The UNHCR and its mandate on refugee management: the case of Bangladeshi and Myanmar refugees

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Abbreviations

CODEC Bangladesh Community Development Centre
MDMR Ministry of Disaster Management and Relief
MSF Medecins Sans Frontieres
NGO non-governmental organisation
OAU Organisation for African Unity
UN United Nations
UNHCR United Nations High Commissioner for Refugees
WFP World Food Program
This essay is a comparative study of Bangladeshi (former East Pakistani) refugees in India and Myanmar refugees in Bangladesh, and an analysis of the activities of the United Nations High Commissioner for Refugees (UNHCR), particularly during complex emergencies. It also analyses the role of UNHCR as a humanitarian organisation, based on the criteria of its present mandate. It concludes by suggesting that the mandate should be updated.

**Refugees, the UNHCR and its mandate**

The UNHCR defines refugees as people who have fled their country due to a well-founded fear of persecution based on their race, religion, nationality, political opinion or membership of a particular social group, and who can not or do not want to return (UNHCR 1998:n.p).

Refugees are commonly categorised as being of a ‘political’ or ‘economic’ nature. Some people, however, question the validity of this distinction. Loescher (1993:5) argues that some people leave home, either legally or illegally, primarily for economic reasons and are typically labelled as economic migrants. A growing number of people leave principally to escape the violence associated with political instability, the denial of human rights and lack of government protection in their country. Due to the close relationship between political conflict and social problems, it is sometimes difficult to distinguish between refugees and migrants. Technically refugees flee to save their lives, and migrants flee to improve their economic prospects, but the distinction becomes unclear when people leave countries where poverty and violence are direct consequences of the political system.

Discussions about what defines refugees have typically focused on a combination of two different characteristics of their movement—whether it is voluntary or involuntary, and whether it arises from political or economic causes. In practice, ‘voluntary economic’ movement defines migrants, and ‘involuntary political’ movement defines refugees. This dichotomy of economic versus political is somewhat problematic. As quoted in Zolberg et al.

a man’s economic situation is no longer looked on as a natural phenomenon but as a responsibility of the State. The view is steadily gaining ground that the modern State is responsible for the living conditions of its nationals—a perfectly reasonable view given the part played by the State in the organisation and direction of the national economy…In a great many States any measure, whatever its nature, is a political event (1989:31).

Many people who leave their country are not victims of persecution per se, but rather of drought, famine, environmental disaster and economic decline. It would be wrong, however, to draw too fine a line, since political persecution and economic oppression can easily overlap. It is often the poorest members of society who are discriminated against for their race, religion or political beliefs, and people flee from economic conditions which are the direct result of a political failure to guarantee distribution of food, land, jobs or education.
Rapidly increasing demands for asylum from developing–country nationals have created a profound negative reaction from the North. It was argued that most of the requests for asylum were spurious, representing a thinly disguised movement of economic migrants rather than political refugees (Zolberg et al 1989:278).

Persecution as the central characteristic of the refugee was an idea created to fit a western interpretation of asylum seekers. Although governments agreed on a general, universally applicable definition of the term, they were divided on whether the UN Refugee Convention should apply to refugees worldwide or be restricted to European refugees. Ultimately, the view that the Convention should serve mainly as an instrument for the reception and care of European refugees prevailed. Thus, whereas the Statute of the UNHCR placed no temporal or geographical limits on its mandate, the UN Refugee Convention defined the obligations of signatory nations more narrowly, only covering individuals who were refugees as a result of events occurring before January 1, 1951.

The new definition of a refugee, which is centred on persecution, accurately reflected the situation of many East European exiles, but it had serious drawbacks for the large-scale refugee movements that came"to characterise the Third World situation after 1960. If the entire refugee problem was one of persecution, the primary solution would inevitably be resettlement (the western preference) rather than repatriation (the eastern preference). It would also exclude the cooperation of the country of origin. This obliged the UNHCR, in making a favourable determination of refugee eligibility, to make an adverse finding about the conduct of the country of origin in regard to its own nationals.

During the 1960s, the UNHCR focused on emergency assistance, during the 1970s, on repatriation. It underwent a period of sustained growth, and its functions, operations, and geographical outreach expanded to meet the increasing demands placed on it by events in Africa, Asia and Latin America (Loescher 1993:76).

During the 1960s, political problems compounded the difficulties. Portugal objected to calling Angolans refugees, because this implied that Lisbon was sanctioning the persecution of its colonial subjects. The UNHCR wanted to avoid any dispute about the refugee character of these new groups and any question about his competence in dealing with these problems. In 1961, the UN gave the UNHCR authority to assist ‘both refugees within his mandate and those for whom he extends his good offices’. The distinction between ‘mandate’ refugees and ‘good offices’ refugees was completely abandoned in 1965, when the General Assembly requested that the UNHCR provide protection and permanent solutions to all groups within his competence. Humanitarian assistance thus became the primary consideration of UNHCR and protection became secondary.

As new refugee groups emerged in the 1960s, whose circumstances could not be related to events prior to 1951, the limitations of the Refugee Convention became a growing handicap for the UNHCR. In 1967 a protocol signed by many nations was drafted in such a way that any government signing it was in effect agreeing to undertake all the obligations of the original Convention. The most important aspect of the 1967 Protocol
was that it brought the 1951 Convention on Refugees into line with the universal mandate of the Statute of the UNHCR. The UNHCR’s interest in seeking rapid adoption of the Protocol was at least partly stimulated by efforts by the Organisation of African Unity (OAU) to draft its own regional convention on refugees, which the UNHCR feared might compete with or supersede the 1951 Convention. The 1969 OAU extended the definition of refugee in its convention to include ‘every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order…is compelled to leave his place of habitual residence’. In covering individuals seeking refuge from the violence and devastation of war, the OAU offered a significantly broader interpretation of a refugee than did the Convention and Protocol (Loescher 1993:80).

At a time when the majority of the world’s refugees were originated in the Third World, most states had little difficulty accepting the extension of the UNHCR’s mandate to include war victims and other externally displaced persons. As the categories of migrants and refugees expanded, the UNHCR’s program in the Third World dramatically expanded. In particular, its decision under the ‘good offices’ mechanism to assume responsibility for populations displaced by wars of national liberation and by civil and ethnic strife led to its direct involvement in large-scale assistance programs throughout Africa. The major thrust of the UNHCR’s policy toward Africa during the late 1960s and the 1970s was to create refugee resettlement schemes. In sharp contrast to the approach that had been adopted to deal with the postwar European refugee problem, overseas resettlement was rarely offered to Africans (Loescher 1993:82).

In the early 1970s the UNHCR’s mandate was extended further to include people in refugee-like situations if no other agency was available to provide relief, and it applied in at least one case even to people who remained in their own country. However the mandate’s inadequacies became increasingly problematic in the latter part of the decade, when it became apparent that the developing world was producing more and more refugees and that an increasing proportion of them would impose on the international community (Zolberg et al 1989:29).

Most of the movement of refugees in the Third World is caused by war, ethnic strife, and significant socioeconomic inequalities. Deep ethnic division, economic underdevelopment, indebtedness, and unresolved boundary and natural resource disputes have created domestic conflicts and political instability and made it difficult to establish durable state structures. Most conflicts have created not only refugees, but also refugee-fighters. A significant feature of these conflicts is the political and military role played by the refugees themselves. Because most Third World states are ethnically plural societies, many individual communal groups have their own separate identities, often rooted in a common history, culture, religion, and language. Most of these communal groups are dominated by the ruling majority, lack real power, and thus exist without any means to protect or to promote their special interests. They are typically a marginalised sector of society and are often not the beneficiaries of state programs. Ethnic conflicts typically
begin when central governments threaten to alter the communal group’s precarious status or force its members to change their identity or loyalty by seeking cultural and political homogeneity in the form of a new national identity. Armed separatist movements whose objective is either to seize power by overthrowing the government or to set apart their own province and establish their own state unit frequently include politically and militarily active refugee groups, termed ‘refugee warriors’ (Loescher 1993:12–14).

At a time when it is difficult to maintain clear divisions between immigrants and refugees, the inclination of most governments is to label all unwanted migrants, no matter what their motivations, as economic refugees. Ironically, the term economic refugees was first used to describe Jews leaving Germany in the 1930s (Loescher 1993:17).

Large-scale refugee flows are not just the result of wars, internal upheavals, or economic conditions. Frequently they stem from officially instigated or organised state actions. Refugee movements are often provoked by governments in order to reduce or eliminate selected social classes and ethnic groups within their own boundaries. Recently, the Burmese military drove out hundreds of thousands of its Arakan Muslim minority to rid itself of some of its unwanted citizens. Similarly, Serbian militias ruthlessly implemented a policy of ‘ethnic cleansing’ to clear Serbia’s claimed territory of other ethnic groups.

Admission policies for refugees have also been based on political, ethnic, and ideological sympathies. For the first two decades after World War II, nearly all refugees who sought asylum in the West were fleeing the political repression and economic hardship of the Soviet-backed regimes of Eastern Europe. Cultural similarity made for relatively easy integration into the host countries. In the Federal Republic of Germany and in Hungary, ethnic Germans from Eastern Europe and the Soviet Union and Magyars from Romania are automatically considered citizens. Even in the developing world, the response to influxes of refugees has frequently been determined by historical connections and ethnic and cultural links. In 1991, Bangladesh, one of the world’s poorest countries, received several hundred thousand Muslims from neighbouring Burma, despite the devastating effects of this policy on the country’s local economy and environment (Loescher 1993:21).

Throughout the world the gap between international legal and humanitarian standards and actual state practice appears to be growing. As persons outside their country of origin, refugees are entitled under international law to protection by the UNHCR and should be protected from returning home against their will. One major difficulty inherent in the international refugee regime is the difficulty of implementing protection through an international agency when decisions on asylum and treatment remain the prerogative of individual states. Thus the scope of the UNHCR’s actions depends on the policies of the host government and on the pressure other countries can be persuaded to bring to bear on the UNHCR. Even the funds made available to the UNHCR by donor states depend on how useful those states perceive a particular refugee population to be to their own foreign
policy. The extent of the UNHCR’s activities and influence is delineated by political constraints. As the promoter and guardian of refugee rules, the UNHCR can call attention to the legal obligations of governments that are signatories to the UN Refugee Convention and Protocol, but it is limited in its ability to alter the actions of a government that is determined to violate international standards.

The UNHCR’s humanitarian mission can be rendered powerless in certain situations of civil conflict. In the former Yugoslavia, for example, the UNHCR was confronted with the choice of either accepting Muslim and Croatian prisoners handed over to them by the Serbian militia—which would have effectively made them accomplices to the Serbian policy of ethnic cleansing—or refusing to free them from internment in camps or from risk to their lives in conflict zones. The UNHCR cannot fulfil its mandate in situations of such intensity and cruelty.

There were several significant features of the 1951 Convention. These were

- that persecution was to be the essential characteristic of a refugee
- that the approach would be directed towards the individual, not the group
- that external settlement would be the normal solution
- that the term ‘refugee’ specified persons who were outside their country of origin.

Persecution was adopted as the essential characteristic of a refugee in the belief that this would satisfactorily define European asylum-seekers, the majority of whom were from eastern Europe. Although the extension of the concept of persecution to include political opinion as well as religion and race made it quite broad, it was considered that the number of persons fitting this category would pose no problem, because it was a time of renewed migration to the prosperous continents of North America and Australia. However, the ‘persecution’ criteria turned out to be a serious drawback. Also, the countries of origin would not cooperate at all as the normal solution mentioned ‘external settlement’.

Subsequently, many non-western countries either rejected the western approach or regarded it as relevant only to the European refugee situation. Almost all socialist countries, Arab states, Asian countries and major Latin American countries kept their distance and vehemently criticised both the Statute and the Convention. The first problem of major significance arose with the exodus of Chinese refugees from communist China to Hong Kong. Because of the particular political and security factors involved and the lack of resettlement opportunity for Chinese refugees outside the territory of Hong Kong, the British government considered that these refugees did not come within the purview of the Statute. This episode illustrates well the provisional and pragmatic quality of the new approach to the refugee problem. As soon as a situation developed, the political dynamic of which did not correspond with that of the European situation, a different approach was devised. The separate refugee cases of Hungary, Austria and Yugoslavia illustrated that persecution is not always the problem, people may leave for a variety of reasons, some of them quite short-term.
The exile bias of the traditional western approach has been one of the main reasons why so many countries have kept their distance. In the case of Asia the bias poses grave political problems. Since Asia is little more than a geographic expression for an area which has been the birthplace of most of the world’s religions and civilisations, and where two-thirds of the world’s population is found, the problem of religious and racial discrimination is not one that is easily solved by migration. It is in fact a highly complex and significant political question. Today it is of paramount importance that international cooperation in refugee situations be directed primarily towards the prevention of refugee movements, and towards repatriation.

To justify the view that the refugee problem concerns only persons outside the country of origin and countries other than the country of origin, two related arguments have been advanced. First it has been said that this limited view of the refugee problem is humanitarian, whereas any other view, requiring a broader approach, would inevitably be political, that is, partisan or factional. But there is another meaning of the word when it is used in a philosophical context, which relates to the art or science of government. In this sense, the refugee problem is entirely political, since it concerns an individual’s relationship to a polity and the relationship of polities to one another. Also, the humanitarian values are not in conflict with the values that inform the art or science of government. On the contrary, they are, or should be, a basic tenet of that art or science. Too often the distinction between ‘humanitarian’ and ‘political’ has been made to avoid consideration of fundamental issues of justice or of long-term factors which surpass the simple issues of short-term charity that are more convenient to deal with.

Later, the western countries concentrated their attention on donors and refugee-receiving countries and continued to dominate international refugee policy and action through their financial and political power. This occurred despite the fact that most refugee movement was now taking place within the Third World and that most of it was either the result of armed conflict between western colonial powers and indigenous populations, or the result of the political and economic problems which developed in new nations after they were granted independence by western colonial countries. To offset western dominance at the international level, the African countries elaborated their own regional approach to take account of their particular problems. In the 1969 OAU Convention on Refugees, they adopted a much wider definition than persecution, which included compulsion to leave because of external aggression, occupation, foreign domination, or events seriously disturbing public order. This definition was so wide as to make individual determinations of status a mere formality in many cases. It also allowed for the promotion of voluntary repatriation. Although the major western resettlement countries made an effort to screen the Vietnamese boat people as their numbers became a matter of concern, it became apparent that they had to be treated as a group, even though economic factors were the predominant reason for leaving Vietnam. Return to Vietnam was impossible during this period, due to the political and economic situation there, the Vietnamese government’s decided lack of interest in this solution, and the politicisation of the refugee problem.
The focus of the new approach was humanitarian. That is, it was primarily concerned with the immediate needs of the refugees, not with the cause of the problem, or solutions. It was essentially a rich and secure donors’ perspective, it was about charity—often very self-interested charity—not just about justice. Dependence was inherent in this humanitarian approach.

On the basis of a narrow concept of a refugee as a victim of persecution, it may be possible to maintain that many asylum-seekers or clandestine aliens do not suffer persecution; but what is more difficult to maintain in many cases is that they do not come from a society which is oppressive, disrupted or violent. Ultimately, however, the modern refugee problem is not one of eligibility criteria or of immigration controls, it is one of adverse conditions within the country of origin which are forcing people to flee. If the refugee problem is to be solved, the solution must come from the resolution of these adverse conditions.

The UNHCR is an international humanitarian organisation that was created by the UN General Assembly in 1951. It has a worldwide mandate to assist host governments and private organisations in the protection and care of refugees, as well as to promote lasting solutions to refugee crises, including resettlement in a third country or, preferably, voluntary repatriation.

A formal structure for the approach of the first period was finally codified in the 1950 Statute of the Office of the UNHCR and in the 1951 Convention Relating to the Status of Refugees. Significant features of this Convention were that persecution was to be the essential characteristic of the new refugee; that the approach would be directed towards the individual and not the group, that external settlement would be the normal solution, and that the refugee definition specified persons who were outside their country of origin.

Lack of a clear and coherent set of aims and principles inevitably affected the quality and effectiveness of the action and the UNHCR Statute began to show its age badly and the 1951 Convention became largely irrelevant in many emergencies, particularly in the Third World. A draft Convention on Territorial Asylum prepared by a group of experts convened by the UNHCR in the early 1970s included only a brief and passive provision on voluntary repatriation. In its own documentation, the UNHCR consistently refused to accept the human right of return as the starting-point for a consideration of voluntary repatriation, and its documentation on protection persistently reflected its assumption that external settlement, not return, was the normal solution. The subject of voluntary repatriation was considered and valuable recommendations were made, but some of them have yet to be implemented. In addition, the UNHCR’s operational weight has been primarily on care and maintenance and external settlement. A section existed for many years to deal with resettlement, but only ad hoc and often haphazard arrangements were made for voluntary repatriation. For much of the time, the UNHCR did not consider that it had any responsibility to take an initiative in favour of reconciliation or restoration.
Whereas separation and alienation were humanitarian matters, reconciliation or restoration were political and, as such, beyond the UNHCR’s mandate. No durable solution had so far been recommended for the refugee problem.

The Statute of the Office of the UNHCR and the 1951 Convention relating to the Status of Refugees refer to the protection mandate and function of the UNHCR without specifically mentioning his competence on matters relating to the physical safety of refugees. Only the 1969 OAU Convention covers specific measures relating to the security of refugees, countries of asylum and countries of origin. In connection with international protection, there is no UN agency which has a defined mandate to protect refugees except the UNHCR.

At present, the UNHCR’s General Program represents the core of regular UNHCR activities for the protection and assistance needs of the majority of the world’s 22 million refugees and other conflict victims. These include emergency preparedness, funding to jump–start voluntary repatriation, and improvements to the UNHCR’s programming and planning to ensure that the special needs, as well as the inputs, of refugee women and refugee children are addressed. The work of the UNHCR is of an entirely non-political character. It is humanitarian and social and relates, as a rule, to groups and categories of refugees.

**Bangladeshi (former East Pakistan) refugees in India, 1971**

In the case of India, a massive influx of nearly fifteen million refugees from what was then East Pakistan occurred in 1971 following the outbreak of internal conflict which was to result nine months later in the emergence of the new state of Bangladesh. The refugees were part of the mainstream population, consisting of both Muslim and Hindus. Culturally and linguistically, these groups were no different from the local people of West Bengal in India. The Indian government responded to the crisis by promptly making clear that the solution would be eventual voluntary repatriation, not local settlement, and took the necessary measures to ensure that this would in fact happen. The refugees were an important part of the conflict, both militarily and politically. By keeping the border open, India made it possible not only for refugees to enter, but also for insurgents and volunteers to cross the border freely. The refugees had their own encampments which provided a large pool of manpower for the insurgents. The refugees’ testimonies to the world media detailed the atrocities committed by the Pakistani army, their flight demonstrated that the Bengali people rejected foreign rule, and their teeming presence on Indian soil called out for a quick solution that would enable them to return.
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The case of Myanmar refugees in Bangladesh, since 1991

The Myanmar refugees were among the 250,000 people who originally fled from the Rakhine State in Myanmar in 1991, claiming widespread human rights abuse, including rape and excessive unpaid community labour. They are mainly poor Muslim residents of rural background and speak a language similar to a dialect which is widely spoken by the local population in the Cox’s Bazaar district of Bangladesh. They addressed themselves as ‘Rohingya’ a minor racial group. But the Myanmar government recognised them as ‘Myanmar refugee’, not even counted among the 135 racial groups of Myanmar. The people of this small community fled to the host country, because they were victims of religious persecution from their military government. However, Bangladesh is not in a position to sustain this huge refugee population, because of its own population pressures and economic difficulties. But as a member of the signatories, it reacted instantly with a positive attitude towards the refugees and arranged all possible measures to assist them. Of the original group, nearly 230,000 refugees have now returned home, first under a bilateral Bangladesh–Myanmar agreement and later with UNHCR monitoring and assistance. An estimated 21,000 refugees from Myanmar continue to live in two camps in southern Bangladesh. While the bulk of the original refugee population has now returned home, there has been a persistent slow movement of people from Myanmar to Bangladesh. Authorities there say the latest arrivals are economic migrants. However, because of reports of forced labour and harassment in Myanmar, the UNHCR and Bangladesh are discussing an arrangement to determine which of the arrivals are entitled to refugee status.

Comparative analysis of the UNHCR’s role on both groups of refugees

While comparing two country’s situations it is essential to address some particular issues in which the UNHCR has an obvious role. These issues are ‘needs’, ‘repatriation’ and ‘power politics’.

Needs

In 1971 the Indians were angry that they had received so little support on the refugee problem from either the East or the West. The Indian Prime Minister, Mrs Gandhi, declared that the international community should not run away from its responsibilities and that it would suffer from the consequences of whatever happened in this part of the world. The world has not been faithful to the refugees. The actual aid received is less than a tenth of the amount promised by the nations of the world. At Brighton, Labour published a peremptory statement expressing grave concern over the ‘totally inadequate response of the world community to Bengal’s vast refugee problem.’ Oxfam announced with open desperation that ‘tens of thousands of children face slow death.’ A huge international relief apparatus was set up under a special coordination organisation, the UN Focal Point, as demands exceeded the capacity of the regular UNHCR machinery. But only about half of the estimated outlay of $400 million was covered by external sources.
On the other hand, from the very beginning of the Myanmar refugee problem, the UNHCR responded positively. A large number of volunteer organisations also acted promptly. All of the agencies are working under the UNHCR’s direct supervision. The World Food Programme (WFP) is the major food delivering organisation. The care and maintenance project is currently implemented by the Ministry of Disaster Management and Relief (MDMR) and by a number of NGOs: MSF–France and Holland, Save the Children Fund–UK, OXFAM, CONCERN and the Bangladesh Community Development Centre (CODEC).

During 1996, financial support towards basic, non-formal, education activities was introduced, benefiting all illiterate boys and girls enrolled in various educational activities in the camp. Priority is being given to the attendance of girls. Special literacy programmes for young women are planned for implementation at a later stage. The culturally sensitive issue of how to involve women in the distribution of food is also being addressed in an active manner by the WFP and the UNHCR with the involvement of camp officials, NGOs and the Bangladesh Red Crescent Society which is responsible for the distribution of food in the camps. Immunisation programmes continue to be implemented in all camps.

Significant differences have been observed in serving the refugees in each case. In the case of India, the basic needs of refugees were not met, even the international organisations ignored their requirements for help and assistance. On the other hand, refugees in Bangladesh received proper care and maintenance and even experienced long term benefits.

**Voluntary repatriation**

In December 1971, some fifteen million refugees returned to their country of origin, the newly-formed state of Bangladesh. Although during this decade the number of returns has, so far, not been nearly as high, return is nevertheless being considered on all sides as the eventual solution for the great majority of the refugees in the world. And, in all these cases, this is what the refugees themselves desire.

For the Myanmar refugees the UNHCR promotes voluntary return in the camps in Bangladesh through separate information sessions for males and females and ensures the voluntary nature of the decision to return by interviewing privately the head of each family prior to return. Persons who wish to change their mind, and do not want to be repatriated, are able to do so during the interview and/or up until departure. Each person has to receive clearance from the Myanmar authorities prior to return, which is a more time-consuming clearance process. A three person team, including a protection officer of the UNHCR, one official from the Bangladesh government, and one refugee representative, has been established to review complaints against voluntary repatriation.

The UNHCR also continues to monitor actively the reintegration process of returnees. The most important aspect of this monitoring role is to ensure, through continuous dialogue with the Myanmar authorities, that the rights of returnees are respected and that
they are not treated differently to other citizens of the Rakhine State. UNHCR staff have unhindered access to the returnees and can travel freely in the area of operations. Protection cases brought to the attention of the UNHCR during these visits, or by returnees visiting UNHCR Offices, have been addressed promptly by the authorities and resolved in a satisfactory manner. Since the beginning of the UNHCR-assisted repatriation, only a few cases of physical abuse and extortion of returnees by local authorities have been reported. In all cases, the UNHCR’s intervention was successful and resulted in decisive administrative action by the Myanmar authorities aimed at preventing any repetition of such incidents.

Between March and May 1996, several thousand refugees from the Rakhine State in Myanmar are reported to have arrived in Bangladesh. According to interviews with new arrivals and the monitoring of circumstances in areas of origin, it would appear that poverty and food shortages constitute the principle reasons for departure. While there is no conclusive evidence that other factors constitute reasons for departure, the UNHCR is concerned about reports of possible human rights infringements within the Rakhine State and is closely monitoring the situation. The UNHCR’s principal operational aim is to alleviate the poverty gap in areas of origin through the expansion of income generation measures and other measures directed towards improving self-reliance and anchoring economically vulnerable communities, of which returnees are an obvious part.

An elaborate programme, including a WFP food–for–work component, is now taking shape. Priority will continue to be given to those small-scale projects which primarily benefit women and children (health education, wells, crop and livestock projects, productive and small-scale income generation activities). The UNHCR will continue to promote the implementation of projects which create economic opportunities, particularly for those groups known to be the poorest, such as the landless families dependent on casual labour and other socially and economically vulnerable families. Income generation activities such as the establishment of small-scale enterprises, cash–for–work/food–for–work and land allocation programmes thus remain high priorities. In an effort to stabilise both the returnee population and their local communities, the UNHCR has set up a series of micro-development projects in health care, water, sanitation, education, food security and income generation for the most vulnerable families.

The basic difference in the repatriation stage is that in case of Bangladeshi refugees it was more than voluntary. The country they left was then free of enemies and there were no racial issues that could affect the returnees. They also had their belongings in the country of origin. The UNHCR has had a minimal role in this issue. Rohinga refugees are under a programme of continuous motivation by the UNHCR. In fact, as they are not recognised as residents of Myanmar there is no difference in their refugee status while in their country of origin or in the host country. Furthermore, Bangladesh, as a host country, cannot allow and provide asylum due to its own considerable range of problems. It has been asserted that refugees, unlike other human beings, do not want to return to their countries of origin.
This could be true only for a relatively small number of refugees, who have never had any real sense of belonging to their country of origin. The vast majority of refugees dream of being able to return home one day. It is true, however, that refugees normally have no desire to return to a country while the conditions that initially caused them to leave remain unchanged.

**Influence of power politics**

The two superpowers, deeply polarised during the decade of 1970s, were ranged against each other over the issue of Bangladesh, notwithstanding the reign of terror and genocide unleashed by the ruling Pakistani military junta to abort the transfer of power to the elected majority. Some perspectives on the failure to take action by the UN, arising out of the alignment of the great powers—with the USA and China supporting Pakistan and former U.S.S.R. supporting India—and the considerations shaping the United States policy of delicate diplomacy behind the scenes, are given in the United States Congress Hearings before the Sub–Committee on International Organisations and Movements. There were tardy but distinct signs from Islamabad (the capital of Pakistan) that the enormity of the blunder and the situation were sinking in. Gradually, a bloody and desperate situation in Bangladesh was forcing reappraisal. But the US, as Senator Kennedy revealed, was still supplying millions of dollars worth of military hardware to the Pakistani army. The reason that President Richard Nixon took notice of the 1970 East Pakistan cyclone disaster was because Pakistan was a key component in his China policy and, at the time of the disaster, Nixon was focusing considerable attention upon Pakistan. In 1971, according to a White House official, reports of millions of refugees crossing into India from East Pakistan were given scant attention. It was suggested that relief should be distributed by the Pakistani military in Bangladesh, but there was little interest in providing assistance in the refugee camps in India. The White House was concerned only with presenting Pakistan as a stable regime. Two miles away, at the US Department of State, senior officials, who had no direct responsibility for refugees, took the position that the refugee influx represented one of the most serious threats to South Asian regional stability since Indian independence. These State Department representatives felt that India—not Pakistan—was the critical component of South Asian security.

The nature of humanitarian aid is always a big question, whether it is political or just humanitarian. The former Secretary General of the UN, Kurt Waldheim, is reputed to have said that ‘four years ago [1974] I believed that humanitarian relief was above politics. Now I know that humanitarian relief is politics.’ International refugee officials have realised for some time that whatever power they exercise depends largely on the financial and political support of the United States government and other large donor countries. The policies of these organisations therefore primarily reflect the interests and priorities of the major donor countries. The UNHCR and voluntary agencies simply lack the financial independence and institutional strength to challenge their largest benefactors. For the most part, UN institutions are unable either to prevent human rights violations or to punish
those responsible. In some measure, this is because prevention of human rights abuses depends on overcoming the barrier of national sovereignty, something no international organisation has yet managed to accomplish consistently.

Although it has a mandate to protect refugees, when a repatriated group of Rohingya refugees started to return to Bangladesh in 1996, the UNHCR couldn’t intervene to protest against the cause of refugee outflows since this mandate takes effect only after flight has occurred. The UNHCR can call attention to the legal obligations undertaken by governments that have adhered to the UN Refugee Convention and Protocol, but it is limited in its power to influence the actions of a government that is determined to violate treaty commitments to aid and protect refugees. It is further constrained in that, in order to mount refugee relief operations, it must not only secure permission from countries of asylum to operate within their territories, but also raise money from donor governments. As a result, the world’s principal refugee protection agency is prevented from unduly criticising either the host or donor governments’ policies towards refugees. UNHCR officials are therefore inclined to avoid raising delicate political questions when dealing with humanitarian issues for fear of overstepping their mandate or damaging relations with sensitive governments, most of which would consider such intervention to be interference in their internal affairs.

A large percentage of the world’s refugee population consists of persons who have been refugees and have lived in camps for many years. As a result of this stalemate, the bulk of the UNHCR’s resources is now spent in many instances on care and maintenance programmes for refugee camps in the Third World, rather than on finding alternative solutions to refugee situations or on protecting the rights of refugees. This failure to resolve refugee problems has led to what has been termed a ‘crisis in durable solutions’. The weaknesses of the present international refugee regime have prevented it from finding solutions to refugee situations and offering proposals for initiatives designed to obtain these solutions. Since its inception over thirty–five years ago, the UNHCR has relied to a great extent on resettlement in the traditional immigration countries as the normal solutions to these problems. In the process, the UNHCR downplayed, or ignored altogether, the question of developing relations with the creators of refugees—the countries of origin. In the absence of any such relations, voluntary repatriation programmes were difficult to negotiate, and the burden of the refugee problem fell on neighbouring host countries or resettlement nations overseas.

Refugee protection and assistance around the world still depends on generosity, but the refugee problem is essentially political. Its prevention and solution, therefore, are not just matters of international charity or humanitarian action by the UNHCR and other agencies. Ultimately, they depend on wider political and diplomatic actions taken by regional and extra-regional states, and by international organisations, to manage regional and ethnic conflicts, and to initiate both the reintegration of refugees and other displaced people and the economic reconstruction of war-ravaged areas of the world.
Action for the prevention of refugee movements can take a number of forms. In a general form it can be a warning to a country of origin or to other states, or to the international community as a whole that, if conditions are left unchecked, transfrontier movement will take place. Today, the UNHCR is responsible for an organisation which must be much more than an operational body charged with care, maintenance, and external settlement of refugees. He must concern himself also with causes and prevention as well as with reconciliation and restoration. To advise and assist him in his key responsibility—seeking solutions—he needs a pool of staff with political experience, diplomatic background, regional expertise and a wide range of international experience.

Situations occur where there is pressure to return but where the circumstances are not conducive to this, such as where there has been no fundamental change in the conditions which gave rise to the refugee situation or where conditions or guarantees relating to return are unsatisfactory. Situations also occur where the pressures are such that the refugees have no choice in the matter and proposals for ‘assuring’ the voluntary character of decisions to return are virtually meaningless. It is here that the UNHCR needs all the authority and influence at his command to defend the interests of the refugees and to fulfil his mandate to protect. For the refugee to be able to choose freely between returning and staying there must first be a fundamental change of circumstances in the country of origin. The approach must be solution-oriented, giving primary emphasis to prevention and to reconciliation and restoration.

One of the commonly stressed priorities for the UNHCR and other international aid agencies is the need to establish mechanisms to make timely responses to future refugee emergencies. Although developing sophisticated methods of predicting emergencies could be helpful in the future, in many situations local sources of information about impending disasters or migrations are already available and are routinely ignored.

References
