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"Refugees: Citizens of the World"
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Let me start by thanking the Portuguese Refugee Council (CRP) - a much appreciated partner of UNHCR - for inviting me to speak at this 8th International Congress dedicated to the theme of *Refugees, Citizens of the World*. The topic is a challenging one from many angles. It begs a number of questions, each of which merits examination in its own right. At the root of each of the questions, which I intend to examine in following remarks, are some basic facts which are the frame for all that will follow.

So I start with the basics.   The refugee problem is a global problem and a global responsibility.   Refugees are a centuries old part of the ebb and flow of humanity. There has not been one era of history where refugees have been absent. Today, there are refugees from and in every region of the world. This means that refuge is a global mission, or put another way, refugees are a world responsibility. The defining feature of refugees is that they are persons who have been forced to flee their home country, having temporarily lost their capacity to exercise effectively the rights and duties of national citizenship. Flight and external displacement effectively "de-citizenises" refugees. In response, international law, international institutions, and third countries, acting on the basis of international solidarity and responsibility-sharing principles, are all engaged in the effort to protect, assist and find solutions for refugees.   This internationalised framework is a temporary substitute for national citizenship, allowing refugees temporarily to access some basic rights of citizenship through the international refugee architecture. In this sense, not least, their claim to global citizenry has an authentic ring.

If these facts are relatively easy to posit, they conceal a number of complex issues which give colour and hue to this somewhat pale outline, and thereby certainly nuance this global citizenry concept.

The first issue deserving of greater analysis is: Who are today's displaced?   This leads to the next, being: To what extent is the international system an effective substitute for national citizenship, when it comes to the rights and needs of refugees? Then I do not think such a presentation can avoid looking at the implications of this analysis not only for the present, but also for the future, which is rapidly bearing down upon us all.

[I]   WHO ARE TODAY'S DISPLACED?

There are some 11 million persons who fall under UNHCR's protection, assistance and solutions mandate as refugees. To this must be added an additional million or so persons who, having been refugees, have returned to their own countries but are still transitioning to full reintegration into their communities. These groups are at the core of our mandate, albeit

not exclusive of it, as the Office also has responsibilities for nearly 3 million stateless persons and close to 14 million persons who are displaced inside their own countries.

The figures are dynamic, not static. Over the past 3 months, 12,000 persons have fled outside the Democratic Republic of the Congo (DRC) into Uganda, swelling the numbers of displaced to more than 500,000 people within and beyond its borders. Somalia, Darfur and Eritrea remain major refugee producing countries. Asia also features high in the refugee statistics. Burmese continue to flee into Thailand, as do Afghans into Iran or beyond; approximately three million Afghan refugees remain in Pakistan (2 million) and in Iran (900,000). In the Middle East, the Iraq war has resulted in more than 2 million internally displaced persons, and another 2.2 million as refugees in neighbouring countries. In the Americas, Colombia's complex internal conflict has not only generated one of the largest internally displaced populations in the world, but has also led to more than 500,000 persons having fled the country as refugees, to Ecuador and beyond.

The numbers are not all negative. Last year some 2.8 million refugees and internally displaced persons returned to their homes, many with UNHCR's assistance. Repatriation of refugees to Angola and Liberia was completed, and continued for Togolese refugees in Ghana and Benin. As the peace process took hold in Southern Sudan, some 294,500 refugees and 1.7 million IDPs returned to that region of the country. UNHCR reached agreement with the governments of Burundi and Tanzania on a package of solutions for long-staying refugees in Tanzania. The ongoing repatriation of Afghan refugees from Pakistan and Iran allowed close to 375,000 persons to return home during the course of last year. Meanwhile, many refugees in Nepal – some of whom have been in the country for almost 20 years – finally have the "green light" for their resettlement, which began in earnest this year. More generally, close to 100,000 refugees globally benefited from the resettlement solution in 2007.

What the numbers do not convey are the variety of human stories which lie beneath them. The traditional definition of who should be considered a refugee is to be found in the 1951 Convention relating to the Status of Refugees. The essential purpose of this Convention was to define the character and legal status of refugees, the responsibilities and duties they owe, and the basic standards of treatment due to them in countries of asylum. Its beneficiaries were defined in a way that matched the profile of those displaced in Europe by the Second World War and its aftermath of Cold War ideological conflict. The inclinations and political objectives of the western countries converged and refugees largely from the eastern countries of Europe were not only hospitably received, but also offered a durable new home. The 1951 Convention provided the legal underpinnings for this, centering the classical definition on victims of targeted persecution, for reasons such as political opinion, religious belief or ethnic origin, and providing for a range of rights and responsibilities which pre-supposed in practice, if not in actual words, solutions outside the countries of origin.

This approach is not always so easy to apply at the best of times, but certainly it has been quite strained by the changing face of forced displacement over the last two decades of the 20th century. During this period the focus of refugee problems shifted to the developing world, which was experiencing the major dislocations of decolonisation and wars of national liberation - for example in and out of Mozambique, Ethiopia, Sudan, Somalia, Liberia, Angola, Indochina, Central American states and Afghanistan.

Resurgent nationalism had raised its head with a vengeance, straining fragile state structures and leading to inter-ethnic conflicts increasingly characterised by massive population displacements not an unintended result, but one actual objective. Yugoslavia broke apart, the violent dispute between Armenia and Azerbaijan over the enclave of Nagorno-Karabakh in the early 1990s led to the displacement of over one million persons. The conflict over the breakaway regions of Georgia is still generating displacement to this day. The refugee population which was around 1.2 million at the end of the 1970s had surpassed 14 million by the end of 1990. Millions of refugees crowded into camps, and their assistance and protection suffered from a serious deficit, globally, of political will and economic means.

In tandem, impoverishment of large parts of the globe proved a further factor of instability in a volatile world. One only need think back to Albania in the 90's, where disastrous economic conditions, high unemployment and food shortages led to widespread social discontent, recurrent riots and finally large-scale exodus of tens of thousands by boat to Italy. In the case of Vietnam, dim economic prospects remained among the causes, during the 1990s, which continued to sustain an outflow of people for many years. From Haiti to Somalia, people increasingly take to boats to escape the disasters of conflict or repression at home, made even more desperate by the debilitating effects of poverty, recurrent famine and environmental degradation.

Many will argue that the 1951 Convention definition, if flexibly applied, covers most of the forced external displacement situations of today. There is some truth in this. Inherent in many conflict situations are gross human rights violations clearly within the persecution threshold. That there is a mix of push factors cannot negate this fact. That people use the services of people smugglers, or arrive at State borders side by side with migrants who are not refugees, does not strip them of their own refugee character. Similarly so, their claim does not fall because they pass through several countries en route, benefiting from the many possibilities for inter-continental travel that globalisation has opened up. In all this, though, the emphasis is on flexible interpretation, and it must also be acknowledged that the absence of targeted persecution, or of one or other of the specific grounds mentioned in the Convention, can be a serious liability for a claim.

In recognition of the diversity of reasons why people flee and the limits of the 1951 Convention definition, the refugee concept has been extended in Africa and Latin America to encompass both victims of violence and victims of persecution as refugees. This so-called broader definition, which includes the 1951 Convention definition but goes beyond it, is the one with which UNHCR works. This, though, is not sufficient to ensure that it is universally embraced. Many national legal systems outside the reach of the regional instruments remain doggedly pegged to the traditional approach of the 1951 Convention. While UNHCR can make all best efforts to promote a more flexible approach which embraces the real causes of refugee movements today – and lawyers can make a lot of money litigating this – the fact remains that the current global architecture for refugee protection rests on a definition which allows governments so inclined to restrict the scope of their refugee responsibilities. And the plethora of subsidiary forms of protection offered by some States as an alternative protection, with less rights attached, is only a partial solution. This is a weakness in the system.

There are other weaknesses as well. The Convention does not impose a legal duty on states to admit refugees on any permanent basis. There is a right to seek and enjoy asylum, but no absolute responsibility on a state to admit a particular person asking to exercise his rights in that State. The non-refoulement principle prevents – or should prevent – return to

persecution, but this can be achieved in a number of ways short of approving entry. This discretion as regards admission is perhaps the Achilles heel of the international system.

The limits of the system together mean that States really have quite an ambit of choice as to who to admit, when and for what. This in turn means that global citizenry still has some way to go. Just how far is clear from the many difficulties refugees actually confront in accessing an acceptable asylum possibility. I want to turn to these now.

II. REFUGEES AS CITIZENS OF WORLD CONCERN – BURDEN AND RESPONSIBILITY-SHARING

The chapeau to this analysis has to be that there is still no universal sign-on to the global protection framework, even with its limitations. To date there are 147 States parties to the 1951 Convention and/or its 1967 Protocol. In several regions of the world, notably in the Middle East and parts of Asia, refugees attract no official recognition of their status as such. They may be received as "guests". More often, their status at law is that of illegal immigrant. Both are far removed from the "world citizen" notion.

Even in countries which have acceded to the Convention framework, there can be quite an implementation deficit, for which, of course, there are a variety of reasons.

Population displacements, including refugee movements, are among the main humanitarian, but also political and security challenges, of the age. It is evident that the human dimensions of this displacement are dramatic. This does not, though, change the reality that providing asylum can be costly, in monetary terms and beyond. There are the costs, sometimes heavy, of running sophisticated asylum systems. To be reckoned with, also, is the environmental damage which can accompany large concentrations of displaced people in areas ecologically unable to sustain them. Competition for national food resources, medical services, education opportunities, jobs and housing are part of the incalculable costs. There are law and order concerns locally and national security issues to weigh. Inter-state relations, which should not be affected, nevertheless can be. Movements of refugees and the displaced have the capacity to dislocate and change economic and social systems within a short period.

The challenges for States cannot be under-estimated, just as the level of state generosity and compliance with international responsibilities must, therefore, not be downplayed. Millions of refugees have been able to enter asylum states, to stay and ultimately to find the appropriate solution. I mentioned earlier the many thousands enabled to return home with international assistance of a variety of sorts, or who benefited from resettlement opportunities made available by an ever growing and diversifying group of resettlement states. New laws in a number of countries have extended the rule of law in displacement situations, including in key areas such as sexual and gender-based violence. Citizenship rights have been furthered through conscientious efforts by states to deliver necessary documentation to refugees, recording births, deaths, or marriages, or even by making available an accessible citizenship possibility.

This said, it is also true that humanitarian space is much diminished for refugees. One measure is the unpopularity of refugees – with right wing governments in some countries, with the tabloid press in many, and amongst people in different parts of the world who increasingly fear strangers who might take their jobs, who might be terrorists or criminals, who might upset the ethnic balance, or who might just stay too long. There are many misconceptions about why refugees come, who they actually are and the dangers they pose.

These can be particularly problematic in the current environment, where national security is high on the agendas of governments, where concerns about international crime and terrorism have made states particularly wary about unauthorized arrivals, and xenophobia is quite prevalent in many countries.

All this has been a spur to the growth in less tolerant asylum management systems which rest heavily on disincentives to entry and tight border controls. Intolerance is now endemic to many asylum systems, in subtle and not so subtle forms. It impacts border control measures, refugee status decisions, resettlement and integration programmes, and the sustainability of refugee and asylum policies in many countries. Unprovoked and lethal attacks against foreign communities of the sort witnessed from South Africa to the Ukraine, is one example. More subtly, intolerance takes the form of laws which criminalise certain types of immigrants, including asylum-seekers who have arrived irregularly, stripping from them basic "due process of law" protections, including their right to complete their asylum process and exhaust all local remedies before deportation. This has gone hand in hand, in a number of countries, with a widespread re-characterisation of asylum-seekers and refugees. The fact that many come through illegal channels, for example using people smugglers, does not help here. There are many distinctions made today. We have illegal asylum-seekers, bogus asylum-seekers, economic asylum-seekers, failed asylum-seekers, not to mention overstayers, and the pervasive illegal migrant. The vocabulary may be various, chosen to suit the national priorities and mood, but it adds up to a single image – that of a marginal, dishonest and therefore unwelcome person. The proliferation of labels has been described as a "messy political response to a confusing problem" for receiving states, which is serving to badly distort the refugee concept.

Solidarity with refugees is most likely to be forthcoming when it is underpinned by solidarity among states. Paragraph 4 of the Preamble of the 1951 Convention expressly acknowledges this. It says: "The grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognised the international scope and nature cannot therefore be achieved without international cooperation". This has, over time, evolved into the principle of international solidarity and burden-sharing, which is now "mantra" when it comes to how the refugee protection system is supposed to operate. Ideally, at least, burden-sharing will be given an application at all stages of a refugee problem, from its inception in the country of origin, through the initial outflow and the asylum period, up to the solutions stage. Burden-sharing for prevention, in protection and with solutions are all part of the general concept. It can take on different forms depending upon the situation and state capacities, ranging from financial assistance or provision of human resources, through to temporary admission of refugees, or to their resettlement. It is an underlying assumption that, while regional solutions depend on cooperation between countries most directly affected in the particular regions, a comprehensive approach must also be able to call upon the cooperation and assistance of countries outside the region. Hence it has been integral to UNHCR-brokered comprehensive response packages to mass displacement situations, including the CPA for Vietnamese Boat People and the CIREFCA process for refugees in Central America. In Europe, it is a foundation concept for harmonised approaches to asylum, from temporary protection arrangements to those put in place through the Dublin system.

Burden-sharing, or responsibility-sharing as it is called through preference, is a central tenet of a recent initiative by the High Commissioner to re-prioritise solutions for the millions of refugees who remain trapped in protracted exile. This is really the litmus test of the thesis that refugees are global citizens. When conflicts erupt, the media fills with images of masses

on the move. To those who survive the journey, neighbouring states open their borders and humanitarian agencies step in with food, shelter and other basic needs. Once the situation settles, journalists and the world in general turn their attention to the next crisis, and the refugees are left behind by the momentum of new events in shabby camps and shanty settlements, with serious restrictions on their basic rights and freedoms – to move, to work, to be properly educated - becoming the norm of everyday life. They can be effectively trapped where they are accommodated, unable to go home because of ongoing war, unable to benefit from resettlement which is a solution for a tiny proportion only, and unable to integrate where they are. Domestic violence, sexual and gender-based violence, or other social ills are a recurrent feature of such situations, and they can drag on for decades. The international community loses interest, funding dries up, and basic services stagnate. The fact that some 6 million people are wiling away their lives in such a limbo situation is proof enough, if it is needed, of the gap between theory and reality when it comes to global citizenship.

If burden-sharing is a unifying principle for the refugee protection system, it is also true, as UNHCR's 1995 publication on State of the World's Refugees observed, that: "The notions of solidarity, burden-sharing and accountability have gained a somewhat tired and bureaucratic character, their meaning blunted by endless repetition in official speeches and resolutions." What is the meaning of "equitable" and how to ensure that there is a fair sharing of responsibilities would undoubtedly benefit from clearer definition.   UNHCR's Executive Committee has broached the subject from time to time, but it has proven a highly emotional one, and no clear guidelines yet exist on it. While it is perhaps too simplistic to see implementation deficits solely in terms of lack of definition of concepts and an unbalanced distribution of asylum costs, nevertheless it is no doubt true that more equitable burden-sharing arrangements would improve the protection climate and the asylum possibilities for refugees.

Perhaps this is a good point to take stock of where the analysis of this presentation has brought us to. Yes, the refugee plight is recognised as a global concern. At its root is temporary loss of effective national citizenship. The international community has long recognised the need to put in place and administer an alternative protection and assistance structure to enable basic rights to be protected until a national system reclaims that responsibility. There is collective acceptance of this responsibility, based on the principles of international solidarity and burden-sharing. That countries do continue to engage with the refugee problematic, not only as a security issue but as a shared humanitarian responsibility, is evidence of the central thesis that refugees do enjoy a global citizenship of sorts. UNHCR is itself a manifestation of this, created as we were as the voice for refugees and an agent for their protection and solutions.

However developments over recent years have placed quite a strain on this system, and have led to many states seeking in subtle and not so subtle ways to curtail their actual responsibilities, even while they continue publicly to promote the virtues, indeed the necessity, of an international protection system. Unfortunately there are weaknesses in the protection architecture which make this possible, including the discretion still available to states when it comes to when and how to offer asylum. Hence burden-sharing takes on an even bigger significance and the absence of clear parameters is an important omission.

III. WHERE TO FROM HERE?

Displacement scenarios continue to evolve. There is a great deal of prediction going on at the moment, around the issue of climate change, some of it speculative and "worst-case" in its outlook. Nevertheless, there is a high probability that patterns of displacement will be increasingly and negatively impacted by environmental factors over the coming period. The drivers are even now starting to emerge. They include population growth in parts of the world and declining resources necessary to sustain these populations, such as arable land and renewable energy sources, forests and water. They also include climate change. Conflict is predicted where such factors come together and collide. Inequality of access to ever scarcer resources is a likely scenario, leading to ecological marginalisation of some sectors of society and provoking competition between powerful and less powerful groups over the resources. This is in turn predicted to evolve into a chief trigger to conflict, which may take on ethnic and religious overtones even while at its heart being a conflict over resources per se. Some 25 countries – the majority in Africa – have been identified as falling in the highest risk category for civil conflict in the next two decades. All have low cropland availability per person, half have fresh water availability problems and all are ranked amongst the poorest nations in the world. [Reference article in Forced Migration Review – Clark, "Social and Political Contexts of Conflict"] Darfur is usually quoted as illustrative. Tribal conflict in Darfur is actually centuries old and has long been a response to traditional ways of life made ever more untenable by factors like drought, heightened competition for land and water, accelerated desertification due to over-grazing and the breakdown of local social mediation structures.

There is growing interest in the linkages between climate change, natural disasters and human displacement. These are, though, not so easy to predict, with the result that scenario planning is quite popular at the moment. Clearly, human displacement resulting from climate change will vary situation to situation. The effects of climate change will differ across regions, and they will not affect all people in the same way, or to the same extent. Sudden onset disasters will continue to displace large numbers for shorter periods of time. Meanwhile creeping disasters, or secondary consequences of those that are more sudden, are also likely lead to significant movements, but perhaps over more extended periods of time, in more diverse directions, and with more permanent impact.

From a refugee perspective, by no means all, but certainly some climate-related population movements will produce refugees within the mandate of UNHCR and the international protection instruments. They include, as with Darfur/Chad, displacement provoked by armed conflict resulting in part from environmental degradation and competition over resources. They also could include the potentially more dramatic manifestation of climate change - that of the "sinking island" scenario. Islands such as the Maldives, Tuvalu and Vanuatu may eventually literally disappear, wholly consumed by rising sea-levels. Where will their populations go, and who will they turn to for protection?

The legal implications of displacement driven by forces other than persecution, human rights violations and war have yet to be seriously thought through. Whatever might be the responses deemed necessary to displacement generated by climate change, or other forms of catastrophe such as economic disasters for that matter, asylum will have to find its appropriate place. On what legal basis this response is built, and whether additional asylum tools might be required to translate needs into tangible forms of protection, are questions still to be answered. There are gaps in the traditional international protection framework, and new forms of displacement are throwing up more lacunae. Close to 33 years ago the UN General Assembly was formally invited to reconsider, when the time would be ripe, the re-convening of a conference on asylum. With the magnitude and frequency of displacement

crises today, with asylum systems in difficulty or under major review in a number of countries, with the pressure mounting for rationalisation of processes, the argument to revisit the architecture of asylum is strong. Perhaps the time for this is rapidly approaching.

For global citizenry to be a reality, it will be fundamentally important to ensure that the international protection regime is not only strengthened in areas where it is still weak, but also that it is made flexible enough to accommodate the new challenges of displacement we will inevitably have to confront.