31 The Role of UNHCR in the Monitoring and Implementation of Human Rights Standards for Refugees and Other Persons of Concern

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Introduction

The “multifaceted linkages between refugee issues and human rights”¹ as well as the “complementary nature of international refugee and human rights law”² govern the dimensions of the Office of the United Nations High Commissioner for Refugees (UNHCR) engagement in monitoring and ensuring respect for the human rights of refugees and other persons of concern.³ Among the many aspects where linkages between human rights and UNHCR’s work are evident are the following:

a) Human rights violations are among the major root causes of displacement, and the UN human rights machinery is particularly relevant in providing valuable country of origin information (COI) which assists UNHCR and States in identifying international protection needs and provides persuasive arguments promoting protection.

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¹ UNHCR, Executive Committee Conclusion No. 95 (2003), (k). See also Human Rights and Mass Exoduses: Report of the Secretary-General, A/58/186, 25 July 2003.
² UNHCR, Executive Committee Conclusion No. 95 (2003), (l).

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b) International refugee and human rights law, which are complementary in nature,\(^4\) underpin all of UNHCR’s work; the role of the latter is particularly important in situations where the 1951 Convention Relating to the Status of Refugees (in the following CSR51) or its 1967 Protocol do not apply.\(^5\)

c) Treaty Bodies and Special Procedures monitoring human rights are essential partners for UNHCR in enhancing the protection of refugees, internally displaced persons (IDPs) and others of concern.

UNHCR’s mandate determines both the basic direction and the limitations of UNHCR’s engagement in the monitoring and implementation of human rights standards for persons of concern. There can be no targeted engagement by UNHCR in the monitoring of human rights where there is no linkage to UNHCR’s mandate as it has dynamically evolved over time.\(^6\) This mandate includes the provision of international protection for refugees, a role in the protection of stateless persons and in the prevention and reduction of statelessness\(^7\) and increasingly, though subject to certain conditions, responsibilities with regards to conflict induced internally displacement situations taken under the “Cluster Leadership” initiative of the Inter-Agency Standing Committee (IASC).\(^8\)

Refugee protection is human rights protection which must be ensured in situations where the authorities of the country of origin, which are primarily responsible for the protection of their citizens, have failed, either because they are unable or unwilling to guarantee the protection of their citizens’ fundamental rights.

\(^4\) Article 5 CSR51 clarifies accordingly that “[n]othing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.”


\(^6\) See V. Türk, ‘UNHCR’s Supervisory Responsibility’, 14:1 Revue Québécoise de droit international (2001) pp. 135–158, at page 138, who explains that consequently the understanding of the term “international protection” “has evolved generally over time from the idea of international protection as a surrogate for consular and diplomatic protection to including gradually broader notions of human rights protection. Today, the institution of international refugee protection, whilst unique in the international legal system, is embedded in the broader international human rights protection regime and also generally linked to effective forms of international cooperation.”

\(^7\) See UN General Assembly resolution 3274 (XXIX), 10 December 1974, as well as UN General Assembly resolution 50/152, 9 February 1996.