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SUBMISSION TO THE JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE Inquiry into the Link Between Aid and Human Rights

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1. Introduction

As the peak non-government agency focusing on refugees, the Refugee Council has a particular interest in ensuring that the current inquiry into the link between aid and human rights includes in its deliberations, consideration of issues pertaining to refugees.

Refugees are, by definition, victims of human rights abuse - specifically the crime of persecution on the basis of their race, religion, nationality, membership of a particular social group or political opinion.

When a person becomes a refugee, the international community assumes a level of responsibility for him/her per virtue both of international customary law and, for signatory States such as Australia, through accession to relevant international human rights instruments. Principal amongst these responsibilities is the obligation of *non-refoulement*, or not sending a person back to a country where he or she will face persecution.

States also have a responsibility - albeit in this case strategic and moral - to help other countries who receive refugees from neighbouring states. As we are currently seeing in the west African state of Guinea, the burden of caring for hundreds of thousands of refugees from Liberia and Sierra Leone is plunging the host state into civil war.

It is from this perspective that the Refugee Council would like to address the current Inquiry, focusing specifically on the following terms of reference:

1. activities which have the advancing of human rights as their objective, in
 - bilateral country programs
 - regional programs in Asia and the Pacific
 - global and multilateral programs, including ... emergency and humanitarian assistance.

2. the utility of differing aid instruments and channels for advancing human rights such as project aid ...

It is not our intention to address the remaining sections of the second term of reference, nor the third term of reference.

We also acknowledge that the Australian Council for Overseas Aid (ACFOA), of which we are a member, and many of our fellow ACFOA members are also preparing submissions to this inquiry. We have thus chosen to leave to them the areas in which they have particular expertise. There is one thing, however, that we all have in common, this being the fundamental commitment to the importance of a rights-based approach to development and humanitarian assistance.

2. Bilateral and Multilateral Aid and Refugees

While much has been made in the press of the increase in the numbers of undocumented asylum seekers arriving by boat, Australia is not and has never been a destination for large numbers of primary or secondary asylum seekers.

In comparison to other western states, the numbers entering Australia are small. In 1999/2000 11,867 applications were received for refugee status. In the same period, almost 80,000 sought protection in the United Kingdom and close to 100,000 in Germany.¹

Even these figures pale into insignificance when put alongside the refugee and IDP² populations many of the world's poorest developing countries are hosting:

Islamic Republic of Iran	1,835,700
Pakistan	1,202,460
Azerbaijan	791,550
Rwanda	711,470
Sierra Leone	704,730
Tanzania	634,530
Guinea	501,950

In many instances the burden of hosting these large numbers has fallen on the country for a considerable period. In the case of Iran, it has hosted Afghan refugees since 1979 and Iraqi refugees in large numbers since 1991. At the same time, Iran has received comparatively little in the way of international assistance to meet this burden. In 2000, the United Nations High Commissioner for Refugees (UNHCR) sought over \$US18.3 million to support its program in Iran. It received less than half of this (\$US7.3 million)³ - an amount equating to approximately \$US4 (\$A7) per refugee.

Reference has already been made to the current humanitarian crisis in Guinea which has come about as a direct result of the pressures placed on the local population of hosting large numbers of refugees. In other parts of the world, the results of the inability to support and protect the refugee

¹ All international refugee figures from UNHCR 1999 Statistical Overview.

² IDP = Internally Displaced Person.

³ UNHCR 2000 Mid-Year Progress Report.

population might not be as dramatic, but they do have substantial implications both for the refugees and the international community. There are many more recent examples, in particular in Tanzania, Sudan and Rwanda.

Returning to the example of Iran. On many occasions for the last decade or so, the Government of Iran has appealed⁴ to western donors to support UNHCR's efforts in Iran and to provide bi-lateral assistance to the government to assist its own efforts to support its large refugee population. As evidenced by the figures above, these appeals have, to a large extent, fallen on deaf ears.

Iran has responded to this by withdrawing certain rights from some refugees and threatening to repatriate others. The so called "Voluntary Return Program" to Afghanistan appears far from voluntary in many instances and there are also reports of a significant number of returnees making their way back to Iran at the earliest opportunity after having been stripped of their repatriation packages by the Taliban. Such developments have led to a general air of unease amongst the refugee population, many of whom have legitimate ongoing fears about their fate should they be forced to return to Iraq or Afghanistan.

Then we see people smugglers entering the equation. These are people with connections who can offer a clandestine passage to a country where the refugees can seek refugee status. Given the profiles of the smugglers' prospective clients, the chances of them being able to deliver on their promises (should the destination be reached in safety) is high. They thus have a willing market of people frustrated by their lack of prospects and support in the country of first asylum, deeply concerned about the possibility of being forced to return to their country of origin and strongly desiring to live in a country where human rights are respected and they have a chance to rebuild their lives and those of their families.

The people smugglers offer their clients many destinations in Europe, North America and more recently, Australia. While the numbers coming to Australia are still very small in comparison to those going elsewhere, we have seen over 4,000 asylum seekers - mainly Afghan and Iraqi - arrive without authorisation by boat in the last 18 months.

The significant point that the Refugee Council wishes to make is that there is a direct relationship between the failure of the international community to protect the rights of the refugees in their countries of first asylum and the proliferation of people smuggling, the results of which are such a concern to the government of Australia.

Western countries no longer have the comfortable option of neither supporting countries of origin nor building ever higher walls to block population outflows.

Genuine and sustained bilateral and multilateral engagement is essential not only to prevent the human rights abuses that lead to the creation of refugees in the first place but also to:

- ensure that refugees have a sustainable future in the country to which they flee so that they are not compelled to seek protection further afield. This entails protecting refugees from being involuntarily returned and also ensuring that their rights are met. In this regard, attention must be given not only to civil and political rights but also to economic, social and cultural rights, particularly in relation to access to employment, education and health care;
- ensure that countries of first asylum are adequately supported to deal with refugees, thus reducing the social, economic and environmental consequences of hosting large refugee

⁴ For example at the annual meeting of the UNHCR Executive Committee.

populations and in so doing, minimising the likelihood of consequent civil unrest. This has implications not just for the refugee community but for the country, in many cases for the region, and for all countries that have relationships (aid, trade etc) with it.

Australia has to avoid falling into the trap of seeking simplistic and parochial solutions for what is, in fact, a complex issue. Further, the jingoistic fear-mungering we have witnessed surrounding the issue of boat arrivals from the Middle East has done nothing more than feed on the prejudices of an ill-informed and frightened public and undermine the chance of finding support for actions that will address the real underlying issues and protect those whose rights have been abused.

3. Project Aid and Refugees

While the principle responsibility for the protection of refugees rests with the host state, and with UNHCR through the mandate given to them by States, those providing direct services to refugees also have an important role to play. The fact that this role exists, however, is not as widely known nor accepted as it ideally should be sometimes by the agencies themselves and more often by the funding bodies.

By and large, non-government organisations (NGOs) working with refugee communities have some practical focus to their work such as water and sanitation, health care, education, income generation or the like. “Protection” is not necessarily written into their mandate and human rights are still in the process of finding resonance within the operational strategies of many aid agencies.

The reality, however, is that NGOs are typically at the front line. Because of their independent status, they are often the first to arrive and provide assistance during an emergency. Then their ongoing presence in the camps allows them to get to know the people and understand the dynamics of camp life. UNHCR⁵ have identified a number of ways in which NGOs can use their presence in camps and settlements to help protect refugees:

- by reporting protection concerns, either to government authorities and international bodies or other NGOs, as they occur;
- by alerting the public and the media to these concerns;
- by promoting international standards amongst government and local officials;
- by offering legal and social advice, and educational and training programs to refugees;
- by monitoring human rights both within the country of origin and within the country of asylum.

To these, the Refugee Council would like to add the following:

⁵ UNHCR: Protecting Refugees. 1999. p25.

- by working cooperatively to ensure that the fundamental rights of refugees are respected (most particularly the right to food, shelter, health care and education) to minimise their vulnerability to exploitation and abuse;⁶
- by recognising the particular vulnerabilities of certain sectors of the refugee population eg children, women, the aged and refugees with disabilities, and ensuring that they have adequate access to support and that the conditions and practices of the camp/program do not exacerbate their vulnerabilities;
- by working with other agencies to ensure that refugees have accurate information about conditions in their countries of origin, in other parts of the host country and in the region so that they can make informed choices about their future; and
- by identifying especially vulnerable individuals who would benefit from resettlement and referring these to embassies and government resettlement missions.

For these important roles to be performed, it is necessary that:

- NGO field staff, project managers and consultants are trained in human rights and are familiar with the mechanisms that exist to protect those whose rights are being violated. By necessity, this must also include a full briefing on the implications of taking particular actions and advice about how best to protect rights without jeopardising the ongoing activities of the agency;
- the project framework within which they are operating recognises that protection is an integral field function that must sit beside the central project focus;
- funding bodies, in particular AusAID, see protection as a legitimate component of any refugee assistance project;
- the Australian Government continues to promote the important role that NGOs play in refugee protection in its discussions with the governments of countries of first asylum and in multilateral fora, in particular in the UNHCR Executive Committee. If NGOs are prevented by host governments from performing their vital functions, not only will refugees suffer but the whole international protection framework will be undermined.

4. Conclusion

It is recognised that this submission leaves many aspects of the link between aid and human rights untouched and only focuses on some of the areas where refugees enter into the equation. The Refugee Council argues, however, that these are important and topical areas for the Australian Government and are worthy of consideration within the context of this inquiry. Further, we contend that it is in this country's national interest to develop long-term strategies in these areas.

In conclusion, the Council wishes to draw to the attention of the Committee some interesting work that has been undertaken by the West Africa NGO Refugees and Internally Displaced Persons Network (WARIPNET), in conjunction with the Lawyers Committee for Human Rights, on the

⁶ For example, the provision of education for children makes them less vulnerable to forced labour or conscription as child soldiers. The provision of sufficient and culturally food to women means that they do not have to prostitute themselves in order to feed their children.

importance of adopting a perspective based on economic, social and cultural rights when seeking durable solutions for refugees. This is included as Attachment 1.