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States)* (International Court of Justice 1986).

religion, in other words, humanitarian action can be defined as simply to help people in proportion to their need.

### *Independence*

And Independence is the autonomy of humanitarian objectives from the political, economic, military or other objectives that any actor may hold with regard to areas where humanitarian assistance is being implemented (Good Humanitarian Donorship, 2003). Through its independence, it is the only way that a humanitarian action can be ensured the credibility and effectiveness of their work.

### **C. Types of humanitarian aid**

The most common types of humanitarian aid are those that provide basic needs:

- Material relief assistance and services (shelter, water, medicines etc.);
- Emergency food aid (distribution of food and supplementary feeding program for children and pregnant women);
- Relief coordination, protection and support services (coordination, logistics and communications).

Although humanitarian aid more specifically focuses on a quick response following a humanitarian emergency, it can also include protection of civilians



and those no longer taking part in hostilities and assistance in reconstruction and rehabilitation and disaster prevention and preparedness.<sup>11</sup>

#### **D. Composition of the humanitarian system**

In 2008, the total amount of aid workers in the field summed up to approximately 595,000 (Harvey, Stoddard, Harmer, & Taylor, 2010) and global total funds directed to humanitarian response totalled approximately \$7bn (Active Learning Network for Accountability and Performance in Humanitarian Action, 2010).

The main actors of the humanitarian system includes:

1. National governments
2. International Organizations:
  - a. The big five UN emergency organizations: the United Nations Development Programme (UNDP), Office of the United Nations High Commissioner for Refugees (UNHCR), World Food Programme (WFP), World Health Organization (WHO) and United Nations Children's Fund (UNICEF);
  - b. Other multilaterals, such as the International Organization for Migration (IOM).
3. Principle donor countries in humanitarian situations

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<sup>11</sup> According to the Organization for Economic Cooperation and Development (OECD) and the Development Assistance Committee (DAC) reporting criteria 'reconstruction relief and rehabilitation' includes the repair of existing infrastructure but excludes long-term work activities designed to improve the level of infrastructure and 'disaster preparedness' includes disaster risk reduction, early warning systems and contingency stocks planning but excludes long-term work such as prevention of floods or conflicts.

4. Red Cross/Red Crescent Movement
5. Non-governmental Organizations (NGOs):
  - a. International
  - b. Local and Community Based Organizations
  - c. Umbrella groups
6. Integrated missions and military involvement

In 2007 the humanitarian 'system' was composed of approximately 575 NGOs, of which 424 were national and 171 international NGOs. International NGOs account for most of the humanitarian staff in the field while local NGOs tend to be smaller in size (Harvey, Stoddard, Harmer, & Taylor, 2010).

#### **E. Evaluating the performance of the humanitarian system**

In the Humanitarian Performance Project Report conducted by Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP) of 2010, the international humanitarian system was assessed with presenting its current status, challenges and initiatives.

In this report there are six main criteria by which the system was evaluated: coverage/sufficiency; relevance/appropriateness; effectiveness; connectedness; efficiency and; coherence. This is a summary of these six characteristics:

### *Coverage/sufficiency*

It is reported that aid worker population and funding has increased, but yet this remains an area where the system needs to improve. Through funding mechanisms contributions have been able to be distributed equally, yet the resources have not been able to catch up with the increase of the affected population.

There is a need to create new models of funding to meet overall needs as well as funding for preparedness, disaster-risk reduction and early recovery among others. Also, with the need to create a new funding approach, funding for preparedness, disaster-risk reduction and early recovery must be considered for long-term interventions.

### *Relevance/appropriateness*

Although the report acknowledged some improvements on the relevance of aid, it also emphasized that assessment remained weak in the system. Multiple problems were noted during evaluations, consultations with the beneficiaries and follow up. In particular, beneficiaries remained inadequately consulted and involved during the program design in order to better assess the needs.

### *Effectiveness*

Under effectiveness, preparedness/timeliness, coordination, monitoring and human resources/institutional capacity were reviewed. Three areas were of special

concern, effective humanitarian leadership in crisis countries; preparedness and capacity for a more rapid response; and investment in monitoring and the need for greater engagement in evaluations on the part of host states.

It was also acknowledged that more investment should go towards disaster risk reduction (DRR), especially with the implications of climate change. Coordination was also noted to have been improved, only with few exceptions such as the Humanitarian Coordination (HC) system. Monitoring remained weak within the humanitarian system. Acknowledging that greater follow-up and monitoring from donors, the monitoring of funding arrangements was needed.

#### *Connectedness*

The scarcity of investment in local and national capacities was a concern, as well as the need for greater accountability and participation. Nevertheless, the report noted that “there are also signs of improvement”.

#### *Efficiency*

Efficiency issues as well as risks of corruption continued to be issues of concern. In general, it seemed to be an area often neglected in terms of analysis with too great a focus on decreasing administrative costs, in other words, the focus of the humanitarian system has not been on whether the system is efficient or not, it has rather been focusing on how to decrease its administrative costs.

### *Coherence*

Under coherence, humanitarian principles, international humanitarian law and refugee law were being monitored within the humanitarian system. In this regards, these were respected. Also, consistency in objectives and actions for protection in particular situations, such as gender and disability, were taken into account.

In general, humanitarian aid agencies identified a lack of respect in the issues previously mentioned mainly from donor governments and the militaries. And although there has been more guidelines and policies developed to prevent violations to these principles, confusion over what protection actually means and what actors are responsible for it continues to be an issue.

Nevertheless, it has been suggested that there should be a greater focus on documenting good practice or achievements since these would be valuable to support learning for future crisis.

#### **F. The flow of funds within the humanitarian system**

*“Funding by donors of specific humanitarian emergencies tends to be heavily influenced by strategic concerns, media attention, and geographic proximity.”*

(US Government, National Intelligence Council, 2002)

According to Abby Stoddard, humanitarian assistance is more often given to countries where perceived national interests are at stake rather than by actual humanitarian needs. The reason for this is that these donors protect their interests

and enjoy political and strategic interests which are clearly seen by their funding arrangements and in the inequality of funding across regions and crisis (Stoddard, 2004).

### **1. The needs and the cost of humanitarian assistance**

In 2008 the UNHCR initiated a program planning and budgeting in order to design funds according to project basis. This program is divided into four categories, each representing a rights group: refugee program, stateless program, reintegration projects and internally displaced projects. The program was then divided into nine categories: favorable protection environment; fair protection processes and documentation; security from violence and exploitation; basic needs and essential services; community participation and self-management; durable solutions; external relations; logistics and operations support and; headquarters and regional support.

In 2010, the total budget requirements to cover these programs was approximately USD\$3 billion, a 36% increase from the 2009 budget (UNHCR, Identifying needs and funding requirements, 2010).

The total 2010 budget per program is as follows (in USD, approximately):

- Favorable protection environment: 180,000,000
- Fair protection processes and documentation: 185,000,000
- Security from violence and exploitation: 170,000,000

- Basic needs and essential services: 1,300,000,000
- Community participation and self-management: 190,000,000
- Durable solutions: 280,000,000
- External relations: 110,000,000
- Logistics and operations support: 310,000,000
- Headquarters and regional support: 480,000,000

Based on the above information, it is well understood that the most costly need falls under the basic needs and essential services program reaching 1.3 billion USD. Within this program, in general about 50% of the humanitarian assistance is spent on material relief assistance and basic services such as providing water, sanitation and medical assistance (Global Humanitarian Assistance, 2011).

The needs are then followed by emergency food, reconstruction relief and rehabilitation, relief coordination; protection and support services and the least amount of humanitarian assistance spent on disaster prevention and preparedness (Global Humanitarian Assistance, 2011).

Besides the needs and costs of crisis, the cost of humanitarian assistance is becoming more expensive. In only four years between 2007 and 2011 the cost of food increased by more than 40% and oil prices increased by 36% (Global Humanitarian Assistance, 2011).

Also, besides these increases of costs, refugees and IDPs continue to increase. In 2010 refugee numbers increased by 153,146 with a total of 10.5 million refugees as well as the number of internally displaced rising by 400,000 to 27.5 million (Global Humanitarian Assistance, 2011).

## **2. Top donors and recipients**

The top three donors in 2009 were the United States (4.4bn), EU Institutions (1.6bn) and the United Kingdom (1bn). However, contribution by the highest shares of gross national income was Luxembourg, Sweden and Norway, and the most contributions per person were made by Luxembourg, Norway and United Arab Emirates.<sup>12</sup> The top three recipients during the same year were Sudan (1.4bn) becoming the largest single recipient for five consecutive years, Palestine (1.3bn) and Ethiopia (692m) (Global Humanitarian Assistance, 2011).

## **3. Flow of funding**

There are three ways by which the funding flows within the humanitarian system: from governments to the international community; from governments to their own citizens and; from private contributions.

### *From governments to the international community*

According to the Global Humanitarian Assistance Report of 2011, over the past 10 years, governments have spent more than US\$90 billion on humanitarian aid and in humanitarian crisis. Between 2000 and 2009, the top five contributors have

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<sup>12</sup> US\$44-US\$121 per person compared with US\$14 per US citizen or US\$17 per UK citizen.



been the United States, with US\$31bn, EU institutions, with US\$19.9bn, the United Kingdom, with US\$8.2bn, Germany, with US\$6.5bn and the Netherlands with US\$5.1bn.

On 2010, the estimated response to humanitarian crisis reached US\$12.4 billion, the highest total in record, perhaps due to the Haiti and the Pakistan earthquake. Over the years, the response to humanitarian crisis has been increasing, for example, between 2000-2002, governments provided between US\$6bn and US\$7bn, during 2003-2005 it increased to between US\$8bn and US\$10bn, during 2005-2007 it increased to between US\$9bn and US\$11bn, and since 2008 the response has been around US\$12bn.

#### *From governments to their own citizens*

National governments are primarily responsible for taking care for their own citizens during a time of crisis. However, there is no data or figure for how much governments spend on their own citizens. Nevertheless, according to the Global Humanitarian Assistance Report from 2011, the amount of expenditure can be significant. For example, Indonesia expenditure on disaster response increased from US\$50 million in 2001 to more than US\$250 million by 2007 and India has contributed to its own State Disaster Response Fund (SDRF) with US\$4.8 billion between 2005 and 2010 (Global Humanitarian Assistance, 2011).

#### *Private contributions*

Besides national governments providing humanitarian funding to crisis affected populations, private sources also contribute to the humanitarian response. The main private donors of humanitarian aid are individuals, private foundations, trusts, private companies and corporations. For the last five years the funding from private sources has been between US\$2.7 billion and US\$4.3 billion.

#### **4. Where does the funding go?**

In 2009, most of the humanitarian assistance was used in conflict affected and post conflict states, reaching 65% of all humanitarian aid (Global Humanitarian Assistance, 2011).

##### *By region*

For the last ten years, from 2000 to 2010, most of the humanitarian assistance has been spent in Africa with a total share of 46%, allocating 40% to Sudan, Ethiopia and Democratic Republic of Congo. Throughout these years there has also been an increase in humanitarian expenditure in the area due to an increase in conflicts and droughts that have resulted in the displacement of millions of people that need to survive with none or little access to basic services, with the treatment of communicable diseases and food insecurity.

For the same period, Asia has received the second largest share with 24%. In the case of Asia, conflict has been the main source for humanitarian expenditure,

being spent particularly in Afghanistan, Pakistan and Indonesia. And in the Middle East, most humanitarian assistance is given to Palestine and Iraq.

*By country*

Over the last ten years, approximately US\$80 billion in humanitarian assistance has been spent on about 156 countries – with 70% of this concentrated in 20 countries (Global Humanitarian Assistance, 2011). Sudan has received more humanitarian assistance over the past ten years than any other country, with approximately US\$9 billion. Following Sudan is Palestine with US\$7.2 billion, Afghanistan and Iraq receiving approximately US\$5 billion each and Ethiopia with US\$4.8 billion of humanitarian assistance (Global Humanitarian Assistance, 2011).

## **5. Mechanisms of flow of funding**

The donor can channel funding through different ways, such as through multilateral delivery agencies (e.g. UN agencies/programs/funds, World Bank), NGOs and civil and the public sector (e.g. government agencies and private sector organizations).

There are five main ways by which a donor can channel funding to the affected community, donors can:

- directly fund the agencies who will deliver humanitarian assistance through bilateral agreement. These agencies are often NGOs and the International Red Cross and Red Crescent Movement;
- respond to funding appeals issued by organizations, such as the UN Disasters Emergency Committee, who delivers aid to the affected people or further allocates the funds to umbrella groups;
- fund multilateral organizations (including UN agencies) who will channel a proportion of these funds to INGOs and National NGOs who will deliver the humanitarian assistance directly to the affected community;
- provide the funds to multilateral organization who in turn will allocate the money according to the organization's objectives and;
- contribute funds to pooled humanitarian funds managed by multilateral agencies; these funds are then channeled to other multilateral agencies, local and international NGOs to provide humanitarian assistance.

The 2011 Global Humanitarian Assistance Report has shown that in general most donors have preferred to channel their funds through multilateral organizations, followed by channeling through NGOs. It is estimated that in 2009 61.7% of the international funding was done through multilateral delivery agencies or through funding mechanisms. The largest of these organizations receiving funds include the World Food Programme (WFP), the UNHCR and the UNRWA (Global Humanitarian Assistance, 2011).

NGOs are generally the second type of recipients for humanitarian funding. In 2009, NGOs received 17.3% (US\$2.1 billion) of the humanitarian assistance (Global Humanitarian Assistance, 2011). International NGOs (INGO) are preferred over local NGOs, receiving most of the funds; in 2009 INGOs received 67.5% of such funds compared to only 1.9% by local NGOs. In 2010 international NGOs received approximately US\$134 million in funding and local NGOs received US\$49 million via the common humanitarian funds (CHF) and the emergency response funds (ERF) (Global Humanitarian Assistance, 2011).

### **G. Shortcomings of the humanitarian system**

Issues concerning the humanitarian ‘system’ have been well documented. Abby Stoddard, Senior Program Advisor at the Center on International Cooperation has pointed out three particular flaws in the structure of the international humanitarian system: it is a reactive system, it is overwhelmingly based on a deep ‘northern/western’ approach and it is driven by supply rather than by looking at its needs.

#### *The refugee system is reactive*

When Stoddard refer to the humanitarian system being reactive, she meant that the refugee system works at the onset of a crisis. In other words, in general the system does not have a reserve of needed resources (financial, technical and social) to be drawn upon emerging crisis, it rather waits for the crisis in order to ‘accommodate’ to it. This approach creates, *inter alia*, an unnecessary

disproportion in the investment for the crisis rather than the preparedness or preventative capacity; a high amount is spent on post-crisis response while relatively little goes to a preventative crisis approach. Currently the expenditure on disaster risk reduction (DRR) represents only 1% of the humanitarian assistance spent in the top 20 recipient countries (Global Humanitarian Assistance, 2011).

Furthermore, the current model of short-term project grants are negotiated between the main actors once an emergency has been identified, creating a delay in delivery, increasing the needed expenditures and creating an unpredictable source of income – until the next crisis occurs (Stoddard, 2004).

The current humanitarian system invests in a disproportion manner. Most investment is for the onset of a crisis, with the minimum invested on post-crisis responses and on crisis prevention and preparedness efforts. According to Stoddard, preparedness entails “specific material, professional, and financial resources earmarked and available for relief operations, and the organizational structures to rapidly deploy them” (Stoddard, 2004).

The current international humanitarian system is lacking preparedness in two different levels: first, the current approach to crisis through a reactive funding patterns hinders the speed and effectiveness; and second, the system in general

lacks prepared international relief agencies in developing states, where most crisis occur.

*The Northern/Western approach by the humanitarian system*

When Stoddart refers the humanitarian system as overwhelmingly ‘northern/western’, she means that the “responsibility for financing, designing, and delivering aid has come to reside predominantly with a small group of agencies and donors from the advanced industrialized nations” and that the humanitarian actors, although they rely on local staffs to implement their programs, “the senior management position of most of them remain filled by western expatriates”. This form of system has created a lack of participation from the affected communities and has rather created a north-to-south charity system, rather an ineffective system.

The international humanitarian system has adopted an approach that focuses on building basic preparedness capacity to allow local actors to become in charge of the humanitarian response. Instead of using this Northern/Western approach to humanitarian needs, it would be better to provide rather technical training and supplementary resources rather than the delivery of the direct service. Moreover, since the main humanitarian agencies tend not to be from the region they serve, they have less familiarity with the pre-existing vulnerabilities as well as the strengths of the affected population, resulting in providing only short-term needs

instead of looking ahead and helping support local economies and institutions as part of the relief effort.

Furthermore, international relief agencies, when hiring, have the option to hire northern or local professionals. In this regards, the first option tends to be the more costly one but yet the most common choice. This needs to be reconsidered since most developing countries today have a broad range of professionals that are available to be hired for a humanitarian response. Perhaps the common reason for this is the lack of a local network to help identify these professionals. For this to change, there has to be an effort by the donors to build a network of human capital in the countries with high humanitarian needs.

Also, the current international humanitarian system is characterized by a hierarchy system of international agencies over local NGOs. This persistent system of hierarchy gives a strong sense of “us and them”, as it was observed by one practitioner, limiting the system to be organizationally linked at all levels, local, national and global.

*Refugee system is driven by supply, not so by needs*

The humanitarian system responds to a crisis by providing what donors and humanitarian agencies have and the projects they wish to create. This in turn, does not meet all the needs of the affected population nor strengthens the existing capacities of the recipient population. The resources provided by donors are finite



and selective, thus often flowing to a program of political importance, and areas of actual need become under-funded (Stoddard, 2004).

*Other shortcomings: financial and institutional challenges*

Despite the promotion of humanitarian principles and donorship, the amount and the direction of aid flows is determined by the location and by security interests that may be at stake. The largest donors, US, Britain, Canada, Germany, Japan, Netherlands, Norway, Sweden and Switzerland share approximately 90% of the humanitarian financing, enjoying various political and strategic interests through their funding, which can be reflected in their funding patterns and in the unbalance of funding across regions and crisis (Stoddard, 2004).

Other financial shortcomings also include the mismanagement of financial resources; for example the lack of funding due to inequitable distribution across the regions; misuse of aid resources resulting in its diversion or creating dependency among the affected population; the use of short term funding cycles for emergency responses in cases that have lasted for years, which inhibits a transition from crisis to recovery and development and; the inaccurate preparation for the next emergency (Stoddard, 2004).

## **VIII. CHAPTER 4. CASE STUDY: encampment in Mae La refugee camp, Thailand**

According to the UNHCR, by the end of 2007 there were 2.7 million refugees in the Asia Pacific region, 1.2 million people in refugee-like situation, 793,000 internally displaced and 1.6 million stateless people. Unfortunately, for the majority of these refugees few durable solutions are available. The majority of Southeast Asian states are not signatories of the Convention Relating to the Status of Refugees (1951 Refugee Convention) and the Protocol Relating to the Status of Refugees (Refugee Protocol). Thus, most refugees in the Southeast Asia region live in insecure settlements with no access to the rights to which they are entitled to under international refugee law and with little opportunities to improve their livelihood.

### **A. Background**

There are more than 140,000 people that have fled human rights abuses in Burma<sup>13</sup> and have settled along the Thai-Burma border in the nine refugee camps. Mae La refugee camp, where the field work took place, is located near the Burma border in Tak province. Mae La is the largest refugee camp in Thailand with approximately 50,000 refugees living within the camp. The camp was established in 1984 due to the forced migration of thousands of Burmese due to the political

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<sup>13</sup> Also known as Myanmar.

and armed conflict in Myanmar. Since then, these refugees, especially the younger generations, have become dependent on humanitarian assistance. Economic opportunities have been limited and because of the limiting size of the camp and the growing refugee population it became difficult for them to be self-reliant.

Most of Mae La population do not have the means to provide for themselves and their families. They are dependent on monthly food rations by which they can barely survive, they live in crowded camps that lack space to produce vegetables and livestock (UNHCR and ILO, 2007).

As a consequence, between 5 and 40 percent of refugees leave the camps to seek work and be able to provide fresh food, clothing and medicine for their families. Unfortunately these refugees are not allowed to work, thus, any refugee that is caught outside the camp becomes an illegal immigrant and might face arrest and deportation (UNHCR and ILO, 2007).

## **B. Characteristics of Mae La Refugee Camp**

Mae La Refugee Camp is situated on uneven surface in a land slide area. The total area of the camp is approximately 4km square. This area is very limited with no space for gardening and limited space for toilets and washing rooms. Due to the lack of even space some houses were built on steep hill, making it risky during rainy season.

Furthermore, Mae La house 4 clinics, 14 primary schools, 4 middle schools, 5 high schools, vocational training courses, tertiary education and 22 nurseries.

### 1. Camp administration

The local administration system of the camp is self administered by a camp committee elected by the representative of the camp community for a three-year term. The structure of the camp administration includes the Camp Committee, the Zone Committee and the Section Committee. In each committee level there is a health, education, social affair and livelihood coordinator, education entity, judicial and mediation team, code of conduct team and security personal. The camp committees further closely work with Thai local authority and responsible NGOs.

The function and maintenance of Mae La Refugee Camp is also managed by other main actors, the following table covers the main actors:

| Sector                         | Organization                                      |
|--------------------------------|---|
| Food and shelter               | Thailand Burma Border Consortium (TBBC)           |
| Health and sanitation services | Aide Medicale Internationale                      |
| Reproductive health            | Planned Parenthood Association of Thailand (PPAT) |

|                                 |  |
|---------------------------------|--|
| Malaria research                | Shoglo Malaria Research Unit (SMRU)  |
| Primary and secondary education | ZOA Refugee Care / Internationaal Christelijk Steunfonds Asia (ICS-Asia)                         |
| Nursery schools                 | Taipei Overseas Peace Service (TOPS)   |
| Special education               | World Education / Consortium (WE / C)  |
| Mine risk education             | Handicap International (HI)  |
| Social services                 | Catholic Office for Emergency Relief and Refugees (COERR), Taipei Overseas Peace Services (TOPS) |
| Rehabilitation                  | Handicap International (HI)  |
| Libraries                       | Shanti Volunteer Association (SVA)   |
| Protection                      | United Nations High Commissioner for Refugees (UNHCR)  |

## 2. Population

By June 2011, the population in Mae La camp was 48,003 people, of which only 28,493 people are recognized as refugees by the UNHCR. (Thailand Burma Border Consortium, 2011). Demographics of the camp are as follow:

Total population: 48,003

Female population: 23,725

Male population: 24,278

UNHCR recognized population<sup>14</sup>: 28,493

Feeding figure<sup>15</sup>: 46,137

### 3. Shelter

The homes are of non-permanent building material usually lasting from a few months to no more than a few years. It is not permitted to use durable materials since refugee camps are considered only temporary. Mae La refugee huts are small with inadequate ventilation and lighting. The huts are closed to prevent mosquito borne illnesses. The materials used for building the huts include bamboo and eucalyptus.



A refugee home

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<sup>14</sup> UNHCR Population refers to registered refugees. However, since 2005, most new arrivals have not been registered.

<sup>15</sup> Feeding Figure refers to the actual number of people recorded that have personally collected food rations.

#### **4. Food support**

The basic food supply is rice, yellow beans, salt, cooking oil, fish paste, vegetable oil, chili and charcoal for cooking. TBBC provides this ratio as well as blended food to enrich food for elders and children.

#### **5. Education**

The schools are organized and supported by the refugee community. The current education situation seems to be in decline as a result of decreasing support from NGOs as well as the decline of experienced teachers who have left for resettlement in other countries.

#### **6. Medical and health care support**

Health care of the refugee community is initiated and operated by NGOs providing treatment, prevention, health training and water sanitation. Serious patients beyond local treatment are referred to Thai-hospitals. Malaria, dengue and flu are common diseases in the camp. HIV/Aids are rarely reported. Certain NGOs have also reported an increase on psychological cases caused by pressure and stress.

#### **7. Agricultural production**

Households with agricultural assets in Mae La refugee camp are as follows:

Agricultural land: 2%

Household garden: 15%

Fruit trees: 35%

The agricultural land is used for growing cabbage, beans, roots, gourd and cucumber. The household gardens are small kitchen gardens which are built around the houses supported by TBBC.

Fruit trees are owned by about one-third of the households. The trees do not contribute significantly to diversification of the diet or as source of income, although they add to the environment by providing shade and protecting the soil against erosion. Also, a major use of bananas trees in camps is the utilization of the stem to chop up and add as pig food.

Rearing of animals is not allowed, but unofficially these are the statistics:

Pigs: 22%

Poultry: 16%

### **C. Refugee income**

As previously mentioned, refugees in Mae La Camp are not allowed to work, however, refugees still need to finance themselves if they want to have something



that cannot be provided by humanitarian assistance. Therefore, refugees seek ways around the system to gain a little bit of money.

The average income for a refugee in Mae La Camp is 960 baht per month, which equals to approximately 24 Euros per month. The source of income includes:

*Casual labor (50%)*

Casual work includes work in the surrounding villages for paddy, maize, beans and rubber. It is reported to be the most important source of income.

Occasionally, options exist for carpenters or other refugees with knowledge in other skills to work in surrounding villages. Also, working in factories and as domestic help is one of the components in the income earning strategies of refugees, however, is less easily studied as it all happens outside the camps and in illegality.

However, as mentioned before, this means of income generation, through labor, is restricted due to the working restriction policy.

*Fixed employment (stipend workers with one of the agencies) (32%)*

Stipend work, which is working for the agencies providing services in the camp is the second-most important source of income. However, only about 12 percent of the working refugee population has access to some type of work in the camp,

usually as community leader, camp committee worker, warehouse staff, health and water sanitation workers, teachers and translators.

### *Remittances*

Financial support from relatives living elsewhere in Thailand and third countries is the third-most important source of income. It is received by 25% of the households in the camps with the potential to grow in the coming years. The survey found that currently 75% of the households have relatives in third countries.

### *Sales from own production and sale of the food ration (10%)*

Sale of the food ration, or part of it, given by the humanitarian assistance is the fourth most important source of income. Another form of income is to have a shop or engage in petty trade.

Furthermore, around 10% of the households own productive assets for handicrafts (e.g. a sewing machine), but possession of the equipment does not always result in generation of income with it, and marketing remains to be a key problem as the Burmese refugees officially are not allowed to sell their handicrafts outside the camp. Nevertheless, about 5% of the households generate income from collecting grass and selling mats to refugees in the camp.

#### **D. Refugee expenditures**

In Mae La camp, 60% of households spend 50% of their income on food, thus being the biggest expenditure per household. Approximately 37% of households have debts, however, only about 25% refugee households spend money on loan repayment. Only about 7% of refugee households are able to have savings.

Approximately one third of refugee households also spend money on electricity, which includes the running of generators, and this accounts for approximately 14% of their income.<sup>16</sup>

#### **E. Finance contribution form the European Commission (EC)**

The European Commission has provided a total of 140 million Euros in support of the refugees along the Thai-Burma border. The overview of completed support projects by the EC, up to 2009, accounts for 116.07 Million Euros

The type of support with highest aid is the provision of food with 6 million euros and basic health care with 3.25 million euros.

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<sup>16</sup> Only less than 40% of households own electronic goods.

## **F. Finance contribution from the UNHCR**

For the year of 2007, the UNHCR contributed to the refugee camps along the Thai-Burma border with approximately 12 million USD. The highest fund went towards protection, monitoring and coordination. As it will be seen in the following list, there are no provisions of food and basic needs since the UNHCR does not have the authority to do so since Thailand is not a party to the 1951 Convention. Their main role, however, is to provide protection.

Compared to other years, the UNHCR budget in Thailand has increased by double since 2003 to 2007. In 2003 the budget accounted to less than 6 million USD, compared to 2007 that accounted more than 12 million USD.

| <b>Type of expenditure</b>              | <b>2007 annual budget (US\$)</b> |
|---|----------------------------------|
| Protection, monitoring and coordination | 3,594,956                        |
| Legal assistance                        | 2,446,195                        |
| Installments with implementing partners | 2,058,364                        |
| Community Service                       | 1,161,650                        |
| Education                               | 953,664                          |
| Operational support to agencies         | 525,996                          |
| Domestic needs and household support    | 411,907                          |
| Health and Nutrition                    | 326,737                          |
| Income generation                       | 280,106                          |

|                            |                   |
|----------------------------|-------------------|
| Shelter and infrastructure | 174,006           |
| Sanitation                 | 130,850           |
| Forestry                   | 103,218           |
| Transport and logistics    | 7,388             |
| <b>Total expenditure</b>   | <b>12,175,036</b> |

Reference: UNHCR 2007 Thailand Report

### **G. Hindering potentials in Mae La refugee camp**

There have been little attempts to improve the lives of the refugees in Mae La refugee camp with no real opportunity to work towards self-reliance. In particular this lack of opportunities is due to the humanitarian system vision on relief-based solutions to refugees, together with the restrictive policies of the Royal Thai Government (RTG) prohibiting refugees to work inside or outside the refugee camps (UNHCR and ILO, 2007).

For example, the RTG does not allow refugees to produce handicrafts due to the belief that it will compete with local Thai products which are promoted under the national OTOP (One Tambon One Product) created to reduce poverty in rural areas of Thailand. Unfortunately this policy does not consider the possibility of Thai villagers and refugees working together to develop products and benefit each other.

### *Barriers to self-reliance in the refugee camps*

Some barriers to achieve self-reliance is often the remote locations of the refugee camps, the crowded living conditions and the restriction of movement.

From these challenges mentioned above, one of the most visible barriers for refugees to work towards self-reliance in Thailand is that the RTG is not a state party to the 1951 Convention nor to the 1967 Protocol, which determines the rights of refugees and minimum duties of the host states. Thus, leaving large gaps between refugee rights, desired under the current situation, and the obligation of the state, which is not bound by the minimum duties under the Refugee Convention.

The RTG's refugee policy is based on the admission and regulation of refugees to the nine refugee camps situated in the Thai-Burma border. However, there is no guarantee that refugees seeking safety in Thailand will be granted shelter and be placed in a refugee camp, it is often also the case that asylum-seekers are returned to Burma without any proper screening.

The RTG has worked with various NGOs to provide refugees shelter, food, medicine and clothing and it has recently allowed some educational and vocational training in refugee camps. Ironically, the RTG still restricts the access to employment where the skills learned in camps could be productively used. As a

result, the majority of refugees continue a life of frustrations, poverty and unutilized potential (UNHCR and ILO, 2007).

The prohibition to work not only hinders the refugees' potential to become self-reliant and live better livelihoods as in accordance with UNCHR's Agenda for Protection, but also fails to recognize the refugees' potential to contribute to local economic development.

#### **H. Proposal to improve Mae La refugee camp**

Burmese refugee camps in the Thai-Burma border need to be re-organized, where strategies and projects committed to creating networks between refugees and their host communities are to be built. Both the ILO and the UNHCR have advocated for a “more comprehensive approach to the problem which would enable refugees to more fully realise their human potential and become more valuable assets both during their exile in Thailand and in the future, whether they are back in Myanmar (Burma) or in a third country”.

Moreover, considering the ongoing decrease of the financial assistance provided for the camp, it would be of great importance for the international community to develop a framework for establishing a more effective and efficient management of available resources in the refugee camp and in the process provide opportunities to create more productive lives within the camp.

For example, income generation training is a project that should be a part of an approach that will aim at extending beyond short-term survival and increase self-reliance. This training would help refugees to practice sustainable livelihoods, considering their environment and their available resources. Refugees can achieve sustainable self-reliance through training that focuses on existing skills as well as on new skills targeted towards market needs in the host country or in their own country.

Income generation training is only one solution among various trainings, including micro-enterprise training, funding for micro-enterprise, resources management training, etc...

There must be a shifting away from 'care and maintenance' towards increased refugee self-reliance. There should also be further integration of refugee services, particularly in the health and education sectors, into the Thai system as well as expanded livelihoods initiatives inside and outside the camps. For the Thai-Burma Border Consortium (TBBC) they are trying to shift their activities to promote change and durable solutions. TBBC has hired an Income Generation Specialist for development of a TBBC strategy on income generation linked to Thai government and other NGOs, which will try to come up with some solutions to the above mentioned challenges.



## **IX. Conclusion and Recommendations**

Over the past three decades, widespread conflict and violation of human rights has caused a cascade of refugee crisis. On the other hand, the international refugee regime seems to be failing with states becoming increasingly reluctant to share responsibilities and host refugees. The UNHCR, set up to protect refugees, seems to be unable to cope with today's challenges faced by the refugee regime.

The international system to protect refugees is in crisis (Executive Committee of the High Commissioner's Programme). People needing protection are denied access asylum and sent back to their home countries. States are also further restricting the conditions for an asylum seeker to be qualified and thus denying him or her of their rights.

Furthermore, there is a necessity to transform refugee camps from burden carrying and security threat settlements into communities where the refugee population is empowered to be self-sufficient; communities that are locally integrated, contributing to the development of the region and with access to opportunities living a safe, healthy and productive life.

The impact of the current global food crisis on humanitarian assistance increases and will further increase the vulnerability of refugees (Refugees International, 2008). Their dependence on an increasingly humanitarian aid calls for a priority for refugees to be allowed to earn an income to pay for fresh food and their

essential goods. If the current refugee regime continues as it is, and keeps refugees apart from host communities and hinders the opportunity for refugees to pursue sustainable income, any humanitarian assistance will continue to have little positive impact on the potentials of refugees to become self-reliant.

#### *Recommendations to prevent protracted refugee situations*

There seems to be a growing understanding and thus, a growing concern for the changing nature of the global refugee population and in particular the increasing prevalence of protracted refugee situations. For the prevention of future PRS, at least the following should be considered:

- There should be better practice of networking and communication that can lead to negotiations in regards of needs between the Northern states and the refugee hosting states in the South. The gaps between the Northern/Western states and the South states have been a key to the various inadequacies of the refugee system. It is time for comprehensive solutions, which can be successfully implemented to prevent future protracted refugee situations;
- There is a growing understanding that humanitarian actors alone, such as the UNHCR, cannot prevent or resolve PRS. Instead there should be a wider engagement of actors that work on political, security and development issues both inside and outside the UN system;
- Besides working on new approaches, there must be a recognition of the inadequacies and shortcomings of today's approach on long-term care and

maintenance programs. New approaches must be developed where truly durable solutions are formulated and implemented;

- While the change of approach to durable solution is a major factor to prevent PRS, the concerns and constraints on refugees by refugee hosting states must be addressed. Especially, there should be an important concern for restrictions that prevents refugees to practice their rights, such as the freedom of movement and the right to work.

#### *Recommendations to reconsider the 1951 Convention*

The 1951 Refugee Convention is the basic instrument for refugee protection, and yet despite its ratification more than half a century ago and the increasing ‘problem’ of refugees, it does not offer comprehensive response to the complexity of forced movement of people that we face today.

The Convention does not offer any right of assistance on refugees unless they are in a country that has ratified the Convention, leaving thousands of refugees without protection. It does not also offer any right of assistance to internally displaced people. The Convention also does not put any responsibility on governments to guarantee their safe return. The Convention does not shed light on possible mechanisms to prevent mass outflows, for burden sharing between states, for ensuring effective assistance for those most in need, or for maximizing effectiveness of international resources. Furthermore, the Convention does not

consider the capacity of the host states. Due to these reasons mentioned above, the 1951 Convention needs to be reconsidered and make the appropriate changes to be able to work on today's new challenges.

### *Recommendations to refugee hosting countries*

Asylum seekers are often denied protection, many are turned back at borders, others are detained as 'illegal immigrants' and sent back to their home countries, others are put through unfair asylum procedures and others are subject to very low living conditions in refugee camps. Following are some of the recommendations gathered from the reading materials:

- Increase ratification of international treaties, particularly those relating to the protection of human rights and the rights of refugees;
- Based on international treaties and instruments, all states should apply their mechanisms accordingly to determine who is entitled for protection as a refugee;
- Stop forcibly returning refugees to countries where their lives and liberty are at risk;
- Border officials should handle asylum-seeker's applications accordingly and refer them to the responsible authority;
- Ensure that there are no restrictions on entry or border control measures that hinder access to the refugee system;
- States should not penalize asylum-seekers with illegal entry;
- Detention of asylum-seekers should be avoided;

- Consider the needs and the rights of refugees in all situations;
- Build awareness and public support for the rights of refugees.

Furthermore, refugee-hosting states should protect, respect and guarantee basic rights that the refugee should hold, such as the right to work and freedom of movement.

#### *Recommendations to the international community*

At an international level, the refugee system is not properly monitored, leaving many gaps for the refugee to be unprotected. The following are recommendations for the international community in relation to refugee protection:

- Strengthen responsibility sharing, all countries should share the responsibility of protecting and hosting refugees;
- The principle of non-refoulement must never be violated;
- Repatriation should not be imposed. The human rights situation should independently be assessed before any repatriation to take place;
- Asylum-seekers should have a proper opportunity to be heard before any decision;
- International organizations and NGOs must provide their services without any political interference;
- Create a more accountable international system.

#### *Recommendations to the humanitarian system*

An honest change from the current failures of the humanitarian 'system' would require a radical and imaginative way of rethinking and managing of the humanitarian 'system'.

The design, financing and implementation of humanitarian projects no longer should belong solely to the 'northern/western' donors and agencies. Those who have the highest stake in mitigating the crisis should have a contextual understanding of the needs and priorities of the affected community. Priorities should be first identified and take precedence over the donors 'needs'. And those that will make use of the affected people's talents should be the ones responsible for design, finance allocation and implementation of humanitarian projects.

*Refugees as part of the solution, not the problem*

Refugees have been considered to be the center of increasing problems faced by the humanitarian system, the refugee system and the international community. This concept of who is a refugee must first be changed in order to bring any durable and positive solution to the complex situations currently faced by all humanitarian actors.

Refugees are part of the solution to the many challenges currently faced by different humanitarian actors. Refugees, more than anyone involved in the humanitarian system, want to bring value to their lives as well as better standards of living. Thus, refugees themselves are the tool to achieve productive lives,

sustainable livelihoods and increase potentials for coming generations. Refugees are full of resources, time, strength, skills, knowledge, will and want.

It is only up to hosting states to change their restrictive policies and for humanitarian agencies to start acting beyond their 'care and maintenance' programs and equip refugees with the lacking resources, skills or knowledge needed for refugee camps to become sustainable communities.

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