

UNHCR REGIONAL SYMPOSIUM ON
MAINTAINING THE CIVILIAN AND HUMANITARIAN CHARACTER OF ASYLUM
REFUGEE STATUS, CAMPS AND OTHER LOCATIONS

(26-27 February 2001, Pretoria, South Africa)

KEY CONCLUSIONS/RECOMMENDATIONS

1. Fundamental responsibility to ensure the civilian character of asylum rests with States.
2. Preliminary management measures to address the civilian character of asylum
 - (a) “Stabilizing” and “securing” the operational area and populations, including forcible restraint of armed elements, separation, disarmament, securing humanitarian corridors, etc., should precede legal measures, such as screening.
 - Police and military assets should be made available to host countries for these purposes directly and/or under the framework of a regional or international organization (e.g. SADC’s Inter-State Defence and Security Committee and the Southern African Police Organization).
 - (b) Organizational structure of the host government
 - Crosscutting policy, executive and management structures should be established by host governments to bring together all the key ministries necessary to deal with militarization of refugee camps.
 - (c) International support and assistance
 - To ensure international operational, logistical and financial support to host States, three possible options could be considered:
 - (i) Designation by the United Nations Secretary-General and the United Nations Security Council of a single office/agency to assist the affected country;
 - (ii) Pending clarification of the above, ad hoc arrangements among existing agencies to coordinate and support the authorities in the affected country, e.g. Special Representative of the Secretary-General of the United Nations, or where s/he does not exist, the United Nations Resident Coordinator responsible for United Nations security matters.
 - (iii) Special assistance from UNHCR as an exceptional measure, e.g. the United Republic of Tanzania “security package”. UNHCR and the Office of the Secretary General should explore ways of broadening the scope of such “security packages”.

3. Substantive management measures to address the civilian nature of asylum

(a) Issues relating to armed elements

- Where regular foreign/alliance troops have entered a neighbouring country, bilateral arrangements should be used to resolve the problem, particularly with regard to facilitating return.
- However, such bilateral arrangements should take into account:
 - (i) Deserters and others who do not wish to return to the country of origin should not be forced back. The host country should devise special arrangements for this group in accordance with the principles of international humanitarian law and human rights law. UNHCR and ICRC should indicate the kind of support they can provide under special arrangements.
 - (ii) Persons with a past military background have the right to seek asylum: before considering their asylum applications, a reasonable period of time should be allowed to elapse to ascertain that they have assuredly disavowed violence. Former combatants who are subsequently found to qualify for refugee status might require special measures to safeguard their safety.
 - (iii) Obligations regarding child combatants derived from international humanitarian law, the Convention on the Rights of the Child and refugee law should be respected. Such children should be registered and special protection and assistance programmes should be established to integrate them within the broader refugee community, including through foster families.

(b) Identification, screening and separation of non-refugees

- The status of individuals, e.g. as refugees, prisoners of war or persons not deserving international protection, should be clarified to allow their cases to be handled in accordance with the applicable legal principles.
- Detention should be used during the process of identification and screening of former combatants.
- The decision on refugee status or exclusion should be based on reliable information. While information obtained from countries of origin on suspected fugitives and criminals could be useful in the preliminary stage, it should be treated with extreme caution at the time of decision-making. The standard for such evidence should be that of admissibility as evidence in a court of law.
- Persons who do not qualify for or are excluded from refugee status should not be accommodated in refugee facilities. At the same time, there is no international agency to assist governments with maintaining such persons in detention or finding other solutions for them, even where governments were acting in accordance with Security Council resolutions.
- In the case of combatants or other categories excluded from the refugee regime, arrangements for cooperation, including information sharing, should be set up with such institutions as the Office of the Secretary-General of the United Nations, the Security Council, and the Rwanda International Criminal Tribunal.

4. Other measures to promote the civilian character of asylum

- #### (a) The prohibition of subversive activities is a means of promoting the civilian character of asylum. These include: i) propaganda for war; ii) incitement to imminent violence; iii) hate speech. Denunciation of concrete and demonstrable abuses of human rights should not be considered as subversive.
- Refugees who breach the prohibition against subversive activities should be dealt with under the national law.

- To prevent refugees from engaging in subversive activities, action should be taken to a) inform them of their obligations under refugee and national law; b) to work on a regional basis, to reduce tensions and stem subversive influences from abroad; and c) more generally, to improve the climate for peace, democracy and human rights.
- (b) Refugee camps should be located at a significant distance from the border in situations arising from protracted political polarization and conflict.
- When identifying the location of the camp, both requirements in the short-term for regenerating the coping capacity of refugees, and, in the long-term, for enabling self-sufficiency and solutions should be taken into consideration.
 - There should be visible and effective government presence, including of law enforcement authorities, in and around the area of camps and settlements, as well as a proper management of these locations. The surrounding areas, especially those close to the border, should also be monitored constantly and effectively.
 - There should be adequate UNHCR presence in and monitoring of the refugee camps and settlements.
- (c) To enhance the security of refugee women and children, mechanisms should be established to address sexual violence, concubinage, rape, exploitation and forcible recruitment.
- (d) Refugees should be involved in designing and implementing arrangements for the overall management of the camps and other refugee locations.
- (e) UNHCR and the international community should expand refugee education programmes, particularly at secondary and tertiary level, so that refugees, especially the youth, are engaged positively and are not manipulated into subversive activities.
- (f) Awareness building, advocacy and training should be undertaken by UNHCR, specifically addressing refugees regarding their obligation to obey national laws; refugee hosting communities regarding creation of a more positive attitude towards refugees; and, in addition, those influencing public opinion, specifically, parliamentarians; as well as police and military establishments.
- (g) The Southern African Development Community (SADC), as well as private, independent institutions should provide proper and systematic collection and analysis of information to governments to improve early warning.