

Dignity, Safety and Health for Refugees

By Mauro De Lorenzo

Special to washingtonpost.com's Think Tank Town

Wednesday, May 2, 2007; 12:00 AM

You cannot sue the United Nations. If the UN violates your rights, that's just too bad. There is no judge with jurisdiction, no independent tribunal, no possibility of compensation or justice. A culture of impunity is built into the DNA of the UN, and some of the clearest examples can be found in the work of the United Nations High Commissioner for Refugees (UNHCR), mandated by the UN General Assembly to protect refugees around the world. Wherever UNHCR is responsible for determining refugee status, it fails to meet its own guidelines for fairness. And wherever UNHCR warehouses refugees in camps -- sometimes for decades -- it colludes in human rights violations on a large scale, with support from the American taxpayer.

In some eighty countries, UNHCR decides who is a refugee and who isn't. National governments play a secondary role, if any. In 2005, UNHCR offices received more than 88,000 applications for asylum, making it the largest refugee status decision-maker in the world. Members of the UNHCR staff conduct interviews, assess claimants' credibility, and make legal judgments about whether a claimant has a "well-founded fear of persecution." In other words, UNHCR does globally what the Department of Homeland Security does here.

But the decisions of DHS officers are subject to at least two levels of judicial review -- not to mention legislative oversight. No one reviews UNHCR's decisions. Human rights lawyers Michael Alexander and Michael Kagan, who maintains [Asylum Access's www.rsdwatch.org](http://www.rsdwatch.org) resource, have documented that UNHCR protection officers routinely use secret evidence against refugees, reject claims for no stated reason, fail to provide qualified interpreters, and provide no appeal system for negative decisions.

UNHCR's standard practice in the field would be laughed out of any courtroom in the United States. In fact, UNHCR's status-determination procedures fall far short of the standards that it rightly exhorts asylum authorities in Western countries to uphold. In 2005, after criticism, UNHCR simply lowered the bar for itself, issuing a new policy document that set more modest standards for its own offices than those it advocates for everyone else. But it is hardly surprising that bureaucrats who are exempt from accountability hoard their prerogatives and decline to account for their decisions.

This is serious business: When an asylum officer decides wrongly and sends a refugee back to his country of origin, the result can be imprisonment or death. Lack of accountability also means that UNHCR faces no political or legal pressure to reform and become more transparent. Though legal aid movements have successfully pressured some offices to improve, still not one UNHCR field office meets basic legal standards for fairness and due process.

The solution is to remove UNHCR from the equation and help national governments to determine refugee status fairly and then adjudicate decisions in their own courts. Governments botch things all the time, but it would not take much for them to do better than UNHCR. It is also a way of helping instill a culture of human rights in countries that often lack one. Most importantly, status determination by governments offers the possibility of judicial review of their decisions. With national governments in charge of status determination, UNHCR can be what the drafters of the 1951 Refugee Convention intended: a legal gadfly that holds governments to their obligations under international law.

Typically regarded as the paragon of humanitarianism, refugee camps are in fact one of the biggest stains on the conscience of the international community. The inmates of these facilities lack freedom of movement and have no right to work. They are sometimes not allowed to grow their own food and must depend on rations from humanitarian agencies. Those rations do not always come on time and are rarely sufficient. Refugees are forbidden to sell or barter them for other products they need, such as soap or underwear. Biological anthropologist Kenneth Porter found that Burundian adolescents born in refugee camps and raised on humanitarian assistance in Tanzania were significantly shorter than poor Tanzanian children in neighboring villages who received no assistance at all -- a difference that suggests malnutrition while under international protection.

Guglielmo Verdirame of the University of Cambridge and Barbara Harrell-Bond, founding director of the Refugee Studies Center at the University of Oxford, and co-authors of *Rights in Exile: Janus-Faced Humanitarianism*, found that UNHCR in Uganda and Kenya imposed unpaid work on refugees confined to camps, supported dispute resolution mechanisms that illegally imprisoned people for adultery, and failed to protect women from genital mutilation and domestic violence.

UNHCR has even imposed collective punishment on refugees under its protection. In the hellish Kakuma camp in north-eastern Kenya, some refugees protested their conditions by destroying the enclosures through which refugees are herded to collect their food, once in April 1994 and again in April 1996. UNHCR cut off all food distribution, including to women and children, until the enclosures were rebuilt by the refugees. The suspension lasted 21 days in the first case and 14 in the second. Such measures are forbidden even in wartime by Article 33 of the Geneva Convention.

Unnecessary and inhumane, refugee camps should be replaced by forms of assistance that enable refugees to settle themselves in their host countries. Self-settlement is inconvenient for the bean-counters in humanitarian organizations because it makes it more difficult to track aid distributions, and it certainly makes for less pitiful fund-raising photos. But there is no other way for a refugee to lead a dignified life in exile. An exception to the almost complete silence from international human rights organizations about the conditions in refugee camps comes from the U.S. Committee for Refugees and Immigrants, which has led a campaign against refugee warehousing since 2004, garnering bipartisan support from Senators Sam Brownback, Joe Lieberman, and Ted

Kennedy. Yet UNHCR's role in planning, managing, and funding refugee camps has rarely been examined.

The United States is by far the largest donor to UNHCR. Washington provided the organization with about \$330 million for 2006 -- almost a third of UNHCR's budget, and more than three times more than the next-largest donor. The U.S. even relies on UNHCR's deeply flawed procedures to nominate refugees for resettlement to the United States -- one of the reasons that the U.S. never manages to fill the quota that Congress authorizes for refugee resettlement each year. Washington should insist on greater accountability from UNHCR. It should assist national governments to conduct their own status determination, fund civil society groups that provide legal aid to refugees, and demand that UNHCR and host governments find alternatives to camps for dealing with long-term refugee caseloads.

It should not be much of a surprise that abuse is rampant in a system run by a professional bureaucracy that operates behind closed doors with full legal immunity. It is more surprising that human rights and refugee rights organizations hold UNHCR to such a low standard. And it is more surprising still that U.S. taxpayers should be asked to continue funding the systematic violation of refugee rights throughout the developing world.

Mauro De Lorenzo is a resident fellow at the American Enterprise Institute. He spent a number of years working on refugee research and legal aid for refugees in Uganda, Tanzania, Congo, and Egypt. He is also a member of the board of directors of [Asylum Access](#), an organization that promotes legal aid for refugees in developing countries.