CHAPTER VII

UNITED NATION HIGH COMMISSIONER FOR REFUGEES (UNHCR)-STRUCTURE, OBJECTIVES AND RESPONSIBILITIES

While the preceding chapter examines the conceptual institutional development associated with the historical process up to the establishment of the office of UNHCR, the present chapter is devoted to a full-length discussion of the objectives, role, responsibilities, resources and the organizational structure of the UNHCR.

Refugee have existed history, but an awareness of the responsibilities of the international community to provide protection and find solutions for the Refugees dates only from the time of the League of Nations. The total Refugee population is vastly greater than the number of protection place available. The problem is felt more in recent years as in prospect of terrorism, state security, and economic recessions, which have substantially weakened the ideological value of refugee protection, as is enshrined in the 1951 refugee convention. These issues have given rise to the development of elaborate policies of deterrence and deflection in the states, which over centuries have welcomed frightened, weary strangers, the victims of persecution, and violence provoked people as refugee. This highly interconnected global landscape allowed for an extensive network of readmission agreements coupled with the development of the sophisticated border control technology, allows the states an unparalleled capacity to deflect refugee movements from their territories. The lake of avenues to protection left two thirds of the world’s refugees trapped in situations of protracted exile with no immediate hope of being granted asylum.
The League of Nations defined refugees by categories, specifically in relation to their country of origin Dr. Nansen’s (the First High Commissioner for Russian refugees in 1921) mandate which was subsequently extended to other groups of refugees, including Armenians in 1924, as well as Assyrian, Assyro-Chaldean, and Turkish refugees 1928. Until 1950 the League of Nations, and thereafter the UN, established and dismantled several international institutions devoted to refugees in Europe (Feller2001a:129). The international refugees’ organization (IRO) was the last to precede United Nation High Commissioner from Refugees (UNHCR). The IRO was created in 1947 to deal with the problem of refugees in Europe in the aftermath of the Second World War and was terminated by June 30, 1950. It was soon apparent, however, that the comprehensive nature of the task which had been assigned— to address every aspect of the refugee problem of registration and determination of status, to repatriation, resettlement, and “legal and political protection”— included winding up of that international effort.

Given the new United States Policy, there was no realistic hope the IRO continuing to handle the problem of refugees. The major burden of the remaining refugees fell on the countries of first asylum. On their part governments of the countries of first asylum wanted both material assistance and assurance that the possibility of overseas resettlement remained open. As such, both western and overseas resettlement countries were willing to support the creation of a successor to the IRO1.

Against this background, discussion took place within the UN General Assembly and the Economic and Social Council (ECOSOC)
from 1948 to 1950 regarding the creation of new international refugee organization.

In 1949, the United Nations decided to assume more responsibility for international action for protection of refugees. After the demise of the IRO two possibilities were worked out in the General Assembly, either to entrust this task to a department of the United Nations Secretariat or to establish an ad hoc body which could act independently within the administrative and financial framework of the United Nations. The later formula was adopted. The General Assembly decided to keep this body outside of the political considerations. According to them Secretary-General, “The High Commissioner for Refugee would enjoy a special status within the United Nations and would possess the degree of independence and the prestige which would seem to be required for the effective performance of his functions.”

However after a long debate which continued for one year, the General Assembly decided on December 3, 1949 to establish the office of the United Nation High Commissioner for refugees. As a result of the office of the United Nation High Commissioner for refugees (UNHCR) was setup up on January 7, 1951 for a period of three years. It soon became imperative that the office could not be dispensed after three years and the General Assembly decided to prolong the mandate for a further period of five years, and made it renewable beginning January 1, 1954. Thus, the tenure of the UNHCR has been continuously renewed from time to time. The latest position is that the General Assembly during its session 49 decided to extend the period for another five year from January 1, 1994. The office was established as a subsidiary organ of the

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3 UN. General Assembly official Records, Supplementary No. 20(A/1775) 48 General Assembly Resolutions 319 (IV) of 3 December 1949 and 426(V) of 14 December, 1950.
General Assembly, under article 22 of the chapter⁴ DR. G.J. Van Heuven Goedhart of the Netherlands was elected by the General Assembly as the First High Commissioner for a period of three years.⁵

**Structure of the office:**

The office of the United Nations High Commissioner for Refugees (UNHCR) is a subsidiary organ of the General Assembly. It enjoys a special status within the UN with high degree of independence and autonomy. The headquarters of UNHCR is in Geneva, Switzerland. In 1953 the office had 11 regional offices with 99 staff's.⁶ Whereas at present the office had 11 regional offices maintained in 119 countries and around 5,500 staff members.⁷ The staff are from over 100 different countries. Out of them, around 988 are working at the organization’s headquarters and remaining are in the regional offices.

The office consists of a High Commissioner and an assistant High Commissioner. Apart from them, the office of High Commissioner has been divided into 13 divisions/departments called bureaus. They are as follows:

i. Division of International Protection

ii. Centre for Document and Research

iii. Division of Financial and Information Services.

iv. Division of Operational Support

v. Division of Human Resources Management

vi. Operations for Central, East and West Africa

vii. Southern African Operations

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⁴ Article 22 says that the general assembly may establish such subsidiary organ as it deems necessary or the performance of its functions.

⁵ Secretary-General Report a/c3527-26 October, 1949.

⁶ Nagendra Singh, (1984), the Role and Record of the UN High Commissioner for Refugees, New Delhi, p.59

viii. Great Lakes Operations
ix. Bureau for Asia and the Pacific
x. Bureau for Europe
xi. Bureau for the Americans
xii. Bureau for CASWANAME (Central Africa, South West Asia, North Africa and Middle East)
xiii. Staff council

All the divisions have been divided into further sub-division, sections and desks. These divisions or bureaus work in close cooperation with each other. The UNHCR performs its responsibilities with the help of all regional offices and their staffs. However, the High Commissioner holds the key position and performs its duty in terms of co-ordination, formulation of policy and effective planning. It is the headquarters in Geneva which performs the vital functions under the immediate direction and control of the High Commissioner. The High Commissioner assisted by a Deputy High Commissioner and an Assistant High Commissioner. They are in turn assisted by five important cells which come directly under them e.g. former Yugoslavia Liaison Unit, Inspection and Evaluation Service, Mass Information Unit, Inter-Organizational Affairs and Secretariat services, and Public Information Section.

On the question of the method of appointment of the High Commissioner, two different views emerged in 1950. One opinion was the High commissioner should be elected by the ECOSOC or the General Assembly on the nomination of the Secretary General. The other opinion was the High commissioner should be appointed directly by the Secretary – General. However, the first opinion was accepted through voting in the Third committee, that the High Commissioner would be
elected by the General Assembly on the nomination of the Secretary-General.

This is incorporated in the UNHCR’s statute in para 13. The procedure is that he is elected by the General Assembly on the nomination of the Secretary-General. This ensures the existence of the High Commissioner as one always enjoying the full confidence of the Secretary-General which is an essential element for successful working of the refugee organization. The continuous mutual between cooperation of both the Secretary General and the High Commissioner is an essential requirement for the well-being of refugees. Simultaneously without the UN assistance, the role of refugee organization would be hampered.

The office of the United Nations High Commissioner is usually held by a person of distinction including one from the developing countries who was no less a person than His Highness Prince Sadruddin Agan Khan. Similarly, Poul Hartling of Denmark was the Prime Minister of Denmark from 1973-1975. There have been eight High Commissioners since the organization, was established. The present High Commissioner, Prof. Sadako Ogata of Japan took up office on January 1, 1991. She is a great educationist. Before joining the present office, she was the representative of Japan in the United Nations.

In accordance with the UNHCR’s Statute, the High Commissioner follows policy directions from the General Assembly and Economic and Social Council (ECOSOC) of the United Nations. The High Commissioner presents an annual report about his activities to the General Assembly through the ECOSOC. The administrative and financial aspects of UNHCR’s activities are considered by the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the Fifth Committee of the General Assembly.
An Advisory committee on Refugee was established in 1951 to guide the High commissioner in exercise of his functions. The committee consisted of 15 states. The Advisory committee was reconstituted as an Executive committee in 1955. The new committee was known as United Nations Refugee Fund (UNREF) Executive Committee. The committee retained the advisory functions of its predecessor. The committee was also supposed to supervise the High Commissioner’s material assistance programme and to determine an annual financial target. However, the UNREF Executive committee of the High Commissioner’s Programme in January 1959\(^8\). This committee, at present consists of 53 states. It looks after UNHCR’s budgets and advises on refugee protection. It holds an annual session in Geneva in October every year to approve programmes for the next calendar year and to set the financial target needed to implement them. It can establish subsidiary bodies, as the need arises. For instance, it has set up a standing committee in 1950. UNHCR’s tasks stated therein to provide international protection for refugees and to seek permanent solutions to their problems by assisting governments to facilitate their voluntary repatriation or their assimilation within new national communities.

The realist and neo-realist have failed to incorporate the problems of refugee phenomena within their agenda as their basic assumptions, which force them to negate the possibility of peaceful transformation of international politics. However, within the frame work of neo-liberalism, it is possible to address the question concerning the refugee issues in international relation. Within this framework, it may be argued that refugee problems are not confined within the boundaries of nation states and their solutions require transnational cooperation. This involves not only prevalence of certain international institutions, but also requires

\(^8\) General Assembly Resolution 1166 (XII) and ECOSOC Resolution 672(XXV).
regime formation in the refugee issue area. Such regime may function as
global institution of governance with elements at the local, regional and
international levels. Thus, if both realism and neo-realism fail to address
the refugee question because of their too much concern to power
politics, neo-liberal approach emphasized both managerial and
governability dimensions of refugee problems.

The characteristic of Conventional refugee distinguishes most
from other migrants (for example, those seeking better standards of
living, often confusingly called “economic refugees”) is their need for
protection (Young 1998:6). In crossing an international border and being
unwilling or unable to return, refugees place themselves outside the
realm of protection normally provided by a state to its citizens. The most
central aspect of the role of UNHCR’ is to ensure that refugees receive
that protection by: providing protection against refoulement, providing
their basic physical needs (shelter, food and so on), and ensuring respect
for other basic human rights.

**Role and Functions of UNHCR:**

UNHCR’s international protection function has evolved greatly
from being a surrogate for consular and diplomatic protection to
ensuring the basic rights of persons. While the main responsibility for
safeguarding the rights of refugees and others of concern lies with
States, UNHCR’s statutory role is to assist governments to take the
necessary measures, starting with asylum and ending with the realization
of durable solution. The first chapter of the statute of UNHCR sets two
main functions of the United Nations High Commissioner for Refugees.
These are

I. Providing international protection to Refugees

II. Seeking permanent solutions for the problems of the Refugees

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9 Louise Holborn, No.2, p.87.
In performing the primary functions the UNHCR seeks to provide an international substitute for diplomatic and consular protection of state. The purpose of international protection is to give refugees a recognized legal status and effective implementation of these legal status such as employment, education, residence, freedom of movement and safeguard against being returned to country where refugees may have reason to fear persecution. In performing the second function the UNHCR seeks to facilitate the voluntary repatriation of refugees and social and economic integration of refugees that have been offered asylum.10

The UNHCR also perform the functions of promoting, organising and supervising international action on behalf of refugees protected by former international agencies.

The High commissioner shall provide for the protection of refugees falling under the competence of his office by-

(a) Promoting the conclusion and ratification of International convention for the protection of refugees, supervising their application and proposing amendment.

(b) Promoting through special agreement with host government steps aimed at improving the situation of refugees and reduction of the number requiring protection.

(c) Assisting governmental and private efforts to promote voluntary repatriation or assimilation within new national communities.

(d) Promoting the admission of refugees.

(e) Obtaining from the government information concerning the number and condition of refugees in their territories and the laws and regulation concerning them.

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10 UNHCR, NO.33, P.5
(f) Keeping in close touch with government and inter-governmental organization concerning refugees.

(g) Endeavouring to obtain permission for refugees to transfer their assets and especially those necessary for their resettlement.

(h) Establishing contact in such manners with private organization dealing with refugees questions.

(i) Facilitating the co-ordination of the efforts of the private organization concerned with the welfare of refugees\(^\text{11}\).

The UNHCR also plays a very vital role in co-ordinating aid to refugees. Except in special circumstances, its material assistance activities are conducted through national or local authorities of the country concerned, other organisations of the United Nations system, non-governmental organisations or private technical agencies. Material assistance activities of the UNHCR include emergency through migration to other countries as well as counselling, education and legal assistance\(^\text{12}\).

Providing emergency assistance is a major aspect of the response to the UNHCR to refugees. There has been frequent resort to the emergency funds, which allows the High commissioner to allocate up to $10 million annually. Emergency relief is provided mainly in the form of care and maintenance of new refugees of displaced persons when a variety of basis essential such as food, shelter and medical aid are required on large scale at short notice.

The UNHCR is also developing several emergency systems in order to improve response to emergencies. These include roster of

\(^{11}\text{Year Book of the UN, 1945-46, P.586.}\)

\(^{12}\text{UNHCR, No.33, P.10}\)
trained personnel to respond quickly to emergencies specially filled Cargo plans and a project on early warning of refugees.

The UNHCR also provides intermediate assistance in the form of care and maintenance. That may include the provision of food, shelter, water, health services, sanitation, clothing household utensil and basic education. Whenever feasible those programmes also include vocational training or small income generating activities that prepare refugees for a more productive life and promote a reasonable degree of self-reliance.

The UNHCR has continued to pressure self-reliance as an integral part of its assistance activities and in particular provide refugees more economic opportunities, employment and self-employment. Thus assistance toward self-sufficiency has become an important goal and more supports has gone to institution and into infrastructure in order to achieve a greater degree of sustainability.

**Challenges to refugee protection in the North and South:**

Since 1990, there has been a dramatic shift in a states’ behaviour, which is far away from the observance of the principles of the 1951 Convention in both North and South, placing incredible strain on UNHCR and the international refugee protection regime. In the North, the period since the end of Cold War has been marked by a shift “from asylum to containment,” (Shacknove, 1993) where Western states have largely limited the asylum they offer to refugees and focused on efforts to detain refugees in their region of origin. In South, which continues to host the vast majority of the world’s refugees, are also responding to the mass arrival and prolonged presence of refugees by placing limits on the quantity and quality of asylum they offer.

The asylum crisis in the North originated in the 1980s when the number of asylum seekers were arriving in developed countries due to conflicts in Africa, Asia, the Caribbean, Central America and the Middle
East. For example, asylum applications in Western Europe rose from 20,000 in 1976 to 450,000 in 1990. While this rise in numbers is clearly significant, some commentators have rightfully concluded that “rising asylum claims tell us what governments have been reacting to, but they do not tell us why governments have grasped with such alacrity measures designed to restrict and prevent rather than include and manage those striving for asylum” (Gibney 2001). More significant was the fact that the majority of these asylum seekers came from developing countries, many of whom had travelled to the North with false documents and with the help of smugglers. At the same time, large numbers of illegal migrants used asylum channels to gain entry to Western countries. In response, Western states introduced a series of measures to reduce the number of individuals seeking asylum on their territory. These measures included non-arrival policies, such as carrier sanctions and visa requirements, diversion policies, such as safe-third country agreements, an increasingly restrictive applications of the 1951 convention, and a range of deterrent policies, such as detention of asylum seekers and the denial of social assistance. Over a period of some 20 year, Western states have systematically eroded the principle and practice of asylum to the point where some states, like UK, have openly called for the scrapping of the 1951 Convention and a new international refugee regime, premised on containing refugees within their region of origin (Loescher, 2003). After the 9/11 terrorist attacks in the United States, asylum policies in the North were exacerbated by heightened security concerns and became linked to the so-called global war on terror.

These moves to refuge in their regions of origin, coupled with a rise in global refugee numbers in the early 1990s and the problematic response by the international community have placed a significant strain
on asylum countries in the South, especially in Africa and Asia. As refugee numbers continued to rise in the 1990s, states in the developing world began to place restrictions on asylum. Some states limited the quantity of asylum they offered to refugees, by closing their borders to prevent arrivals, by pushing for the early and often unsustainable return to refugees to their country of origin, and in exceptional cases forcibly expelling entire refugee populations. More generally, states have been placing limits on the quality of asylum they offer to refugees, by denying them the social and economic rights contained in the 1951 Convention, such as freedom of movement and the right to seek employment. Many states in the South now require refugees to remain isolated and insecure in refugee camps, cut off from the local community, and fully dependent on dwindling international assistance (Lechers 2008:101-102).

The gap between refugee rights and reality of protection regime: Rights of refugees

The present concept of international protection has evolved gradually and today implies a series of institutional and legal responses. Projecting refugees and seeking durable solutions to their problems are the two main functions of the High Commissioner for refugees (Fact sheet No.20, Human Rights and Refugees). In practical terms, the tasks of international protection includes the prevention of refoulement, assistance in the processing of asylum seekers, providing legal counsel and aid, promoting arrangements for the physical safety of refugees, promoting and assisting voluntary repatriation, and helping refugees to resettle (article.8 of the statute of the office of the UNHCR).

Thus, the international protection function has a legal basis, its exercise is mandatory for the High commissioner. The right to protection, although not defined as a separate right as such, is implicit in
the 1951 Convention and its fundamental provisions, particularly the principle of non-refoulement.

In addition, many universally recognized human rights are directly applicable to refugees. These include the right to life, protection from torture and ill-treatment, the right to nationality, the right to freedom movement, the rights to leave any country, including one’s own, and to return to one’s country, and the right not to be forcibly returned.

These rights are affirmed, with other civil, political, economic, social and cultural rights, for all persons, citizens and non-citizens alike, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights which together make up the International Bill of Human Rights.

a. “No one shall be subject to arbitrary arrest, detention or exile” (Universal Declaration of Human Rights, article 9);

b. “Everyone has the right to seek and to enjoy in other countries asylum from persecution.” (Universal Declaration of Human Rights, article 14);

c. “Everyone has the right to a nationality.” (Universal Declaration of Human Rights, article 15)

d. “Everyone has the right to freedom of movement and residence within the borders of each state.” (Universal Declaration of Human Rights, article 13, International Covenant on Civil and Political Rights, article 12)

UNHCR’s perception is that refugee protection stands at a crossroads (Feller 2001 b: 136) - It’s most important tool the 1951 Convention-sets out a basis framework that remains directly relevant to many, but not to all, displacement situations. Concerns about the 1951 Convention, specially for what it does not address, have led some states to go so far as to question its continuing value. Many states have increasingly disregarded it or found ways around it. Furthermore,
alliances on protection are shifting. Some states that were formally devout practitioners have started keeping distance its basic as they seek to redefine their responsibilities in the face of changed nature of conflicts, due to larger numbers of vulnerable people, and a globalized irregular migration movement. Waning public support for refugee and a resurgence of xenophobia have found their political expression, in many countries, in taking a harder line toward those who come uninvited. This harder line often is rationalized on the basis of arguments that rest on a few challengeable assumptions.

The first assumption is that the 1951 Convention is outdated, unworkable, irrelevant, or an unacceptably complicating factor in today’s migration environment. (Fetter 2001 b: 136). The fact is that the 1951 Convention was never conceived of as an instrument of migration control. Its terms affect the sovereign right to regulate entry across borders, with a view toward introducing a needed exception for a clear category of persons. States’ inability otherwise to control their borders, or to deport aliens with no valid claim to continue residence on their territories, should not be blamed in the pretext of the 1951 Convention.

The second assumption is that illegal entry is incompatible in many important ways with refugee status (Fetter 2001 c). The fact, however, is that refugee have always entered countries illegally- often without proper documents and with the help of traffickers. None of these detracts from their refugee status. On the contrary, these facts may confirm it. Economic migration is not new, and the attempts of would – be migrants to use asylum channels for entry in the absence of migration programs do not invalidate the asylum process.

A third assumption is that unsuccessful asylum seekers are all bogus (Fetter 2001 c). The fact is that an increasing number of states apply a narrow interpretation of the refugee definition. Many asylum
seekers who are unsuccessful are the victims of this restrictive interpretation, which incidentally is not so applied in the south.

The 1951 convention is sixty years old, but not outdated, human rights principles are not weakened by age. UNHCR decided to take the opportunity—the forthcoming anniversary of the 1951 Convention to initiate a process of open dialogue, or Global consultations, with governments, nongovernmental organizations, and refugee experts with a view to revitalizing the 1951 Convention regime.

**Regional Instruments:**

The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa was adopted in 1969 by Member States of the Organization of African unity (OAU, now the African Union). It complements the 1951 Convention, which contains a broader definition of a refugee (Article I). It is like an obligation to make the best efforts to grant asylum (Article II), provisions for durable solutions (Article V), and provisions on prohibiting subversive activities by refugees (Article III). According to this convention, the term refugee “shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country or origin or nationality.”

Governments’ representatives’ distinguished academics, and lawyers from the Latin America region adopted the Cartagena Declaration on Refugees in 1984. The Declaration established the legal foundations for the treatment refugees in the region, including the principle of non-refoulement, the importance of integrating refugees, and the need to eradicate the causes of mass population movements. The definition of a refugee in the declaration is similar to that found in the
OAU convention.

The Cartagena Declaration considers as refugees are those “persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression international conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”

The Cartagena Declaration is not binding on states. It is, however, applied in practice by a number of Latin American states and, in some cases, has been incorporated into domestic legislation. On the twentieth anniversary of the Cartagena Declaration, 18 Latin American States adopted the Mexico Declaration and Plan of Action to strengthen the International Protection of Refugees in Latin America.

Certain Asian, Middle Eastern, and African states adopted the Bangkok Principles on the states and Treatment of Refugees in 1966. These principles, which are updated in 2001, are significant in that they reflect the views of many states that have had extensive experience in providing asylum, including some states that are not Parties to the 1951 Convention or its Protocol. Like the OAU Convention and the Cartagena Declaration that is broader than that found in the 1951 Convention.

Refugee protection in the context of state security and sovereignty:

The security of individuals is locked into an unbreakable paradox in which it is partly dependent on and partly threatened by, the states. International protections for refugees have been repeatedly frustrated as states have expressed and increased reluctance to offer asylum. One of the main challenges for UNHCR lies in finding the proper balance between international responsibilities towards refugees and legitimate state interests. History has shown that the two are not inherently incompatible and can co-exist: the refugee treaties themselves allow for this (MC Mara 1999:6)
Current anxieties about international terrorism are fuelling a growing trend towards the criminalization of refugees. Refugees have a difficult time in a number of States, either accessing procedures or overcoming presumptions about the validity of their claim, which stem from their ethnicity, or their mode of arrival. The fact that Refugees have arrived illegally does not vitiate the basis of their claim. Because they have a certain ethnic or religious background, which may be shared by those who have committed grave crimes, does not mean they, themselves, are to be excluded. The language of security veils the fact that the threat perception can often be attributed to a policy of containment or to the absence of burden sharing. The end result is the erosion of fundamental principles like the principle of non-refoulement as state feel justified in closing their borders or returning refugees to the country of origin in less than ideal circumstances (Chimni 2000B:11).

With the expansion of the concept of security refugees today are regarded as a source of non-military threat to national security. While scholars and policy makers have devoted time and resources to the study of refugees per se, not much work has been done on the implications of the presence of the refugees on the security of the state that hosts them (Chandran 2003:157). It has been argued that the presence of refugee poses threats to the social, economic and political institutions in the host state. Refugees are considered as security threats for the following reasons:

(a) The inherent tensions among the various groups-each with its own clan, regional, religious and ethnic loyalties have security implication for the host country.

(b) Refugees are involved in petty crimes and become a part of the local underworld, thus increasing the law and order problems in the host country.
(c) The struggles for scarce economic resources results in competition between the local population and the refugees.

(d) The presence of refugees exerts its own influence over local politics.

(e) Refugees pursue their armed struggle against their home state, thus affecting the relation between the host country and the originating country.

The actual security implication of the refugee movements need to be assessed apropos to the refugee generating [home state], the refugee receiving [the host state], and external aspects of home and the host states security. The home state, by driving its citizens out, exposes itself to international criticism and embarrassment, pressures and even intervention for atrocities on its own people. Whereas, the security implications of the refugees in the host country are far-reaching and multi-dimensional evident both in relation to internal and external security. (Muni 1996:24).

The developed world has used the concept of sovereignty as a defence mechanism against the influx of refugee and asylum claimants. It is a well-known fact one of the foundations of immigration policy, including refugee policy, is the concept of state sovereignty. In the contemporary international state system the problem of border control and trans-boundary flows of refugees are ever relevant to states. Refugees-creating forces such as interstate warfare, ethnic cleansing, genocide and famine continue to occur with regularity. Thus the states are finding difficulty to reconcile the need to control their borders with their international obligation to assist and protect refugee. The international instruments providing for the protection of refugees are seen as restraining state’s jurisdiction to control the admission of foreign nationals into their territory. The idea of policing one’s borders to control the entry and residence of non-citizens plays an important role as the
primary symbol of sovereignty, both in terms of separation, and in the
general perception of independence and nationhood.

The doctrine of national sovereignty can be defined as a principal
which reserves to each sovereign state, the exclusive right to take any
action it thinks fit, provided only that the action does not interfere with
the rights of other states, and is not prohibited by international law on
that or any other ground. Under this definition, every sovereign states is
free to do what it wants with its own nation and territory, as well as to
enter into legal relationships with other sovereign states.

Now with such enormous right given to states to determine who
should enter their territorial space is one major fact that is serving as a
hindrance today to the protection of refugees who are seeking for refuge
from persecution or war. States are now taking different restrictive
measures to ensure that refugees do not flux into their boundaries. These
restrictive measures through the excessive power of national sovereignty
exercised by states have directly affected the ability for asylum-seekers
and refugee claimants either to enter the safe country in the first place, or
to claim asylum once they have crossed the borders.

The moral and legal duties of states that are laid out by the
international regime of refugee protection are thus minimized as much as
possible, as states use sovereignty as an excuse to commit themselves to
minimum levels of obligation to nationals of refugee-producing states.

In planning its objectives for protection activities, UNHCR set
itself four overarching tasks: (UNHC Report)

- Combating the deteriorating quality of asylum;
- Improving the efficacy of the international refugee protection system.
- Ensuring worldwide consistency in the application of protection stan-
dards, to address the trend towards regionalization of approaches to pro-
tection.
• Re-vitalizing old and building new partnership for protection.

The primary objective of UNHCR activities are the achievement of durable solution through voluntary repatriation, legal integration in the country of first asylum or where these are not possible resettlement in another country.

The UNHCR has always continued to promote and support effort towards the voluntary repatriation of individual or groups of refugees. The protection element consists of ensuring that repatriation is voluntary and the assistance element consists of helping refugees. Whenever possible to overcome practical difficulties concerning their voluntary repatriation, it also allows UNHCR to ensure that the refugees are given basic help upon arrival in their homeland. Assistance to persons repatriated to their country of origin has frequently proved to be indispensable\textsuperscript{13}.

In all some 731,000 refugees repatriated voluntarily to 46 countries during 2007. Globally, an estimated 11.4 million refugees have returned home over the past 70 years, including 7.3 million with UNHCR assistance.

The object of local integration is to assist refugees and displaced persons to become self-supporting in their country of residence or of first asylum. Local integration projects are implemented to help refugees attain a level of self-sufficiency, comparable to that of local population. As the number of refugees settling in towns is increasing considerably it has necessitated expanding and varying programme for self-reliance, which otherwise tend to focus on rural settlement. In industrialized countries, this is done in a number of ways such as by providing refugees with loans or grants to establish themselves in profession, by

\textsuperscript{13}United Nations Affairs, Vol II, 1989 p.620
assisting them through vocational training to learn a skill or by establishing themselves in gainful occupation\textsuperscript{14}.

Resettlement is one of the important functions of the UNHCR. The UNHCR has actively engaged in promotion of resettlement through migration in close co-operation with interested governments, IGCM, and voluntary of agencies concerned with the resettlement of refugees. Resettlement continues to be the only feasible solution for significant number of refugees. Only a small number of nations take part in UNHCR resettlement programmes and accept quotas of refugees on an annual basis.

In 2007, for example, 49,868 people were resettled in 25 countries. The number of refugees submitted by UNHCR to resettlement countries increased by 83 percent compared to 2006 (54,182 Submissions), with 98,999 submissions in 2007. For the first time in 20 year, UNHCR submissions exceeded the global capacity of resettlement countries (about 70,000 people).

The UNHCR also plays a very vital role in promotion of social services programmes concerning refugees such as health care, health education, nutrition, sanitation, self-help and self-sufficiency community services programmes. The UNHCR also provides medical facilities, physical, social or mental treatment and rehabilitation support are available to disable refugees in several countries of asylum\textsuperscript{15}.

The UNHCR also provide educational facilities to refugees. Primary education is provided through educational assistance components included in multi sectorial projects. In-service training

\textsuperscript{14} UNHCR, Information paper, 1993, p.13

literacy, adult education, skill and language training, together with cultural orientation constitute the main activities under informal education assistance project. The UNHCR has also promoted educational co-ordination between the Ministry of Education and the refugees in order to improve the quality of curriculum in refugee’s camps to develop a refugee teacher training scheme and to provide text book to refugee children.\textsuperscript{16}

The UNHCR also plays a very vital role for providing supplies food aid services. The following main items like tents, commercial vehicle spare parts, fuel and lubricants, medical equipment’s, drugs, and vaccines, food –stuff, permanent shelter, such as warehouse, water treatment equipment’s, agricultural seeds, hand tool household and domestic items have been supplied from time to time to the refugees.\textsuperscript{17}

The UNHCR endeavours to promote self- sustaining durable solutions by planning and implementation of projects that
(a) Are technically and economically viable
(b) Promote refugee participation and self-management.
(c) Are planned within the framework of national or regional development plans, and
(d) Involve local constitution is planning and implementation.

The UNHCR also provides legal assistance to help individual refugees with administrative formalities in their country of residence. It also provides legal help to refugees who are involved in court cases which could adversely affect their refugee status. In planning and implementing programme, the UNHCR constantly seeks the help of a host of other

\textsuperscript{16} Ibid, p.622
\textsuperscript{17} Ibid, p. 623
bodies whose tasks are complementary to its own efforts.

The UNHCR has also been involved in programme ranging from small business development to the creation of whole new communities. Its role is limited, however, to raising and donating funds coordinating relief efforts. It does not undertake relief operation directly. Although, important steps have been taken by the UNHCR, to address the specific needs of refugee women and children, many violation of their safety dignity have been reported. Physical violence, sexual abuse, sexual exploitation and discrimination were among the violations reported.

**Funding of UNHCR:**

The UNHCR is almost entirely funded by direct, voluntary contributions from governments, NGOs and individuals. There is also a very limited subsidy from the regular budget of the United Nations, which is used exclusively for administrative costs. Article 20 of the Statute states:

The office of the High commissioner shall be financed under the budget of the United Nations. Unless the General Assembly subsequently decides otherwise, no expenditure other than administrative expenditure relating to their functioning of the office of the High commissioner shall be borne on the budget of the United Nations and all other expenditures relating to the activities of the High commissioner shall be financed by voluntary contributions.

The UNHCR’s budget is divided into two parts:

1. General Programmes
2. Special Programmes

Both programmes depend on voluntary contributions from donors. The
general programmes are basic, ongoing refugee protection and assistance activities that are planned and approved in advance. They are statutory activities and are divided for the most part by the country and continent. Such type of programmes enable the High commissioner to deal with new refugee situations between sessions of the Executive committee by drawing on the Emergency Fund. These funds are used to finance immediate survival needs, making adjustments in allocations, modifying project allocations, or by drawing on the programme Reserve. In the event, however, of large-scale material assistance projects being required without delay for assistance to a new group of refugees, the High commissioner would consult the Executive committee\textsuperscript{18}. This is provided in a decision taken by the Executive committee at its eighteenth session, when the number of sessions was reduced from two to one in a year\textsuperscript{19}.

The UNHCR’s budget topped US $ 1 billion for the first’s time in 1992. It has since exceeded that mark every year, primarily because of refugee emergencies in former Yugoslavia, the Great Lakes region of Africa and elsewhere. The UNHCR makes considerable efforts to raise funds throughout the year, so that refugees can be immediately assisted with food, shelter and other essentials for their survival. The 1996 and 1997 budgets of UNHCR were US $ 1.43 billion and $ 1.22 billion respectively. Given this dramatic increase in the organization’s budgets

\textsuperscript{18} The High commissioner consults the Executive committee through a special appeal, a mail poll, a meeting in Geneva of permanent Representatives members of the committee, or through a special session of the Executive committee.

\textsuperscript{19} The GAOR Session, Supplement No.11 A (A/6711/Add.1) para.38
over the past 55 years contributions from the UN Regular Budget now account for less than 3 percent of UNHCR’s Annual Budget. As a result, UNHCR is almost exclusively dependent on voluntary contributions to carry out its programs.

In the worlds of Dr. (Ms) Sadako Ogata, “Funding is not easy, but it is a challenge too. If we manage the funds well, the international community and governments do fund us, and this was proven last year. It is very important that there should be international recognition that refugee protection assistance has to be done. It is one of the major global agendas.” According to her the United States continues to be the largest contributor with a very strong commitment to humanitarian assistance and refugee assistance. The other large donors are European community, Japan, Sweden, Netherlands, Norway, U.K, Denmark, Germany, and Spain and so on.
The special programmes are refugee emergency operation, voluntary repatriation and assistance to non-refugees, such as internally displaced people. In the case of Special Programmes carried out at the request of the General Assembly or ECOSOC for the benefit or certain specific groups of persons. The High commissioner can appeal for the funds required to finance such type of programmes. Sometimes the High commissioner initiates material assistance programmes when the General Assembly requests him to participate on the invitation of the Secretary General. In the launching or participating in special programmes, the High commissioner is guided by the humanitarian need.
to assist persons who are of concern to UNHCR and who require urgent help. Table

<table>
<thead>
<tr>
<th>Programmes</th>
<th>Required</th>
<th>Contributed</th>
<th>Result (Short fall)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AFRICA</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Angola Repatriation</td>
<td>21.0</td>
<td>16.5</td>
<td>4.5</td>
</tr>
<tr>
<td>Great Lakes Operation</td>
<td>140.9</td>
<td>150.0</td>
<td>9.1</td>
</tr>
<tr>
<td>Rwanda</td>
<td>114.0</td>
<td>73.4</td>
<td>40.6</td>
</tr>
<tr>
<td>Mali Repatriation</td>
<td>15.7</td>
<td>10.9</td>
<td>4.80</td>
</tr>
<tr>
<td>Horn of Africa</td>
<td>39.2</td>
<td>29.4</td>
<td>9.8</td>
</tr>
<tr>
<td>Liberia Repatriation</td>
<td>14.1</td>
<td>12.1</td>
<td>2.0</td>
</tr>
<tr>
<td><strong>ASIA</strong></td>
<td></td>
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<tr>
<td>Post CPA</td>
<td>23.7</td>
<td>24.5</td>
<td>0.8</td>
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<tr>
<td>Myanmar Repatriation</td>
<td>11.5</td>
<td>12.1</td>
<td>0.6</td>
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<tr>
<td>Sri Lanka Repatriation</td>
<td>8.5</td>
<td>7.0</td>
<td>1.5</td>
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<tr>
<td>Cambodia</td>
<td>2.3</td>
<td>3.0</td>
<td>0.7</td>
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<tr>
<td><strong>SW and CENTRAL ASIA</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Afghanistan Repatriation</td>
<td>19.9</td>
<td>21.2</td>
<td>1.3</td>
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<td>Tajikistan</td>
<td>4.7</td>
<td>5.6</td>
<td>0.9</td>
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<tr>
<td><strong>LATIN AMERICA</strong></td>
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<tr>
<td>Guatemala Repatriation</td>
<td>9.9</td>
<td>10.5</td>
<td>0.6</td>
</tr>
<tr>
<td><strong>EUROPE</strong></td>
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<tr>
<td>Former Yugoslavia</td>
<td>220.1</td>
<td>207.5</td>
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<tr>
<td>CIS Countries</td>
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<td>29.2</td>
<td>8.9</td>
</tr>
<tr>
<td><strong>OTHER</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Other Special Programmes</td>
<td>53.4</td>
<td>50.7</td>
<td>3.1</td>
</tr>
<tr>
<td><strong>TOTAL (GP+SP)</strong></td>
<td>1189.6</td>
<td>1041.7</td>
<td>147.9</td>
</tr>
</tbody>
</table>

Source: UNHCR
The UNHCR’s Relationships with UN Special Agencies:

The UNHCR maintains close contact with several UN specialized agencies in order to carry out its tasks of refugee relief and rehabilitation more effectively within its limited resources. The UNDP administers various projects on behalf of UNHCR in countries, where the latter is not playing an active role. The two organizations studied ways of incorporating a number of established refugee settlements in national development projects. Many successful joint actions have been implemented with UNDP.

The WHO has helped UNHCR revise the contents of the emergency health kit. In addition, WHO has identified a number of health consultants to perform specialized assessment in refugee situations. UNHCR and WHO jointly sponsored the first international conference on nutrition in times of disaster held at Geneva in 1988. UNHCR participated in an Inter-agency mission with WHO, UNICEF, and UNDP to assess the health needs of refugees and refugees affected areas.

The UNESCO has helped the UNHCR in the field of refugee education particularly in providing refugee primary education. The UNICEF has been associated with UNHCR programmes mainly in Africa and Pakistan in the primary health care, water supply and basic sanitation. In Pakistan, UNICEF is currently assisting UNHCR’s vaccination programme and strengthening immunization coverage among Afghan refugee women and children by the provision of equipment and technical staff.

The UNHCR also co-operates with WFP which meets basic food requirements of refugees, with ILO which provide vocational training to refugees, in some countries UNIDO which provides technical fellowship for refugee children, and the UNDRO and FAO and during...
times of natural calamities.

The UNHCR also maintains close relations with other United Nations bodies such as the centre for social Development and Humanitarian Affairs, the United Nations centre for Human settlements, the United Nations Research Institute Maritime Organization (IMO). The UNHCR also participates in global endeavours of the United Nations system such as United Nations decades for disabled persons.

The UNHCR has close relations with voluntary agencies as well. Voluntary agencies have played a major role in the relief and assistance of refugees. They work closely with national governments and UNHCR operating camps for refugees, processing and providing relief and resettlement. The Voluntary agencies are non-political and thus welcomed almost everywhere in the world.

Voluntary agencies have a vital advocacy role bringing attention to little known refugee problems and urging governments to act. The World Council of churches, the International Council of Voluntary agencies and the American Council of Voluntary Agencies have been very active in the field of refugee relief. The positive U.S. reaction to the Vietnamese ‘boat people’ in the late 1970’s was largely due to the advocacy of International Rescue Committee. Voluntary agencies are also able to work with refugees’ long term after official assistance programme have ended. The work of the Lutheran World Federation with African refugees and that of the American Council for Nationalities Service with Indo-Chinese refugees has been notable in this regard.

Besides, UN specialized agency and voluntary agency, the UNHCR remains in touch with intergovernmental organization as well. The UNHCR has close relation with intergovernmental organizations. These organizations are NAM, organization of African Unity (OAU), and Organization of Islamic conference (OIC), Arab League.
Educational, Cultural and Scientific Organization (ALESCEO), Organization of American States (OAS), European Community (EEC), S and ASEAN etc.

The challenges ahead:

UNHCR faces enormous challenges in its task of providing international protection and assistance to refugees worldwide and in helping countries seek durable solution to their plight. Globally, there is less tolerance and more hostility towards refugees than it was fifty years ago and countries in the developed and developing world alike are closing their doors to refugees. As UNHCR, reflects on sixty years of service to refugees worldwide and looks to the future, Human Rights Watch has identified some of the major challenges facing the organization in years ahead (UNHCR report.) These include, the growing threat to the right to seek and enjoy asylum, the funding crisis facing UNHCR and the disparity in the international response to refugee problems, responding to the problem of internal displacement, meeting the specific needs of particular groups such as refugee women, refugee children, Urban refugees and stateless persons, and ensuring the safety of UNHCR and other humanitarian workers. The rights to seek and enjoy asylum from persecution - a core principle of human rights protection and the very foundation of international refugee protection – is under serious threat, not less from the some states who were the primary architects of the international regime fifty years ago. Although the vast majority of refugees continue to seek protection in the world’s poorer nations, it is the wealthy industrialized states of Europe, North America and Australia, that have adopted the most hostile and restrictive refugee policies designed to stem flows and Keep people out.

The Global Consultations on International protection:

The global consultations on International protection, launched in
late 2000, are UNHCR’s contribution to revitalize the frame work for refugee protection established by the 1951 Convention relating to the Status of refugees and its 1967 Protocol, and reequip States to address current humanitarian challenges in a spirit of dialogue and cooperation. The primary objectives are: to reaffirm state’s commitment to the refugee conversion, to resolve interpretative inconsistencies, so as to ensure full and consistent implementation of its provisions, and to devise new tool and approaches to situations not fully covered by the convention.

The first objective was in part realized with the declaration of State Parties in December 2001, where by states reaffirmed their commitment to implement their obligations under the Refugee Convention and recognized the need to work more cooperatively in sharing responsibilities and in providing solutions to refugees worldwide. The framework meeting many of these ambitions become The Agenda Protection, endorsed by UNHCR’s Executive Committee and welcomed by the United Nation General Assembly in 2002. The global consultations process provides a forum to (feller, 2001 c):

- Mark the 60th anniversary of the 1951 convention.
- Reaffirm, in a declaration to be adopted at the 12 December 2001 Ministerial Meeting of States Parties, the collective commitment to the 1951 Convention and 1967 Protocol and the values they embody.
- Encourage states Parties to withdrawn any reservations that they may have made at the time of their accession and encourage States that are not yet Parties to the 1951 convention 1967 protocol to acceded to these treaties;
- Take stock of developments in refugee law and develop guidance on current open interpretative question of the 1951 convention;
• Foster a common understanding of the protection challenges and enhance cooperation to address them;
• Identify and promote practical responses to current protection gaps;
• Develop new approaches, tools and standards to strengthen protection;
• Enable governments to present their view of how to improve the international governance of the refugee problem and the directions to be pursued for refugee protection in the future.

Conclusion-

Though the international instrument remains the cornerstone of international protection for refugees and are the strongest expressions of international concern for the plight of refugees, it has become increasingly clear that they are not sufficient in dealing with the magnitude and complexity of today's refugee problems. Indeed, the emergence of new refugee problems has seriously strained the existing international regime relating to the protection and treatment of refugees by exposing its gaps and conceptual inadequacies. It is now said that the international refugee law is at a crossroad.

Erika Feller, Director of the Department of International protection of the UNHCR has succinctly summarized the principle of refugee protection that the refugee should not be returned to face persecution or the threat of persecution- the principle of non-refoulement; protection must be extended to all categories of refugees without discrimination, the problem of refugee is social and humanitarian in nature, and therefore should not become a cause of tension between states, since the grant of asylum may place unduly heavy burdens on certain countries; a satisfactory solution to the problems of refugees can only be achieved through international cooperation.

Most states fulfil their obligations to protect refugees. Others, however, avoid their responsibility by pointing to a lack of resources,
threats to national security, fears of domestic political destabilization, infiltration by armed groups or drug traffickers, and/or the arrival of ever greater numbers of refugees. As a result, large numbers of people have been and are forced back contrary to the 1951 Convention relating to the status of refugees.

The number of refugees has steadily increased and, while a number of refugee problems have been solved, many more no signs of resolution. Many of the world’s refugees now originate in the Third World and do not necessarily fit the conventions narrow definition of “refugee”. Mass movements also defy the convention’s implied individualized approach to persecution. The UNHCR’s Executive committee has established a working group to study all aspects of refugees’ protection today.

Refugees’ have to move if they are to save their lives or preserve their freedom. They have no protection from their own state—indeed, it is often their own government that is threatening to persecute them. If other countries do not let them in, and do not help them once they are in, then they may be condemning them to death—or to an intolerable life in the shadows, without sustenance and without rights.

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