

A black and white photograph of a refugee family. A man in a cap and jacket sits on a wooden cart filled with large, tied sacks. A young child in a light-colored hat sits on the ground in front of the cart, looking towards the camera. Another person is lying on the ground in the foreground. The background is dark and indistinct.

THE 1951 REFUGEE CONVENTION

QUESTIONS & ANSWERS



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



Going home is always the best solution for refugees worldwide.



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THE 1951 REFUGEE CONVENTION

QUESTIONS & ANSWERS

Cover:
Young World
War II refugees
await salvation.



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ARND/UN ARCHIVES/CL-2015

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

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

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

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

Preamble
to the 1951 Convention

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

A total of 140 states have acceded to one or both of the U.N. instruments (see page 17). But as the pattern of global migration changed and the number of people on the move increased dramatically in recent years, the relevance of the 1951 Convention has been called into question, especially in Europe, ironically its very birthplace.

UNHCR currently helps more than 21 million people and the Convention, which has proved to be remarkably flexible in rapidly changing times, continues to be the cornerstone of refugee protection. Following are some of the most common questions about the Convention.

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

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

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

Article 3

WHO IS A REFUGEE?

■ Why is the Convention important?

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

■ What is contained in the 1951 Convention?

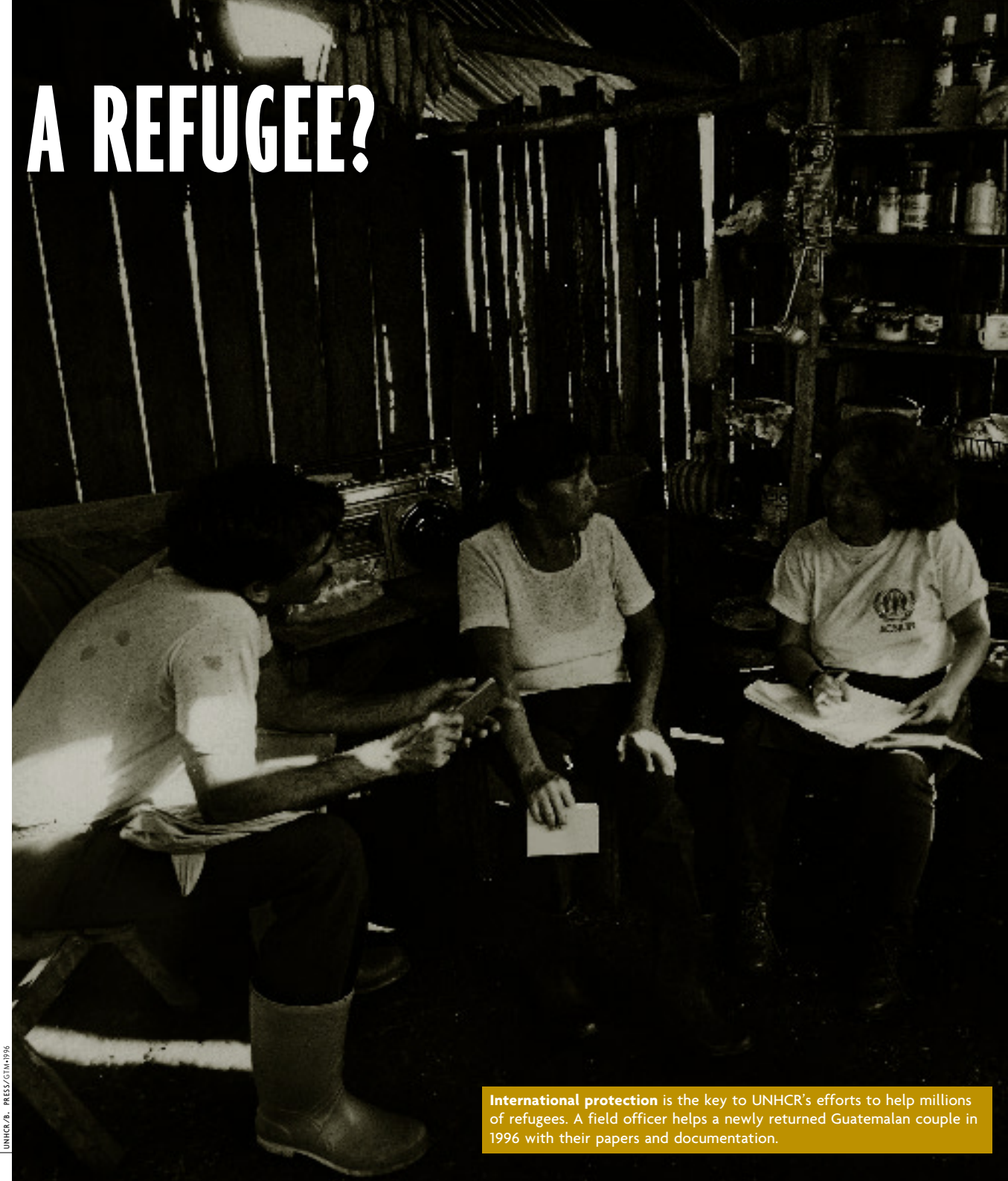
It defines what the term 'refugee' means. It outlines a refugee's rights including such things as freedom of religion and movement, the right to work, education and accessibility to travel documents, but it also underscores a refugee's obligations to a host government. A key provision stipulates that refugees should not be returned, or refouled, to a country where he or she fears persecution. It also spells out people or groups of people who are not covered by the Convention.

Article 1 of the Convention defines a refugee as

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

■ What is contained in the 1967 Protocol?

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



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



UNHCR/L. TAYLOR/DIAGRAM2000

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

■ What is protection?

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

danger. The agency seeks ways to help refugees restart their lives, either through local integration, voluntary return to their homeland or, if that is not possible, through resettlement in 'third' countries.

■ Is the Convention still relevant for the new millennium?

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

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

Article 31

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

Article 22

■ Is the Convention meant to regulate migratory movements?

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



UNHCR/A. HOLLMANN/CEH-2120

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

Number of Refugees: annual totals worldwide

[AS AT 1st JANUARY]

1951	1,000,000
1960	2,000,000
1961	2,460,207
1962	2,370,725
1977	2,772,000
1978	3,338,700
1979	4,627,035
1980	5,691,900
1981	8,229,300
1982	9,826,000
1983	10,375,600
1984	10,882,800
1985	10,506,300
1986	11,613,300
1987	12,393,300
1988	13,271,800
1989	14,778,224
1990	14,916,498
1991	17,209,722
1992	17,007,483
1993	18,998,777
1994	23,033,000
1995	27,437,000
1996	26,103,200
1997	22,729,000
1998	22,376,300
1999	21,459,550
2000	22,257,340
2001	21,126,010

TABLE 1

How are refugees and economic migrants different?

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

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

Article 2



UNHCR/M. KOBAYASHI/DIA-TMP-1999

UNHCR helps several million internally displaced persons, including these people in Timor, but there are no specific legal safeguards for this 'category' of uprooted people.

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

Can the Convention resolve refugee problems?

People become refugees, either on an individual basis or as part of a mass exodus, because of political, religious, military and other problems in their home country. The Convention was not designed to tackle these root causes, but rather to alleviate their consequences by offering victims a degree of international legal protection and other assistance and eventually to help them begin their lives anew. Protection can contribute to an overall solution, but as the number of refugees increased dramatically in recent decades, it has become clear that humanitarian work cannot act as a substitute for political action in avoiding or solving future crises.

Does the Convention cover internally displaced persons?

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

What obligations does a refugee have?

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

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

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

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



Asylum seekers should never be forcibly returned while their homelands are in chaos, as Rwanda was in 1995 after that country's infamous genocide.

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

Article 33

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

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

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



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

© BLACK STAR/L. QUINONES/KOS-1999

Who is not covered by the Convention?

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

Who or what is an 'agent of persecution'?

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

What is 'temporary protection'?

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



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Gunmen or soldiers are NOT covered by the Convention.

Can a soldier be a refugee?

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

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

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

Article 27

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

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

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

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

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



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

UNICEF/C. SCHUBERT/CHE29402

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

■ At 1st May 2001:
Total number of States Parties to the 1951 Convention: 137

■ Total number of States Parties to the 1967 Protocol: 136

■ States Parties to both the Convention and Protocol: 133

■ States Parties to one or both of these instruments: 140

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

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

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

[LIST OF 140 STATES AT 1st MAY 2001]

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

■ Does accession infringe upon state sovereignty?

Sovereignty is never absolute. International relations imply a reasonable and acceptable level of compromise. The refugee instruments reconcile state interests with protection. The granting of asylum, for instance, has not been incorporated into the refugee instruments and continues to be at the discretion of individual governments.

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

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

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

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

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

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

Article 4