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## **REFUGEES, ASYLUM SEEKERS, MIGRANTS, AND INTERNALLY DISPLACED PERSONS**

### **INTRODUCTION: THE YEAR IN PROFILE**

#### **Fiftieth Anniversary of the 1951 Refugee Convention**

2001 was a critical year for refugee protection. The year marked the fiftieth anniversary of the 1951 Convention Relating to the Status of Refugees (Refugee Convention)—the foundation of the international refugee protection regime. A series of global consultations on international refugee protection organized by the office of the United Nations High Commissioner for Refugees (UNHCR) was due to culminate in December 2001 at the first ever meeting of state parties to the Refugee Convention to reaffirm their commitment to the treaty. The Inter Parliamentary Union, the Council of Europe, the Organization of American States, and the Organization of African Unity all adopted resolutions and recommendations reaffirming their commitment to the convention in 2001.

Nevertheless, the Refugee Convention came under relentless attack—not least by the same industrialized states that were responsible for its formulation. Many states failed to accede to the 1951 Refugee Convention and its 1967 Protocol. Asian countries, including Bangladesh, Bhutan, Burma, India, Indonesia, Malaysia, Nepal, Pakistan, Singapore, Sri Lanka, Thailand, and Vietnam, were particularly remiss in this regard.

### **United Nations World Conference Against Racism**

In August and September 2001, governments met in Durban, South Africa for the third U.N. World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). Although the protection of refugees and migrants featured prominently on the agenda, discussions regarding refugee protection were contentious and some governments argued for the removal of references to the Refugee Convention from the conference documents.

### **Fiftieth Anniversary of UNHCR and New High Commissioner, Ruud Lubbers**

The year 2000 also marked the fiftieth anniversary of UNHCR—the international agency mandated to protect and assist refugees. At the end of 2000 Sadako Ogata stood down after serving for ten years as high commissioner for refugees. Ogata was replaced by former Dutch Prime Minister Ruud Lubbers who took up his new position in January 2001. Lubbers' principle challenge as the new high commissioner was to revitalize UNHCR's core protection mandate and to take a strong stance with governments, particularly in Western Europe, that were undermining fundamental international refugee protection standards and seeking to erode the 1951 Refugee Convention.

Within the first months of taking office, Lubbers was tested with two of the most chronic and complex refugee crises in the world, Guinea, and Afghanistan. Lubbers' first mission was to the West Africa sub-region in February 2001 where the conflicts in Liberia and Sierra Leone spilled over both countries' borders and threatened to destabilize Guinea, displacing thousands of refugees and Guineans and killing hundreds. In April and May, Lubbers visited Afghanistan, Iran, and Pakistan to assess the world's second largest refugee emergency.

In both cases he was criticized for his handling of the situation and made controversial proposals about possible solutions. Human rights and humanitarian groups criticized Lubbers' proposal to establish "safe passages" to enable refugees fleeing the turmoil in Guinea to return to Sierra Leone through rebel-controlled territory, citing widespread abuse by Revolutionary United Front (RUF) rebels in these areas. NGOs also criticized Lubbers for placing too much attention on the repatriation of Afghan refugees during his visits to the region, and argued that conditions inside Afghanistan were not conducive to return.

### **Impact of September 11 on Refugees and Migrants**

Having sorely neglected the Afghan refugee crisis for years, the September 11 attacks on the United States focused international attention on the dire humanitarian crisis in Afghanistan and the chronic refugee situation across its borders in Pakistan and Iran. At the same time, anti-immigration measures were the centerpiece of many governments' efforts to combat terrorism in the aftermath of September 11. Many countries, including the U.S. and the United Kingdom, rushed to push through emergency anti-terrorism legislation that curtailed the rights of

refugees, asylum seekers, and migrants. Human Rights Watch argued that states must balance legitimate security concerns with respect for the rights of refugees, asylum seekers, and migrants, and should not use counter-terrorism measures as a guise to roll-back well-established refugee and human rights protection standards.

## **REFUGEE PROTECTION POST SEPTEMBER 11**

### **Protecting Afghan Refugees**

#### **Humanitarian crisis in Afghanistan**

Before U.S.-led attacks began in October 2001, Afghanistan had already suffered over twenty years of foreign invasion and civil war, political turmoil, human rights abuses, coupled with a devastating three year drought. More than five million of Afghanistan's estimated 27 million people were displaced—four million as refugees and one million internally displaced. The severe drought brought many parts of the country to the verge of famine, while Taliban restrictions on relief agencies severely hampered the delivery of assistance and civilian access to basic services. Some five million people inside Afghanistan were entirely dependent on international aid, according to the World Food Programme (WFP).

The U.S. led bombing campaign, fears of forced conscription by the Taliban, fears of reprisals by and conflict between both the Taliban and Northern Alliance forces, general insecurity, the rapidly deteriorating humanitarian situation, and the onset of winter caused hundreds of thousands more Afghans to flee their homes in the weeks after September 11.

Conditions inside Afghanistan further deteriorated after September 11 when international relief staff were forced to withdraw after the Taliban declared that it could no longer guarantee their security. As the U.S. led attacks on Afghanistan progressed, aid agencies warned of an impending humanitarian disaster. The U.N. reported that the Taliban had confiscated food supplies from the U.N. and relief agencies. In addition, several relief agencies, including the warehouses of the International Committee of the Red Cross (ICRC) and the compound of a U.N.-affiliated demining agency Afghan Technical Consultants (ATC), were hit during the U.S. bombing offensive, killing and injuring staff.

By mid-November, significant advances by Northern Alliance troops and the withdrawal of the Taliban from major cities, including Kabul, had enabled aid agencies to resume some of their assistance operations and allowed some international staff to return to Afghanistan. Nevertheless, security remained precarious and there continued to be reports of looting by both Taliban and Northern Alliance forces. Aid agencies warned that time was running out to get aid through to the millions of starving Afghans if they were to survive the winter.

#### **Treatment of Refugees in Neighboring Countries**

Most Afghan refugees during the past two decades have fled to the country's immediate neighbors—over two million to Pakistan, and between one and a half and two million to Iran. Faced with such numbers and receiving little help from the

international community, both these countries tightened their policies and officially closed their borders to Afghan refugees in 2000. Tajikistan also closed its borders to Afghan refugees in September 2000.

After September 11, Afghanistan's three other neighbors, Turkmenistan, Uzbekistan, and China, also closed their borders to Afghan refugees citing security concerns as well as their inability to absorb more refugees.

These governments' actions directly undermined core refugee protection standards, in particular the right to seek and enjoy asylum, set out in article 14 of the 1948 Universal Declaration of Human Rights (UDHR), and the principle of *non-refoulement*—the right of refugees not to be returned to a country where their lives or freedom could be threatened, as stipulated under article 33 of the Refugee Convention. Iran, China, Tajikistan, and Turkmenistan are all parties to and so bound by the 1951 Refugee Convention and its 1967 Protocol. Although Pakistan and Uzbekistan are not parties to the convention, the obligation of non-refoulement now constitutes a generally accepted principle of customary international law, and is binding on these states also.

### **Iran and Pakistan: Camps Inside Afghanistan Risk Safety of Refugees**

Instead of allowing refugees to enter their territories, both Pakistan and Iran called instead for the establishment of camps on the Afghan side of their borders, in violation of their international obligations. These camps posed serious risks for the security of the refugees and aid workers who were in danger of being caught between warring factions in Afghanistan. Access to the camps by relief agencies was extremely limited.

The Iranian Red Crescent Society assisted with the establishment of two camps in northwestern Afghanistan close to the Iranian border. Mile-46, with a population of some 1,000 displaced persons, was established in an area under the control of the Northern Alliance forces, while Makaki camp with a population of 6,000 was, until Northern Alliance advances in mid-November, in a Taliban controlled area. Close to the Pakistan border, the Spin Boldak camp, with a population of over 3,000 displaced Afghans, was established in an area under strong Taliban control.

On November 12, UNHCR reported that Makaki camp was caught between Taliban troops, who still controlled the camp and advancing Northern Alliance troops pushing to take control of the area, forcing aid workers to withdraw and endangering civilians inside the camp. On November 14, the area fell to the Northern Alliance.

The lack of security in the camps made it difficult for aid agencies to operate safely, and by early November there were reports that several thousand Afghans were camped in the open around Makaki camp which was already filled beyond capacity. Aid agencies expressed concern about the health of displaced people in and around Makaki camp as winter approached.

Despite this, Iran continued to keep its borders shut to fleeing Afghans. The interior minister, Abdolvahed Musavi-Lari, stated that "it is better and more efficient to provide the refugees with assistance within their homes for humanitarian reasons," an assertion belied by conditions on the ground inside Makaki camp and elsewhere in Afghanistan.

### **Border Closures Endangers Refugees Lives**

Despite the official closure of Pakistan's 1,560 mile border, UNHCR estimated that at least 150,000 Afghan refugees crossed unofficially into the country between September 11 and mid-November 2001. Many refugees traversed through dangerous mountain passes and were forced to pay exorbitant fees to smugglers or large bribes to border control guards in order to enter Pakistan. In mid-October, Pakistan agreed that particularly "vulnerable" refugees, including the elderly, sick, and some women and children would be allowed to enter, but most refugees fleeing Afghanistan were not admitted. Many who could not afford to pay the high smuggler fees and bribes to border guards were trapped on the Afghanistan side of the border.

### **Lack of Security Inside Pakistan**

With an existing population of over two million Afghan refugees, Pakistan had tightened its refugee policies throughout the previous year. In November 2000 the government instituted a policy to detain and deport newly arrived Afghans in the North West Frontier Province (NWFP) and all Afghans who were already residing in Pakistan without official documentation. Between October 2000 and May 2001, according to the government, it forcibly returned some 7,633 Afghans, mostly men and boys. Other new arrivals were placed at Jalojai refugee camp but the government did not permit UNHCR to register them in order to determine whether or not they were in need of refugee protection. In August, however, the government and UNHCR agreed to jointly screen all the refugees at Jalojai camp and at the longer established Nasirbagh camp in order to determine which refugees could stay in Pakistan and which would be returned to Afghanistan, but the screening was suspended following the September 11 attacks.

Despite maintaining an official position of closed borders, the Pakistan authorities announced shortly after September 11 that they would set up new refugee camps in the event of a mass influx from Afghanistan. The sites were located in the Federally Administered Tribal Areas close to the Afghanistan border in the NWFP, that were unstable and insecure, difficult to reach, and lacked an adequate water supply and infrastructure. The location of refugee camps so close to the Afghanistan border was contrary to international standards which stipulate that camps must be located at a "safe distance" from international frontiers to protect against cross border attacks or military incursions.

Fifteen camps were established by mid-November but they were mostly empty as refugees who entered Pakistan unofficially feared to report to camp authorities and risk deportation, and preferred to stay with family or friends in Peshawar, Quetta, and other urban areas. Many of these so-called "invisible refugees" were Hazaras, Uzbek, or Tajik ethnic minorities. They lived in a state of legal limbo, undocumented and unassisted, and constantly at risk of being picked up by the police, detained, and returned to Afghanistan.

In early November, UNHCR and the Pakistan government agreed to move refugees from Killi Faizo, an insecure and overcrowded temporary staging camp near the Chaman border crossing in Baluchistan province, to Roghani camp, sixteen kilometers away. Under the same agreement, UNHCR began the transfer of refugees from the new Jalojai camp in Peshawar to Kotkai camp in Bajaur agency.

The new camp was located in a strongly pro-Taliban area only five kilometers from the Afghan border, raising fears for the security of the refugees, many of whom were from ethnic minorities and of forced recruitment by the Taliban. However, as the Pakistan authorities said that they would close new Jalozaï camp, many refugees, especially those most dependent on relief assistance including women who were heads of household and widows, felt obliged to move to the camps despite their fears.

### **Eroding Refugee Protection in Iran**

Iran steadfastly kept its 560 mile border with Afghanistan closed, and also deported thousands of Afghan refugees. On November 9, UNHCR reported that Iranian authorities had deported at least 350 refugees in a matter of days.

Iran's tough policies toward Afghan refugees pre-dated September 11. Out of the one and a half to two million Afghans living in Iran, the government estimated that as many as half a million were undocumented. Very few Afghans in Iran lived in camps. Most eked out a miserable existence in the cities where their lack of documentation and the government's increasingly tough policies towards them meant they were excluded from the formal labor market and had little or no access to education, health care, or other benefits.

In 1999, the U.S. Committee for Refugees estimated that Iran had forcibly returned some 100,000 Afghan refugees. In an attempt to prevent further forced deportations, UNHCR and the government of Iran agreed to a joint repatriation program in April 2000. Under this program Afghans could either receive a repatriation package from UNHCR and return to Afghanistan, or present their claims for continued protection in Iran at a screening center. UNHCR also set up repatriation centers to facilitate the repatriation of documented and undocumented Afghans wishing to return to their homes. Many NGOs charged that it was premature for refugees to return to drought and conflict-ridden Afghanistan. Despite the screening program, the U.S. Committee for Refugees estimated that as many as 50,000 returns were involuntary in 2000.

In mid-November 2001, UNHCR and Iran agreed to resume the screening program in order to repatriate Afghans without refugee status, a move that UNHCR hoped would stem summary deportations. Some NGOs cautioned that a flawed process could result in the forced return of hundreds of thousands of refugees.

At the same time, UNHCR reported a rise in spontaneous returns of refugees, particularly ethnic Uzbeks, Tajiks, and Hazaras, to areas of Afghanistan captured by the Northern Alliance.

### **Refugees Stranded on Tajikistan Border**

Tajikistan closed its frontier with Afghanistan in September 2000 and thousands of Russian Federal border guards controlled the border. By September 11, there were already over 10,000 internally displaced Afghans on small islands in the Pyanj River, which divides the two countries, waiting for an opportunity to cross into Tajikistan, who were subject at times to crossfire between Northern Alliance and Taliban forces. Their numbers steadily increased prior to and during the U.S.-led military offensive in Afghanistan. Some were receiving assistance from aid agen-

cies. On September 20, President Emomali Rakhmonov stated that Tajikistan would not allow any Afghan refugees to enter for fear of infiltration by Islamic militants and for economic reasons.

### **The Need for International Assistance and Action**

By refusing to allow refugees entry into their territory and calling for the establishment of camps instead within Afghanistan, deporting refugees, and setting up refugee camps in dangerous and insecure areas, neighboring countries breached their international obligations toward Afghan refugees and threatened their safety and security. At the same time, the wider international community had an obligation to assist these countries to cope with large refugee influxes through financial and logistical support, as well as helping to find long-term solutions, including through third country resettlement. There was an urgent need for donor states and international agencies, such as UNHCR, to call on neighboring countries to keep their borders open, provide full and safe protection to refugees, and cease summary deportations. NGOs criticized UNHCR and donor states for not being sufficiently proactive in pushing neighboring countries to abide by their international obligations.

### **A Global Backlash Against Refugees and Migrants**

Security concerns in the wake of the September 11 attacks prompted governments around the world to introduce emergency legislation and tighter immigration controls. In many countries, such measures were introduced in an existing climate of growing hostility and restrictions on the rights of refugees, asylum seekers, and migrants. Several governments introduced measures that seriously eroded their obligations under the 1951 Refugee Convention and undermined the fundamental right to seek and enjoy asylum, as stipulated in the UDHR. It was ironic that in the year marking the fiftieth anniversary of the Refugee Convention, the very same governments responsible for its establishment sought to depart from their obligations under this treaty.

Not only did doors close to Afghan refugees in neighboring countries, but also further afield. According to UNHCR, Afghan refugees arrived in countries as distant and geographically dispersed as Australia, Cambodia, Cuba, and Iceland in 2000. In 1999 and 2000, the number of Afghans who sought asylum in Europe nearly doubled, with Germany, the Netherlands, and the United Kingdom receiving the largest numbers of applications. Fears of a mass influx of Afghan refugees after September 11, prompted several countries to introduce harsh policies.

### **United States**

The United States was one of the first countries to respond to the events of September 11 with emergency anti-terrorism legislation that severely curtailed the rights of non-citizens and permitted their indefinite detention. Despite vigorous protest by human rights, civil liberties, and immigrants' rights organizations, the "USA Patriot Act" was passed on October 26. The procedures leading to the passage

of the anti-terrorism bill were flawed and rushed. Congress was unable to meet and fully consider the legislation as it was amended, meaning that problematic provisions of the legislation were never fully considered and debated by members of Congress.

The legislation granted unprecedented broad powers to the attorney general to “certify” and then detain any non-citizen, including an asylum-seeker, legal permanent resident, or a refugee, who he had “reasonable grounds to believe” was engaged in terrorist activities or other activities that endangered national security. A certified immigrant who had been charged with an immigration violation but who could not be deported would remain in custody until the attorney general determined that he or she no longer met the criteria for certification. While judicial review of the detention would be permitted, there were no meaningful, prompt, or periodic reviews to ensure the detention was warranted.

The overly broad and vague criteria for subjecting a non-citizen to detention could allow the attorney general to certify and detain any non-citizen in the U.S. who had any connection, however tenuous or distant in time, with any group that had ever unlawfully used a weapon to endanger a person. Given the focus of the law enforcement efforts in the wake of September 11, there were concerns that such language created the risk of arbitrary application and could disproportionately impact individuals from certain countries or religious groups, including asylum seekers and refugees. The legislation contravened the prohibition against prolonged, arbitrary, or unlawful detention in international human rights law and UNHCR’s guidelines on the detention of asylum seekers.

In October, the U.S. government also announced that for national security reasons it had suspended all resettlement of refugees to the U.S., including Afghan refugees who were waiting to leave Pakistan. In 2000, the U.S. took 90 percent of the 4,000 Afghan refugees resettled out of Pakistan. The moratorium affected some 20,000 refugees from countries across the world who had been cleared by the Immigration and Naturalization Service (INS) for resettlement to the U.S. Refugee organizations criticized the moratorium, arguing that it was unnecessary and only increased the suffering of refugees from war-torn countries like Iraq, Sierra Leone, and Somalia, many of whom had spent years in desperate refugee camps waiting to be resettled.

### **Western Europe**

In a worrying trend throughout Europe, governments linked anti-terrorism measures with the fight against illegal immigration and introduced measures that severely curtailed the rights of refugees and migrants. Spain’s foreign minister, for example, voiced concerns that international terrorists could be smuggled into Spain and said that “[t]he strengthening of the fight against illegal immigration is also a strengthening of the anti-terrorist fight.”

In Hungary, all Afghan asylum seekers were transferred from open reception centers to facilities with heightened security measures. In Greece, Afghan refugees who arrived after the September 11 attacks received a hostile reception as the government refused to allow them to apply for asylum, violating its obligations under



the Refugee Convention. In the wake of vociferous international pressure, the government subsequently permitted some refugees to apply for asylum.

In Germany, advocacy groups reported that efforts to include adequate human rights safeguards for refugees in proposed asylum legislation suffered a serious setback in the aftermath of the September 11 attacks with many viewing the new legislation as a necessary measure to strengthen national security. More positively, however, the German government announced in November that it would introduce legislation to reverse its practice of excluding victims of persecution by non-state agents from refugee protection, such as asylum seekers from Somalia, Algeria, and Afghanistan.

### **European Union**

After September 11, there were concerns that E.U. efforts to safeguard internal security could result in the exclusion or expulsion of refugees and migrants from member states without adequate safeguards.

### **United Kingdom**

Following September 11, the British Home Secretary David Blunkett proposed far-reaching measures to restrict entry into the U.K. and strengthen national security. Outlined in a new Anti-Terrorism, Crime and Security Bill, these proposals were before parliament at the time of writing.

Civil liberties, refugee advocacy, and human rights NGOs were concerned that the bill would permit the unlawful indefinite detention of foreigners suspected of terrorism-related activity without access to effective appeal procedures and deny some asylum seekers individual determination of their asylum claims without recourse. The bill's broad and overly inclusive definition of terrorism would include any person with "links" to an international terrorist group, suggesting that this could lead to "guilt by association" and the targeting of individuals based on their political, national, ethnic, or religious affiliation. The bill's provisions seriously undermined the fundamental right to seek asylum and the purpose and intent of the Refugee Convention, and represented a departure from well-established refugee protection standards.

Racist attacks against Afghans and other Muslims living in the U.K. increased dramatically after September 11. These included damage to property, bomb threats against mosques, physical and verbal abuse of Muslim women wearing headscarves, and gang assaults targeting Arab and South Asian men. In one attack an Afghan taxi driver was beaten so severely he was paralyzed from the neck down. Both Prime Minister Tony Blair and Home Secretary David Blunkett condemned the attacks and called for tolerance.

### **Australia**

Australia faced a barrage of international criticism for its excessively harsh and restrictive immigration and asylum policies. In August, the government turned back a boatload of mainly Afghan asylum seekers who had been rescued at sea by a Norwegian freighter, the *Tampa*, from a sinking Indonesian ferry, and refused to let them land on Australian territory. Most of the 438 asylum seekers were eventually

sent to the Pacific island state of Nauru; others were sent to New Zealand. Following the September 11 attacks, Defense Minister Peter Reith justified Australia's actions, arguing that it should reserve the right to refuse entry on security grounds to "unauthorized arrivals".

Following the Tampa incident and the September 11 attacks on the U.S., the government adopted new and unprecedented immigration legislation in an expedited manner on September 26. Under the legislation, it "excised" various Australian territories, such as Christmas Island, Ashmore and Cartier Islands, and the Cocos Islands, from its "migration zone" and refused to consider asylum applications from anyone arriving at those places. Instead, the asylum seekers were transported to other non-Australian Pacific island states while their refugee claims were assessed, or simply sent back to sea. Human rights, refugee, and advocacy organizations charged that by forcing boats of asylum seekers back into international waters, Australia was endangering the lives of asylum seekers, undermining the right to seek asylum, and potentially violating non-refoulement obligations.

The new legislation also required the detention of asylum seekers arriving at an "excised offshore place" without any right to judicial review. Australia's policy of mandatory detention for all unauthorized arrivals continued to be widely condemned.

Between August and November, Australia turned back several boatloads of asylum seekers from Afghanistan, Iraq, and other countries in the Middle East and South Asia, and returned them to international waters. Many of the boats arrived in Australia via Indonesia, which was not a party to the 1951 Refugee Convention and lacked laws and procedures for determining refugee status.

## **THE CRISIS IN GUINEA**

Host to one of Africa's largest and most unstable refugee populations in 2000—an estimated half a million Sierra Leonean and Liberian refugees—Guinea was faced with a national security crisis as the violence from its conflict-ridden neighbors spilled over and threatened to destabilize the country. Blaming the refugees for much of the insecurity, Guinea repeatedly closed its borders to Sierra Leonean and Liberian refugees between August 2000 and mid-2001, in violation of its international obligations not to return refugees to a country where their lives or freedom could be threatened. While acknowledging the serious security problems facing Guinea, Human Rights Watch called on the government not to violate its international obligations to refugees and urged donors to provide the necessary support and assistance to help Guinea cope with the crisis.

Between August and mid-2001, a combination of Sierra Leonean Revolutionary United Front (RUF) rebels and armed Liberian forces repeatedly attacked and burned refugee camps and Guinean villages along the border, killing, injuring, abducting, and forcing their residents to flee. The Liberian government also launched cross-border attacks, accusing Guinea of providing support and hosting a Liberian rebel group, the Liberians United for Reconciliation and Democracy (LURD).

Tens of thousands of refugees and local Guineans living in the border regions

were forcibly displaced by the conflict and hundreds were killed. Faced with a no-win situation, some refugees fled back into RUF-controlled parts of Sierra Leone to escape the violence and suffered similar abuses at the hands of RUF rebels to those that originally caused their flight, including rape, murder, forced recruitment, and abduction for forced labor. Others fled inland into Guinea where they also faced abuses, including beatings, strip searches, extortion, sexual assault, arbitrary arrest and detention, and widespread intimidation, at the hands of the Guinean authorities and local militia groups.

Security was not only volatile for the refugees, but also for relief agencies and aid workers. In September 2000, the head of the UNHCR office in the town of Macenta on the Liberian border, was murdered by unidentified attackers, and in December the UNHCR office in Gueckedou was destroyed in fighting between government troops and rebels, during which hundreds of civilians were reportedly killed and led thousands of refugees and local people to flee. By December, assistance to the Parrot's Beak region, bordering RUF-held areas of Sierra Leone, was largely cut off due to the deteriorating security situation, leaving hundreds of thousands of refugees without access to food or protection.

After six months of violence, UNHCR and the Guinean government agreed in February to relocate the border refugee camps further inland and to assist Sierra Leonean refugees who wanted to return home to do so by boat from Conakry, but continuing violence in the border region delayed the relocation until April. By May, some 60,000 refugees had moved inland and an estimated 35,000 refugees had returned to Sierra Leone. However, tens of thousands of refugees in the border region remained unaccounted for. By mid-2001, the situation in Guinea seemed significantly calmer.

The problems in Guinea were exacerbated by the failure of the international community to provide sufficient funding and support for the refugees. Aware that the refugee camps were located dangerously close to the borders with Sierra Leone and Liberia, UNHCR sought funding to move the camps further inland in 1999. However, little or no funds were forthcoming due in part to the international attention then on Kosovo, and thus the camps in the border region remained vulnerable to attack and military incursions. If funds had been provided earlier to move the camps, some of the problems faced by the refugees in 2000 and 2001 could have been averted.

## **COMBATING RACISM AND XENOPHOBIA AGAINST REFUGEES AND MIGRANTS**

### **United Nations World Conference Against Racism**

After two years of regional and expert preparatory meetings, the third U.N. World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), was held in Durban, South Africa, from August 31 to September 8, 2001. Lobbying on refugee and migrants rights was organized through an effective NGO caucus of immigrant and refugee advocacy groups.

Despite efforts by some governments to exclude any reference to the 1951 Refugee Convention, the WCAR affirmed the convention's importance and states' obligation to comply with it; recognized racism and ethnic intolerance as among the root causes of refugee flows; called for greater efforts to combat racism and xenophobia against migrants, asylum seekers, and refugees; urged states to seek durable solutions to refugee crises, including voluntary return to countries of origin, third country resettlement, and where appropriate and feasible, local integration; upheld the right of return for refugees; and called for a more equitable international response to refugee crises.

The conference also called on states to promote and make use of the U.N. Guiding Principles on Internal Displacement, though otherwise the WCAR gave little consideration to the problems of internally displaced persons.

While not legally binding, the WCAR Declaration and Program of Action was an important affirmation of international standards and principles relating to refugees, migrants, and asylum seekers and a useful vehicle for coalition building among NGOs concerned with the rights of migrants and refugees.

### **Racism and Refugees: The Interface**

Throughout 2001, refugees, asylum seekers, and migrants were victims of repeated racial discrimination, racist attacks, xenophobia, and ethnic intolerance. Racism was both a cause and a product of forced displacement, and an obstacle to its solution. Refugees fled countries such as Afghanistan, Burma, Burundi, Macedonia, Sri Lanka, and Turkey to escape racism and ethnic intolerance, but often then encountered further discrimination, xenophobia, or racist attacks in their host countries. At the same time, millions of refugees were unable to return to their own countries because of racial and ethnic discrimination.

Industrialized states continued to introduce a barrage of restrictive policies and practices targeting asylum seekers, refugees, and migrants. Negative and inaccurate portrayals of these groups in the media and inflammatory, xenophobic rhetoric by politicians and public officials in many Western countries contributed to a climate of hostility. There was also an alarming rise in racist and xenophobic violence against asylum seekers, refugees, and migrants in many industrialized countries, as well as in traditionally generous host countries in the developing world.

### **Xenophobic Rhetoric: The Case of Australia**

Many governments manipulated and incited xenophobic fears for short-term political gain. In Australia, for example, Minister for Immigration and Multicultural Affairs Phillip Ruddock made a series of inflammatory and xenophobic statements about immigration and asylum between November 1999 and August 2001, suggesting that mandatory detention policies protected the Australian public against communicable diseases brought in by illegals and that whole villages of Iraqis and others were preparing to travel to Australia. The refusal by Australia to allow boatloads of mostly Afghan and Iraqi refugees and migrants entry to its territory came in the run-up to a general election campaign, in which the government sought to demonstrate a tough stance on asylum and immigration and

fuelled xenophobic fears among the public with inflammatory accounts of “floods” of refugees on the move to Australia. The rhetoric and tough policies paid off, as John Howard’s government won a third term in office at the mid-November elections.

### **Racist Attacks in Europe**

There was a high incidence of racially motivated attacks and violence against refugees, asylum seekers, and migrants in European countries. In the U.K., the dispersal of asylum seekers to remote or deprived areas resulted in increased attacks. In August, Firsat Dag, a Kurdish asylum seeker, was stabbed to death in an unprovoked racial attack in Glasgow. Days later an Iranian asylum seeker was also stabbed, and a Kurdish asylum seeker in Hull had his throat slashed. NGOs, UNHCR, and the inter-governmental European Commission against Racism and Intolerance, amongst others, linked the attacks to the negative portrayal of asylum seekers by politicians and the media, particularly during the May general election campaign.

In Russia, there were attacks on African students in Moscow, including many refugees, by mobs of youth, often wielding weapons or bottles. Most victims feared to report such attacks to the police; those that did generally found the police unwilling to investigate.

### **Racism as a Barrier to Safe Return: The Case of Bhutan**

Racism and ethnic discrimination prevented the safe return of millions of refugees. Despite the commencement of a joint verification process by the Bhutanese and Nepalese governments in early 2001 to ascertain the status of 100,000 Bhutanese refugees in camps in Nepal, by November no refugees had returned to Bhutan.

The refugees, mostly ethnic Nepalese, were expelled from southern Bhutan in the early 1990s. Many were arbitrarily stripped of their nationality prior to their expulsion after Bhutan amended its nationality laws in the late 1980s to deny nationality rights to most southern Bhutanese.

After nine rounds of ministerial talks between Bhutan and Nepal, the Bhutanese government still refused to accept the refugees back, claiming that they were not bona fide Bhutanese citizens. At the tenth round of talks in December 2000, following concerted pressure by the U.S., the E.U., and the U.N., the two governments finally agreed to start a joint verification of the refugees. This would determine the refugees’ nationality status, with a view to their ultimate repatriation to Bhutan.

However, international NGOs were concerned about the Bhutanese government’s refusal to allow UNHCR to monitor the verification process, the lack of independent scrutiny, and the excruciatingly slow progress of the process that continued to deny thousands of refugees the right to return to their own country.

## **CONCLUSION: THE CHALLENGES AHEAD**

As the year ended, core refugee protection principles were under serious threat across the globe and the future for millions of refugees, asylum seekers, and

migrants was uncertain. In the aftermath of September 11, governments faced a critical challenge to address legitimate national security concerns without undermining long-enshrined refugee protection and human rights standards and further eroding the rights of refugees, asylum seekers, and migrants. Governments hosting large, long-term refugee populations faced the challenge of continuing to provide protection and keep their borders open, while the international community had a heightened responsibility to provide sufficient funding and support and to seek effective solutions to chronic refugee crises. The fiftieth anniversary of the Refugee Convention provided states with an opportunity to ratify and accede to the convention and its 1967 Protocol, to fully and unequivocally reaffirm their commitment to the convention as the centerpiece of refugee protection, and to repeal legislation, policies, and practices that undermined the spirit and letter of the convention. Finally, the conclusion of the third WCAR challenged states to put into practice the directives outlined in its final declaration and program of action. In particular, governments were challenged to address racism and discrimination as root causes of refugee flows; reverse policies and practices that discriminate against migrants, asylum seekers, and refugees; avoid inflammatory and xenophobic portrayals of asylum seekers, refugees, and migrants; take vigorous action to investigate and bring to justice perpetrators of racist violence against migrants and refugees; and seek long-term solutions to refugee situations, particularly where refugees are blocked from returning to their home country or integrating into a host country because of discrimination and racism.

**Relevant Human Rights Watch Reports:**

*Guinea: Refugees Still at Risk: Continuing Refugee Protection Concerns in Guinea,*  
7/01

*Uprooting the Rural Poor in Rwanda,* 5/01

*UNHCR at 50: What Future for Refugee Protection?* 12/00