

The Bangkok Principles on the Status and Treatment of Refugees

Merrill Smith, Advisor to the Fahamu Refugee Trust, contributed this article highlighting the usefulness of the Bangkok Principles.

The Bangkok Principles. Never heard of them? Don't feel too bad. Many seasoned refugee advocates haven't either but they should soon, so now might be a good time to read up!

The 1966 [Bangkok Principles on the Status and Treatment of Refugees](#), or 'Bangkok Principles', are a product of the [Asian-African Legal Consultative Organization](#) (AALCO), an international governmental body based in New Delhi. It was originally known as the Asian Legal Consultative Committee and formed shortly after the 1955 Bandung Conference in Indonesia, one of the formative meetings of the Non-Aligned Movement of less developed States that sought to steer a neutral path during the Cold War between the United States and the Soviet Union. AALCO currently has 47 Member States in Africa, Asia and the Middle East, including — notably for our purposes — the following 23 that are *not* party to the 1951 Convention relating to the Status of Refugees: Bahrain, Bangladesh, Brunei, India, Indonesia, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mongolia, Myanmar, Nepal, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Singapore, Sri Lanka, Syria, Thailand and the United Arab Emirates, i.e., about half the States that have not ratified the Convention or its Protocol.

Also in this issue:

African refugee and migrant rights resolution	2
Asia Pacific model refugee rights pledge	4
MIGREUROP explores readmission instruments	5
The situation of refugees in Israel	6
Requests	6
Question & answer: the Cessation Clause examined	7
The Cessation Clause: a primer	8
Extradition of alleged <i>genocidaire</i>	10
Women seek asylum from Saint Vincent and Grenadines	10
WikiLeaks diplomatic cables: a refugee legal aid tool?	10
In limbo in Latvia	11
Country of origin & legal news	12
Publications	16
Announcements	17
Opportunities	18
Asia Pacific regional detention workshop	19
Links	19

Many of these States refrained from ratifying the Convention out of perceptions that it is a Cold War instrument privileging political refugees over others in need of protection, giving UN agencies excessive license to interfere in their affairs, shifting burdens to developing countries, and apparently not consistently binding developed countries in any event (Abrar 2001). The Comprehensive Plan of Action for refugees in Southeast Asia, on the other hand, foundered on the United States' politically motivated refusal to countenance the repatriation of even economic migrants (Betts 2006).

AALCO only adopted the final text of the Principles at its 40th Session in New Delhi, 24 June 2001. But the Principles were making waves even as early as 1981 when Pakistan cited their expanded refugee definition (see below) in according Afghan refugees *prima facie*, group protection (Oberoi 1999) — did you know that? Me neither. The Principles proclaim themselves to be 'declaratory and non-binding in character and aim *inter alia* at inspiring Member States for enacting national legislation for the Status and Treatment of Refugees and as a guide to deal with the refugee problems'. Nevertheless, a look at all the notes, comments and reservations that form an integral part of the document reveals States negotiating something they seemed to take more seriously than a mere declaration. We can't call it *law* until some legislative, judicial and/or executive authority in the region says it is but, as a political matter it would seem difficult for any Member State to distance themselves from the Principles if they failed to object or to declare a reservation when they had opportunity to do so (demonstrated by those who actually did so).

Okay, that's interesting, but what do they actually *say*? Quite a lot actually. For one thing, the Bangkok Principles include a broad refugee definition expressly including persons fleeing persecution for reasons of colour, ethnic origin, and gender in addition to the five traditional grounds of the 1951 Convention. They also include persons fleeing 'external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of [their] country of origin' and their lawful dependents. The Governments of Singapore and India declared reservations to this definition. The other Member States, we may therefore presume, agreed to it. The Principles make granting asylum a sovereign choice but also prohibit *refoulement*.

The Principles' minimum standards of treatment are no great shakes and do not offer anything like the 1951 Convention's 'anti-warehousing' rights to freedom of movement, choice of residence and various ways to participate in the economy and earn livelihoods. Nevertheless, Article IV at least provides for 'treatment no less favourable than that generally accorded to aliens in similar circumstances, with due regard to basic human rights as recognised in generally accepted international instruments' and adds helpfully that '[a] refugee shall not be denied any rights on the ground that there is no reciprocity in regard to the grant of such rights between the receiving State and the State or Country of nationality'.

The Principles also include a number of rights to which the 1951 Convention does not even come close. Article VI, for example, provides a right of return. Article IX actually establishes a right of compensation from the source State for bodily injury, deprivation of personal liberty, death of the refugee or of the person on whom the refugee was dependent, and destruction of or damage to property and assets, caused by the authority of the State or country, public officials, or mob violence! The Governments of Bahrain, Jordan, Kuwait, Pakistan, Sudan, Tanzania, Turkey and United Arab Emirates took a dim view of this innovative proposal and all declared reservations 'in view of the financial and economic implications'.

Article X recognises an explicit

principle of international solidarity and burden sharing ... applying to all aspects of the refugee situation, including the development and strengthening of the standards of treatment of refugees, support to States in protecting and assisting refugees, the provision of durable solutions and the support of international bodies with responsibilities for the protection and assistance of refugees ... through effective concrete measures where major share be borne by developed countries in support of States requiring assistance, whether through financial or material aid (or) through resettlement opportunities.

So what should we make of the Bangkok Principles? At a minimum, its nonaligned pedigree takes away the disingenuously nationalistic arguments you sometimes hear about refugee protection in the global south necessarily being some kind of hegemonic imposition of the *metropole*, although frankly I have heard such things more often from middle class white academics than from actual third world political leaders. And articulating a principle of burden sharing aimed at 'development and strengthening of the standards of

treatment' is a major advance. Can we get the developed countries to step up to the plate? The US Committee for Refugees and Immigrants (USCRI) presented some ideas on how this might work in '[Moving forward: Identifying specific measures to end refugee warehousing](#)' at UNHCR's 2004 Consultations with NGOs but experience has not been encouraging. Rich countries seem more interested in subsidising their domestic constituencies in the humanitarian aid industry than supporting local service providers in the communities that actually host the bulk of the world's refugees. That this may lead to long-term refugee warehousing rather than the freedom, dignity and human autonomy the 1951 Convention offers seems merely incidental.

And it is not as if host country civil society in Asia has not asked. Over 1,000 Thai organisations, leaders and individuals submitted an October 2009 open letter to international donors calling on them 'to commit funding for more rights-friendly, community-based alternatives [for refugees] instead of forced encampment'. They continued, 'Thai community groups are willing to 'adopt' and host refugee families-much as similar groups resettle refugees in other countries. With the right policies, they can help refugees integrate and become productive and self-sufficient'. USCRI's international '[Statement calling for solutions to end the warehousing of refugees](#)' also gathered hundreds of endorsements from businesses, labor organisations, faith groups and notable individuals throughout Asia and the Middle East, including C.R. Abrar, Kabir Chowdhury, Mohammad Azam Chaudhry, the Dalai Lama, Oroub El-Abed, Kamal El Mesbahi, Thich Nhat Hanh, Ijaz Hussain, Saad Eddin Ibrahim, Phra Atikarn Inta Intaveero, Medhi Lahlou, Kamol Kamoltrakul, Phra Kittisak Kittisophon, Surapong Kongchantuk, Dr Cynthia Maung, Clovis Maksoud, Mae She Sushil Pyakurel, Tek Nath Rizal, Loretta Ann Rosales, Wilaiwan Saetia, Ranabir Samaddar, Nasim Hasan Shah, Suvimon Suebsarakam, Phra Kru Taworasarnkitjanurak, Phra Thammakittimethee, Pornpimon Trichot and Jon Ungphakorn.

The developed world was expressly *not* a part of the development of the Bangkok Principles — then-US Secretary of State John Foster Dulles boycotted the 1955 Bandung Conference, but Harlem Congressman Adam Clayton Powell showed up to wide acclaim. Could there be the seed of a Grand Bargain here? The Principles could benefit from explicit inclusion of freedom of movement and the right to work. Could those be bargaining chips left off the table for now? Maybe if the donor nations would ante up we can find out. •

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Resolution on the rights of refugees, asylum seekers, migrants and displaced persons

Justice without Borders for Migrants brought to our attention this rights advocacy resolution, adopted by the Forum of African NGOs at the 50th session of the African Commission on Human and Peoples' Rights in October this year.

We, the civil society organizations (CSOs) meeting in Banjul on 17 October 2011;

Noting keenly the dizzying increase of violations of migrants' rights, in particular in African countries including: racial discrimination, xenophobia, gender based discrimination and violence, raids and physical attacks, inhuman and degrading treatment, torture, killings, sexual assault, trafficking, arbitrary arrest, inhuman conditions in detention, forced and collective deportations, *refoulement*, violation of due process rights and the right to fair trial;

Concerned by these flagrant violations of the rights protections in the African Charter on Human and Peoples' Rights, including the principle of non-discrimination (art. 2), right to respect for life and the physical and emotional integrity of the person (art. 4); prohibition of torture and inhuman treatment (art. 5); prohibition of arbitrary arrest and detention (art. 6), right to fair trial and appeal (art. 7); right to freedom of circulation (art. 12.1); right to asylum (art. 12.3); principle of legality in an expulsion procedure (art. 12.4), and prohibition of mass expulsions (art. 12.5);

Conscious of the central role of the African Commission, including as framed in the African Charter on Human and Peoples' Rights, which states that the African Commission should cooperate with other national and international institutions and civil society organizations concerned with the protection and promotion of human and peoples' rights;

Observing that the NGO Forum is the ideal framework for joint action of civil society organizations in the defense of the rights of persons in Africa;

Convinced of the importance of freedom of movement such as that articulated in the Universal Declaration of Human Rights of 1948, the African Charter of Human and Peoples' Rights, and article 13 of the International Convention on the Protection of All Rights of Migrant Workers and their Families, adopted by UN resolution 45/158 of 18 December 1990;

Aware that the mandate of the Special Rapporteur on Refugees, Asylum Seekers, Migrants and Displaced persons needs the constant support of partners in particular those from civil society;

Concerned by:

- The lack of an adequate strategy that responds to the needs of African countries in the face of the global approach to migration ;
- The externalization of the protection of borders by European countries in Africa;
- The increasingly recurrent signature of readmission accords and the conditioning of aid for development to the demands of European migration policy. Article 13 of the ACP accord of Cotonou of 23 June 2000 stipulates for example that 'the parties take account, in the framework of development strategies and the national and regional programming, the structural constraints linked to the migration phenomenon in view of supporting the economic and social development of the regions of origin of migrants and the reduction of poverty...';

- The absence of an African legal instrument, such as a convention, for the protection of African migrants at the same level as those which protect refugees and displaced persons;

- The high incidence of xenophobic violence endangering livelihoods and violating the human rights of refugees and forced migrants'

- The concurrent problems facing refugees and migrants when they attempt to seek recourse with government authorities and access public health and education systems;

- The increasing vulnerability of women and unaccompanied minors who are vulnerable to trafficking and exploitation;

- The silence of African states on LGBT refugees and asylum seekers;

- The worsening of migration policies in North Africa following the events of Ceuta and Melilla and their persistence despite the events of the 'Arab Spring;'

- The lack of cooperation between different institutional actors at the national, regional and continental level;

- The persistent impunity in African and other States after the violation of the rights of African migrants;

We, participants of the African NGO Forum, have put into place a Sub-group on the Rights of Migrants within the Working Group on Refugees, Asylum Seekers, Migrants and Displaced Persons.

We, participants of the African NGO Forum request the ACHPR to adopt a resolution inviting African States to adopt:

- A **convention on the rights of migrants** at the same level of those for displaced persons and refugees in Africa;

- An **adequate strategy at the continental level** to respond to the needs of African countries in the face of the global approach to migration;

- An **integrated approach** by African States which refuses European migration policy including readmission clauses that have become more and more recurrent in economic cooperation accords such as the EU/ACP accord;

- A comprehensive review process before accepting or initiating cessation clauses on refugee status.

Finally, we invite:

- The Honorable Madam Commissioner, Special Rapporteur on Refugees, Asylum Seekers, Migrants and Displaced Persons, to conduct visits in state parties to investigate the situation on the ground of the rights of migrants;

- All State members of the African Union to ratify and domesticate the regional and international legal instruments including those relative to the rights of all migrants workers and members of their families;

- State parties and the African Commission to undertake reforms aimed to facilitate judicial recourse to improve access by victims and civil society actors to justice at the national and regional level;

- The ratification of the Kampala Convention. •

Model pledge towards upholding refugee rights worldwide

As part of its commemoration of the 60th Anniversary of the 1951 Refugee Convention, the *Asia Pacific Refugee Rights Network (APRRN)* has asked governments in the Asia Pacific region to make these pledges towards the upholding of refugee rights.

The 60th anniversary commemoration of the 1951 Refugee Convention presents an opportunity to focus states' attention on various problems that refugees, migrants, stateless and displaced persons are faced with. These may include among others, xenophobia and hate crimes, discrimination, non-entree, detention, *refoulement* and absence of social protection.

From an instrument designed to protect mostly those civilians fleeing the worse excesses of World War II, the 1951 Refugee Convention has developed into a set of principles, customary rules, and values that are now firmly embedded in the human rights framework, and are applicable to a far broader range of refugees. In addition, international refugee law has been affected by international humanitarian law and international criminal law (and vice versa). Thus, there is a reinforcing dynamic in the development of these complementary areas of law. At the same time, in recent decades states have shown a renewed interest in managing migration, thereby raising issues of how to reconcile such interests with refugee protection principles. In addition, the emergence of concepts of participation and responsibility to protect promise has an impact on international refugee law.

We have observed the growth in the use of immigration detention throughout the region, and its impact on the treatment and protection of refugees, asylum seekers and vulnerable groups, such as children. Many individuals are detained for prolonged periods, in conditions below international standards, and denied the right to asylum procedures and to review their detention. The detention environment has been found to negatively impact on physical and mental health and increase the likelihood of ill-treatment, human rights abuses and *refoulement*. To address this, many states have begun exploring and implementing alternatives to immigration detention, which have been found to be cheaper than detention and effective in ensuring compliance in the community.

We have experienced that legal and social assistance is essential in order to help asylum seekers win recognition as refugees and help them restore their lives with dignity. Categorically speaking, the post 9/11 world has witnessed increasing restrictions on asylum, narrowing anti-immigration policies and growing sentiments of xenophobia and suspicion, not to mention the government measures enacted and implemented today in the name of enhanced securitisation of migration.

The governments of the Asia-Pacific region are obliged to respect and safeguard the rights of refugees by the virtue of common humanity, international human rights obligations and the treaties governing refugees. Protection of refugees is not merely a charity but an obligation. Thus, we would take

this opportunity to urge the states in the Asia Pacific to embrace the following pledges in the field of refugee rights regime:

Pledges by the governments of the Asia Pacific region

1. We shall consider accession to the Refugee Convention and Protocol, if it has not already done so, and incorporate an expanded refugee definition into the national laws, along with the accession to international human rights treaties relevant to refugee protection and also shall consider framing a regional arrangement specifically for refugees. Also, we shall consider enactment of national legislation in conformity with international standards without undue delay.
2. We shall periodically review the validity of reservations and restrictive interpretations of the Convention and shall take into account the Conclusions adopted by UNHCR's Executive Committee and guidelines on a range of refugee-related issues - in devising national systems of refugee protection.
3. We shall respect, among others, the right to be able to escape, to be accepted, to be provided shelter, not to be penalized for seeking refuge and not to be exposed to the risk of return and recognise the basic human dignity including the right to preservation of a family unity, freedom of thought, religion and education.
4. We shall adhere to the principle of non-discrimination on the basis of race, ethnicity, religion, sexual orientation, gender, disability or other similar statuses and vow to fight the problem of xenophobia which has taken the form of bias-motivated violence--a pernicious form of discrimination in which individuals are targeted.
5. We shall support for meaningful participation of women in the design, implementation, monitoring and evaluation of policies, programmes, and activities being implemented on their behalf; strengthen access to legal proceedings in cases of rape or sexual abuse (of women, children or other survivors of violence) and prosecute all forms of sexual and gender-based violence. We shall ensure police, doctors, teachers, humanitarian and NGO workers, members of camp committees and staff in refugee reception centres receive training on appropriate responses to sexual and gender-based violence.
6. We shall embrace the principle of *non-refoulement* on account of race, religion, nationality, membership of a particular social group or political opinion and ensure to reflect the difference between those seeking asylum and others who may want to enter a country for other reasons in national legislation and the right to enter and remain in the country of asylum without arbitrary detention.

7. We shall institute a fair Refugee Status Determination process to identify those who deserve protection with specific aspects of refugee problems and ensure to comply with the states' obligations to offer a fair and efficient legal procedure for meaningful remedies.

8. We shall ensure that, in line with international standards, there is a presumption against the use of immigration detention, which must be a last resort, reviewable, for the shortest possible period, independently monitored and with adequate conditions. We shall ensure that alternatives to immigration detention be explored and pursued in the first instance, particularly for children.

9. We shall provide guidance, information and services to the asylum seekers about different aspects of their social situation and ensure to the fullest extent possible the right to survival, access to services and a social safety net through different stages of asylum procedures.

10. We express our commitment to provide UNHCR with information on the number and condition of refugees on the national territory, the ratification status and implementation of the Refugee Convention, and the laws, regulations and decrees in force related to refugees and allow UNHCR's access across the nation's territory. •

MIGREUROP explores readmission instruments

Contributor Claudia Charles submitted this report exploring readmission agreements, drafted by MIGREUROP.

Readmission is a legal technique enabling the expulsion of foreigners through international agreements in an efficient and expedient manner. In principle, states can expel aliens who entered the country illegally or whose stay became irregular according to national law. However, the said aliens cannot be expelled anywhere. In particular, the state must ask the

country of origin for an entry pass, which will allow for the expulsion to be processed. Yet this is where the procedure often fails: most expulsion decisions are not implemented because the sending state does not obtain a formal agreement from the receiving state, being thereby forced to release the migrant. Readmission agreements were designed to solve those deadlocks.

Readmission agreements or clauses are treaties by which both parties 'mutually' commit to readmit their nationals, and, under certain conditions, foreigners as well as stateless persons coming from their country or having transited through their country and who are undocumented on the other party's territory. Under such commitments, the expulsion of foreigners to the country of origin becomes systematic, particularly since the conditions for proving one's nationality have been loosened, while the allotted time for each step of the readmission process is very short.

When talking about generations of readmission instruments, one should be careful of paradigm changes. The first readmission agreements between 'friendly' states presumed the respect of human rights and the right to asylum: they manage migration 'between themselves' and agreements only concern nationals of each party to be readmitted. Today, the logic is quite different: undesirable aliens are sent off to countries where both parties do not share the same conception of human rights.

Thirteen readmission agreements signed by the European Union are now in force plus a significant number of bilateral readmission agreements signed by the Member States themselves with third countries, in addition to other instruments such as readmission clauses in partnership or association agreements, or even framework agreements. The panel of readmission instruments is even wider when taking into account the new

generations of readmission-related instruments through joint declarations, intents, more or less formal agreements, pacts, police cooperation agreements including a readmission clause such as Spain's Africa Plan or France's joint agreement on migration and 'co-development'.

A tool more political than technical

The evaluation report of the European Commission on the Union's readmission agreements in February 2011 shows that those agreements are seldom used (even though little information is available on the matter), that third countries are increasingly reluctant to sign or choose to 'raise the bidding', and that few guarantees are provided that fundamental rights are respected during those procedures. This doesn't seem to be a problem for the EU as the issue is, indeed, deeply political. The European Commission even recommends developing a conventional policy including 'incentives' (especially financial ones), as those agreements are costly for third countries, while asking Member States not to block negotiations on purely technical matters, calling for sanction mechanisms against third countries which do not abide by their commitments.

Let other states endure the weight of our migration policies?

A readmission agreement is a mechanism compelling other states to take their nationals back, and even other 'undesirables' which we 'do not want, or no longer want, in Europe'. Thus, the weight of implementing our migration policy falls onto other states: when a stay is rendered illegal, the receiving state must readmit the individual with a mandatory clause regarding travel documents delivery, proof or response in a timely manner to the readmission request. Therefore, the portrayal of receiving states being merely responsible for border control is somewhat false. First, they are under no obligation to control individuals who leave the country. Besides, readmission is not applicable only for migrants entering irregularly a requesting state

The situation of refugees in Israel

Contributed by [Maddalena Zaccaro](#), MA in Near and Middle Eastern Studies at the School of Oriental and African Studies, University of London. She is grateful to Adv. Tally Kritzman-Amir for her comments.

The smuggling of African refugees to Israel from Egypt has been ongoing for the last decade, but there has been a sharp increase since 2007. For refugees, Israel represents the only 'safe democracy' in the area or a possible transit zone to Europe. This paper will first discuss the causes behind the increase of the smuggling into Israel and then the Israeli asylum system towards non-Jews, i.e. African refugees who enter Israel through the Israeli-Egyptian border.

According to the [latest UNHCR data](#), in January 2011 there were 31,055 individuals in a 'refugee-like situation' in Israel: 25,471 refugees and 5,575 asylum seekers. But these figures need to be explained: 85% of the refugee population in Israel is comprised of Sudanese and Eritreans; these two nationalities are currently entitled to a temporary group protection but this status does not grant the same rights as refugee status. Instead, these 25,471 individuals, described as refugees, have been granted 'temporary' protection on *prima facie* grounds; the only rights they receive are protection against *refoulement* and the education of their children – they have no right to work. The 5,575 asylum seekers are from Chad, Democratic Republic of Congo, Ethiopia, Ivory Coast, Nigeria and Somalia.

In September 2011, there were an estimated 43,000 refugees living in Israel. This data underlines the increasing number of refugees crossing into Israel every year: the Ministry of Interior [reported](#) that approximately 5,000 refugees entered in 2009; some 14,000 in 2010; and 11,000 refugees crossed into Israel from January to September 2011.

Indeed, since the founding of Israel in 1948, only 170 asylum seekers have ever been granted full refugee status, and only two of these decisions took place in 2010 (see [here](#) for information on the 2011 granting of refugee status to a Colombian citizen and to an albino child and her family from Ivory Coast). One would expect, given these figures, that few would deliberately choose Israel as their destination, yet the number of refugees arriving in Israel is steadily increasing. The deterrence policies implemented by the Israeli Government are clearly having little effect. Israeli authorities justify their policies by saying that all asylumseekers crossing the Israeli-Egyptian border are either economic migrants or should have asked for asylum in Egypt.

Causes behind the smuggling into Israel

One of the reasons that have led many refugees to be smuggled to Israel after 2007 is their frustration with their conditions in Egypt. This situation culminated with the ending of a [three-month sit-in](#) in front of UNHCR's offices in Cairo in 2005, broken up by the Egyptian police and resulting in the deaths of at least 28 Sudanese refugees. As a consequence of the failure of this sit-in, smuggling to Israel dramatically increased. Another cause of people finding their way to Israel, in addition to the many who came directly through Sudan to the Sinai, was the closing off of the possibility of reaching Italy through Libya. Italy and Libya entered an agreement in 2008, the 'Friendship Pact', that provides for USD5 billion 'in compensation for abuses committed during Italy's colonial rule of Libya'. The Pact included an agreement that required Libya to [intensify the fight to control the movement of people](#) leaving Libya by boat across the Mediterranean for Lampedusa.

R E Q U E S T S

Urgent request: COI on the Gambia

The Immigrant Rights Clinic (IRC) in New York University School of Law is preparing a political asylum application for a Gambian client. Please email [the IRC](#) if you can recommend an expert who can provide COI on the Gambia for the case.

Request: the situation of Afghans in Iran

If anyone has information on the situation of Afghans in Iran, please send an [email](#), especially with regards to the following questions: 1) what is their actual legal status when they register with authorities (whether UNHCR or Iranian government)? 2) can their children attend public schools? 3) can they work legally?

Request: your views on legal counsel during the resettlement process

The [Iraqi Refugee Assistance Project](#) is currently writing a report on the right of refugees to have legal counsel during the resettlement process. The report will include legal and policy analysis, as well as highlight the opinions and experiences of refugee organisations, lawyers, scholars, and, of course, refugees themselves. They are interested in hearing your views about what hurdles refugees face in the resettlement process and what role you see for counsel in addressing these obstacles. If you are willing to help, they will send you a dozen questions that could be discussed over phone or email. Ideally, they ask that you allow them to use some of your answers and cite them in their report (they can keep comments anonymous if needed). They would like to be able to speak to as many people as possible. If you are willing to speak with them, please contact Caitlin by [email](#).

Continued on page 13

Question & answer: the Cessation Clause examined

Contributor [Merrill Smith](#) responds to a question about governmental and organizational compliance with the legal framework of the Cessation Clause that was emailed by a Rwandan refugee.

Question from Rwandan refugee, entitled 'I am confused':

The ExCom Conclusion No. 69, 2nd paragraph, says that the application of the cessation clause in the 1951 Convention 'rests exclusively with the Contracting States.' And the 5th paragraph (a) says: 'in taking any decision on application of the 4C, States must carefully assess the fundamental character of the changes in the country of nationality or origin including the general human rights situation, as well as the particular cause of fear of persecution, in order to make sure in an objective and verifiable way that the situation which justified the granting of refugee status has ceased to exist.'

In the UNHCR Guidelines Paragraph 25 (ii), it says: 'Countries of asylum are the ones to bear the burden to demonstrate there has been a fundamental, stable and durable change in country of origin and that the invocation of Article 1C (5) is appropriate.' Yet the joint *communiqué* of the UNHCR and the Rwandan Patriotic Front (RPF) regime dated 7 October 2011, last paragraph, states: 'UNHCR will recommend States that they invoke the 4C by 31 December 2011 effective on 30 June 2012.'

Additionally, in an e-mail sent on 1 August 2011, Mr. Douglas Asiimwe, Senior Protection Officer in the Prime Minister's Directorate Of Refugees and Disaster Management, wrote: 'cessation clause and eventual loss of status is not a Uganda thing, it's global and we wait to be advised.'

Given the above;

1. Why is the UNHCR actively calling for and applying clause 4C when it is an exclusive job of states, whose responsibility it is to bear the burden?
2. If the application of the Cessation Clause rests exclusively with Contracting States, why is the UNHCR recommending states invoke clause 4C?
3. As a Contracting State, why is Uganda waiting to be advised when it is the burden of the state to demonstrate those fundamental, durable and stable changes?
4. Have any Contracting States carefully assessed the situation in Rwanda, or is it the UNHCR that elaborated the pro-RPF condoning reports?
5. If states are supposed to demonstrate fundamental changes in Rwanda, how will this be expressed?
6. Given that it is their responsibility, why has no one from the Ugandan Government articulated their assessment of the situation in Rwanda to us?

Furthermore, in a letter from Antonio Guterres of 23 December 2009 to Mr. James Musoni, the Rwandan Minister of Local Government, Guterres said that he has designated a coordinator within the UNHCR to facilitate the process of invoking clause 4C and to provide the required leadership and support. Who is this coordinator? Has anyone heard about her/him? About her/his address?

The joint *communiqué* of the RPF and the UNHCR of 7 December 2011 said that the scope and modalities of the implementation of the cessation declaration were to be communicated in the following weeks. Given almost one month has since elapsed [at the time of writing - Ed.], has anything been heard of them?

Response from Merrill Smith

You are right to be confused. Neither the States nor the UNHCR appear to be following the Convention.

According to Conclusion 69, although

'the application of the cessation clause(s) in the 1951 Convention rests exclusively with the Contracting States, ... the High Commissioner should be appropriately involved, in keeping with the role of the High Commissioner in supervising the application of the provisions of the 1951 Convention as provided for in Article 35 of that Convention. ... [A]ny declaration by the High Commissioner that the competence accorded to her by the Statute of her Office with regard to certain refugees shall cease to apply, may be useful to States in connection with the application of the cessation clauses as well as the 1951 Convention. ... [States should also make] use of appropriate information available in this respect, inter alia, from relevant specialized bodies, including particularly UNHCR;'

Although this appears to give the UNHCR a role, it does not relieve states of the burden of fulfilling the legal conditions of the Convention. Article 35 of the Convention only gives the UNHCR a supervisory role that arguably limits it to a passive role of declaring whether or not states have fulfilled their obligations (which the UNHCR hardly exercises adequately anyway), not an

active role of recommending that states take such actions as invoking cessation. Article 35 appears to give states the active role, e.g., in facilitating its exercise of supervision and providing it with information:

Q&A: the Cessation Clause examined, continued from previous page

'Article 35. - Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

- (a) The condition of refugees,
- (b) The implementation of this Convention, and
- (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.'

Also, Article 6 of the UNHCR's Statute appears to limit its declarations of incompetence due to ceased circumstances to pre-1951 refugees (emphasis added):

'6 . The competence of the High Commissioner shall extend to:

A. (i) Any person who has been considered a refugee under the Arrangements of 12 May 1926 and of 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization.

(ii) Any person who, as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it. ...

The competence of the High Commissioner shall cease to apply to any person defined in section A above if: ...

(e) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, claim grounds other than those of personal convenience for continuing to refuse to avail himself of the protection of the country of his nationality. Reasons of a purely economic character may not be invoked.' ●

The Cessation Clause: a primer

This article examines motivations behind the implementation of the Cessation Clause and is contributed by M. Angela Buenaventura, a recent volunteer legal advocate with [Asylum Access](#) in Quito, Ecuador, where she represented refugees' rights to refugee status, employment, security, education and social services. She previously worked with the National Immigrant Justice Center and the Midwest Immigrant and Human Rights Center's Anti-Trafficking Project.

What motivates UNHCR to implement the Cessation Clause?

Under international law, refugee status lasts only as long as the reasons for fleeing persecution in the refugee's home country persist. Article 1(C) (5) of the 1951 Refugee Convention – the ceased circumstances cessation clause ('cessation clause') – provides that once the circumstances causing a refugee to flee his or her country of origin have ended, a refugee may be forcibly repatriated.

Because certain host countries in the global south often lack the resources and expertise to repatriate refugees, the UNHCR designs procedures for implementing repatriation in such countries and provides advice on when improvements in countries of origin justify implementation of the cessation clause.[1] The UNHCR has been heavily involved in cessation practices in Africa, the continent hosting the largest population of refugees in the world.[2]

The [October issue of the Fahamu Refugee Legal Aid Newsletter](#) called attention to the fact that on 31 December, the UN High Commissioner for Refugees, along with several states hosting Rwandan refugees, will consider invoking the cessation clause. The Fahamu Refugee Programme (FRP) is concerned that Rwanda remains a fragile state with an authoritarian regime and repatriated individuals may be exposed to further persecution. However, as the FRP has noted, the UNHCR reportedly believes that Rwanda is now a peaceful and democratic country, and thus application of the cessation clause is appropriate.

This article aims to identify why the UNHCR has encouraged implementation of the cessation clause in Rwanda and other countries in recent years. Recent scholarship reveals the following potential reasons for UNHCR's interest in implementing the cessation clause:

Budget constraints

The costs of implementing programs to integrate refugees into host communities and provide social services to refugees in host countries likely outweigh the costs of implementing forcible repatriation procedures. Accordingly, monetary restrictions may be a main source of the UNHCR's recent interest in implementing the cessation clause. Indeed, B.S. Chimni noted that, 'a UNHCR declaration to end its mandate may be the result of budget constraints, the need to cut long-term case maintenance costs or pressure from state parties.'^[3]

Pressure from host states

Both northern states and southern states have become increasingly interested in repatriation of refugees living within their respective borders. In the early 1990s, the global north was confronted with the largest influx of refugees since World War II,^[4] and some northern states were concerned that this wave of refugees would become a significant and permanent drain on public funding.^[5] In addition, there was no economic reason to welcome refugees because there was no shortage of labour.^[6] To alleviate such concerns, states in the north began to consider repatriating refugees.

States in the global south have their own reasons for seeking involuntary repatriation of refugees. Countries that rank among the poorest in the world - including Tanzania, Guinea, Uganda, Sudan, Nepal, Bangladesh, and Pakistan - host thousands upon thousands of refugees.^[7] These countries lack the resources to adequately address the needs of their own citizens, to say nothing of their inability to care for refugees. In addition, the global south has become increasingly frustrated with the north's unwillingness to share the burden of providing a haven for refugees.^[8] As B.S. Chimni notes, 'It is unrealistic to expect a country in such a desperate state to be generous to refugees, in particular if rich states have behaved no differently in the recent past and refused to share the burden of the poor host state.'^[9] Practically speaking, repatriation may be the most durable solution in the south because refugees arrive there in numbers too large for integration to be possible.^[10]

Pressure from home countries

The UNHCR may also receive pressure from refugees' home countries. For example, the UNHCR reports that the Government of Rwanda has repeatedly requested that the cessation clause be invoked so that it can utilize the skills that refugees have obtained in host countries.^[11] Less optimistically, governments of certain countries, such as Rwanda, may also seek the return of refugees to control dissidents and prevent opposition groups from forming outside their borders.

Other possible factors

A paper commissioned by the UNHCR set forth additional reasons for implementation of the cessation clause, including: 'democratisation in some formerly repressive states; concern to prevent asylum from becoming a backdoor to immigration; experiments with temporary protection; [and] stress upon repatriation as the optimal durable solution.'^[12]

In light of budget constraints and pressure from host countries and donors, the UNHCR will likely continue to implement the cessation clause. However, if the cessation clause is invoked, procedural safeguards should be implemented to ensure that there is an objective and reliable assessment of country of origin conditions and the risks of further persecution. Authorities in charge of implementing cessation procedures should make certain that persons who present compelling reasons to remain in the host country (e.g. family ties) are able to present their case to a decision-making body. •

[1] Yasmeen Siddiqui, *Reviewing the Application of the 1951 Convention Relating to the Status of Refugees in Africa*, at 6, 15, 26.

[2] *Ibid.*

[3] B.S. Chimni, *From Settlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems*, at 55.

[4] Siddiqui at 8-9.

[5] *Ibid.*

[6] Chimni at 58, 73.

[7] *Ibid.*

[8] *Ibid.*

[9] *Ibid.*

[10] Siddiqui at 38.

[11] 'The Cessation Clause for Rwandan Refugees'

[12] Fitzpatrick, Joan and Jeffrey and Susan Brotman, *Current Issues in Cessation of Protection Under Article 1C of the 1951 Convention and Article I.4 of the 1969 OAU Convention*, at 1.

ECtHR allows extradition to Rwanda of alleged Hutu *genocidaire* with refugee status in Denmark; UNHCR does not intervene

Martin Jones, lecturer in International Human Rights Law at the University of York, United Kingdom, sent the following comments regarding the extradition from Sweden of an alleged Hutu genocidaire to Rwanda, in the case of Ahorugeze v. Sweden (Application no. 37075/09). The judgment by the European Court of Human Rights (ECtHR) was dated 27 October 2011.

The European Court of Human Rights has just handed down a decision finding that Sweden should be allowed to extradite an alleged Hutu *genocidaire* to Rwanda, as the Rwandan criminal justice system would not violate his right to fair trial (Art 6) or the prohibition on inhuman or degrading treatment or punishment (Art 3). Interestingly, the standard of violation it applied to the former was not whether or not there would be a fair trial but rather the more stringent test of whether there would be a 'flagrant denial of justice' (a test dating back to the famous Soering case). The court also made reference to the International Criminal Tribunal for Rwanda's likeminded decision in the matter of Uwinkindi (currently under appeal).

The individual in question had been granted refugee status by Denmark. Oddly, it would seem that the Danish refugee decision was not adduced into evidence at his extradition hearing in Sweden and that, in any case, it was considered to be dated and based upon incomplete information (it would appear that the easier manner of dealing with the 'refugee status' issue would have been to invoke Article 1Fb). The courts in Sweden decided not to automatically adopt the Danish determination and instead determined him not to be at sufficient risk to be a refugee.

UNHCR did not intervene (though the Dutch government did intervene, arguing in favour of extradition). The

decision cites the contradictory case law of various European national courts (with UK courts generally declining to extradite on grounds of unfair trial). It is an interesting question to ask whether, notwithstanding the difficult test of 'flagrant denial of justice' in Art. 6 claims, cessation should be based upon a justice system which has been found implicitly to contain 'irregularities or lack of safeguards in the trial procedures such as might result in a breach of Article 6 if occurring within the Contracting State itself.' In other words, in such matters, including cessation, should there be one standard for Europe and one (lower) standard for everywhere else? •

'Is this Caribbean idyll the worst place in the world to be a woman?'

Contributed by Jackie Cartwright, MA student at Oxford Brookes University and intern at Fahamu Refugee Programme.

This is the headline to a [video article](#) in the *Toronto Star* on 12 November 2011. In the short clip, Keturah Cupid, one of many women seeking asylum in Canada, speaks of violence and fear. Her homeland, Saint Vincent and the Grenadines, a series of islands, is a mix of high end tourism on one hand and problems of high unemployment and high rates of domestic abuse and sexuality-based violence against women on the other. Keturah was unsuccessful in her application to stay in Canada and, back in Saint Vincent, still longs to return to its safety. The article also highlights Faith's story: subject to abuse for being gay, she is now a refugee in Canada and keen to help others like herself.

Canada recognizes gender-based persecution as grounds for an asylum claim (according to its [Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution](#)). However the article highlights debate about the legitimacy of the high rate of claims from Saint Vincent and the Grenadines. Federal judges quoted in the article argue that some decision makers have

'ignored evidence of the unavailability of state protection' in Saint Vincent and made 'unreasonable' decisions in rejecting domestic violence claims.

Commenting on the situation and treatment of LGBTI people in the country, [UNHCR noted](#) that 'sources report that homosexuals in Saint Vincent and the Grenadines face discrimination...[but] there are no laws prohibiting discrimination based on sexual orientation.'

CAN YOU HELP?

SRLAN (www.srlan.org) has *no country of origin specialist or information on non-governmental organisations that work in St Vincent and the Grenadines*. An LGBTI claimant has contacted the website directly. If you can help, please email [Barbara Harrell-Bond](mailto:Barbara.Harrell-Bond@unhcr.org).. •

WikiLeaks diplomatic cables: a tool for refugee legal aid workers?

The editors received a letter from [Marina Nemat](#), a Canadian-Iranian author of international best sellers *Prisoner of Tehran* and *After Tehran*, who fled Iran after having been imprisoned for two years and sentenced to death. She writes:

I was at a meeting a while ago and a journalist from Iraq was there. I didn't mention that I knew Julian Assange, but the journalist talked about WikiLeaks and said that Julian had saved the lives of a couple of his friends. He explained that these people were seeking asylum from the US and had been denied until *their names showed up in some cables released by WikiLeaks, mentioning that they had helped the Americans. They used this as proof that their lives were in danger in Iraq and were finally granted asylum in the US* [emphasis added]. I thought you find this story interesting. Unlike what mainstream media has been telling us, Wikileaks might not be endangering lives but saving them.

If you have any experience of the leaked cables impacting your work, please contact the [editors](#) or submit a short article to the newsletter. [This online tool](#) allows you to search names and words in all the 251,000 WikiLeaks Diplomatic Cables, which cover all countries. •

In limbo in Latvia

Contributed by Jackie Cartwright, MA student at Oxford Brookes University and intern at Fahamu Refugee Programme.

'I have no friends here and I don't understand the language. I am here without freedom to move in the country.'- email,, May 2011

An article in *Refugees International* comments that Latvia 'has been historically resistant to inbound migration' and is a country 'where asylum seekers ... face serious protection challenges' ([Latvia's other human rights problem](#) by Maureen Lynch, 14 April 2011). It continues with concern that there is a high risk of *refoulement*, that asylum seekers face difficulties of detention and access to legal and other services such as interpretation and that '[m]any times legal professionals gain access too late to react effectively.' A human rights worker who is interviewed acknowledges that '[a]s a country we're fairly new to this. Our asylum law meets minimum standards of the EU. The problem is how it is implemented.'

UNHCR has no office in Latvia; Latvia and other Baltic states are in a subregion overseen from Stockholm. In its [2011 Regional Operations Profile - Northern, Western and Southern Europe](#), UNHCR states:

'Migration and asylum, along with security considerations, are key issues in the subregion. Political changes can bring policy shifts, which have a direct impact on international protection, including access to territory ... Border control measures, penalties for illegal entry and the increased use of detention affect asylum-seekers. Ensuring the consistent application of evolving EU legal norms remains a challenge. The economic situation may also have a negative impact on the attitudes of host communities toward asylum-seekers and refugees. Racism and xenophobia affect persons of concern to UNHCR.'

These concerns are reflected in Lynch's article, which notes that:

'Currently, only the Latvian Center for Human Rights provides legal advice for refugees in a systematic manner. Due in part to the tough economic situation, government efforts to integrate persons whose claims have been adjudicated have been poor.'

An asylum-seeking man from Sierra Leone, 32, tells of his experience in Latvia, now into its fifth year. He had lived in Guinea for a long time but fled when his father died during conflict. He arrived in Latvia by ship in September 2007 and was detained. With the assistance of the Latvian Centre for Human Rights (LCHR) he submitted an application for asylum: he was interviewed in November but refused asylum in December 2007. The paperwork was not in English, nor was an English transcript provided, so he was unable to verify the documentation submitted to the court.

He was granted legal aid to appeal. However, this was also unsuccessful. The appeal decision was notified to him in April 2008 at the detention centre by border guards; there was no opportunity to appear in court. He was directed to sign papers in Latvian, the purpose of which was not explained, and he was fingerprinted. He received deportation orders. He was taken to Interpol and the Nigerian Consulate, where it was confirmed he was not Nigerian. His detention lasted from September 2007 to October 2009, when he was released following the intervention of an LCHR lawyer; appealing the length of detention is unlawful.

He expresses his unhappiness with the lack of financial and emotional support or access to education or health services during this lengthy detention. The lack of support or official documentation continued after his release. He cannot obtain a Latvian ID because he cannot provide a birth certificate; he laments the lack of understanding that many poor people do not have birth certificates where he comes from. He feels further discriminated against when he sees others arriving without documentation and yet apparently obtaining documents allowing them free movement in the country.

*The Fahamu Refugee Legal Aid Newsletter is distributed in **Pambazuka News**, the authoritative pan-African electronic weekly newsletter and platform for social justice in Africa. With over 1000 contributors and more than 500,000 readers, Pambazuka News provides cutting edge commentary and in-depth analysis on politics and current affairs, development, human rights, refugees, gender issues and culture in Africa. Visit [online](#) or [subscribe by email](#).*

In August 2010 he was again detained. The court refused to allow this detention to be extended to the two months requested by the state border authorities. This was repeated in September 2010, when the court again blocked further detention.

This man believes himself to be stateless with neither family nor state to turn to. He feels unsupported and dismayed that an EU state has not observed UN and international conventions in his treatment. He wants his human rights including status documentation. Language barriers continue to add to his difficulties.

Since his representative appealed to the court in 2009, he has been repeatedly requested to appear in court: in this year on 6 September, 27 September, 6 October and 12 October. Most recently he received a letter (in Latvian) requiring his attendance on 29 November. He continues to hope for a favourable decision. ●

COUNTRY OF ORIGIN & LEGAL NEWS

AFRICA

CAMEROON: Three LGBTI individuals [jailed for 'indecent behaviour'](#)

KENYA: [Lack of clarity and capacity undermine new Kenyan urban refugee legislation](#), providing greater opportunities for abuse of refugee rights

SOUTH AFRICA: Rwandan refugees in South Africa [reluctant to repatriate in anticipation of Cessation Clause](#)

SUDAN: AFP reports [Sudan deported 300 Eritrean asylum seekers to 'almost certain abuse'](#)

SUDAN: South Sudan Unity State officials report [Sudan bombing of refugee camp](#)

AMERICAS

MEXICO: [Mexico hosts first regional International Detention Coalition meeting on detention of refugees and migrants](#)

USA: US lawyer explores [asylum on the basis of 'other serious harm'](#)

USA: Resettlement [down 25% in fiscal year 2011 due to new security checks](#)

ASIA-PACIFIC

AUSTRALIA: [Asylum seekers being released from detention](#) following the collapse of the Australia-Malaysia deal

JAPAN: Justice on hold for [Ghanaian killed by excessive use of force during deportation from Japan](#)

MALAYSIA: [Burmese refugees describe caning and torture](#) in Malaysian immigration detention centers, some apprehended while trying to approach UNHCR office; Government of Malaysia works with [UNHCR to register refugees in a step towards greater protection](#)

NEPAL: Nepal affirms commitment to 'one-China' policy, [endangering Tibetan refugees](#), prompting [United States to threaten aid cut](#)

EUROPE

EU: European Commission releases Green Paper to [open legal debate on family reunification](#)

BULGARIA: Bulgarian [asylum detention practices continue in violation of EU law](#)

CYPRUS: KISA reports [Cypriot detention practices violate EU law and include detention of families of recognised refugees](#)

GREECE: [Frontex releases report on Greece/Turkey border](#)

SERBIA: [Increase in asylum seekers in Serbia demonstrates need for greater legal aid](#)

SWEDEN: Iranian asylum seeker [erroneously deported from Sweden to Iraq](#)

MIDDLE EAST

EGYPT: CNN [posts online documentary about abuse and killing of refugees in Egyptian Sinai](#) where no legal aid is available, resulting in [the release of some refugees from detention](#)

EGYPT: Refugees face [increased violence and discrimination](#) in revolutionary Egypt

EGYPT: Amnesty International reports [Eritreans deported from Egypt were barred access to UNHCR and denied the opportunity to claim asylum](#); Human Rights Watch [criticises Egyptian government actions regarding Eritreans](#)

EGYPT: Doctor in Sinai town of al Arish reports ['disemboweled bodies' of refugees point to trafficking in human organs](#)

IRAQ: Kurdish [refugees need citizenship to realise rights](#)

ISRAEL: Israel announces plans to [build 'world's largest detention centre'](#)

ISRAEL: Israel announces [increase in detention of 'infiltrators'](#), as rights organisations call building of new detention centre 'draconian and immoral'

ISRAEL: Proposed [Israeli law would allow for indefinite detention of refugees](#)

LEBANON: Hezbollah [refuses to assist Syrian refugees](#)

LEBANON: Lebanese judiciary does not act on [kidnapping of Syrian refugees](#)

SYRIA: UN alarmed at [torture of children in Syria](#)

The situation of refugees in Israel, *continued from page 6*

Explaining his five-year-long journey before entering Israel, one Eritrean said:

Like everybody in Eritrea, I couldn't stand being in the army one more day, I had enough and I decided to leave my country with one of my brothers and a friend. We walked for two days aiming at crossing the Ethiopian border, we thought we had got there, because we heard someone speaking and it sounded Amharic so we approached some police officers but when we understood that we were still in Eritrea it was too late. They caught us, and put us in a military camp. After one month we managed to escape and we started walking again; through smugglers we made our way to the Sudan. My brother stopped in Khartoum, he wanted to put money [aside], get a forged document and fly somewhere else, I didn't have the patience to wait, I wanted to get somewhere and have a decent life. I paid some smugglers and got to Libya. We tried to get a boat to Sicily, it didn't work, we were caught and put in a Libyan detention centre [that the] Italians built (...). Then I escaped again and paid some smugglers to Egypt and then [on to] Israel. I think I spent almost USD20,000 for this whole journey.

Another Eritrean, expressing his frustration at the impossibility of Israel's refugee policies, said:

I'm a refugee, if they deport me back to Eritrea I will go straight to prison, if I'm lucky. But still I'm a human being, I want to have a decent life, but it's like if they had put a leash on my neck, like you would do to a dog, and they are slowly pulling me towards them, but whenever I'm just one step closer to them, they pull the rope and tug at me and I have to stop or slow down. Now I have stopped in Israel. They should just oblige us to stay in Eritrea and fight and die for the freedom of our country.

Their journeys are dependent on smugglers and the prices are exorbitant. As they move from one place to another, they accumulate debts. Even worse, the smugglers, normally Bedouins, have learned that they can hold refugees attempting to cross the Sinai for ransom. A 15-year-old boy from Darfur who was now working illegally in Tel Aviv related to me how he had been called on his mobile by some Bedouins in the Sinai; they put his brother on the phone and made him ask for USD7,000 for his ransom. For the duration of the phone call, the boy could hear his brother being beaten. This boy, who had also been kidnapped in the Sinai desert on the way to Israel, still has to pay his own ransom back to his family who remains in Darfur.

The Israeli asylum system

Israel was one of the states participating in the drafting of the 1951 Convention relating to the Status of Refugees and one of the first states to ratify it in 1954. Despite this, it has never 'domesticated' refugee law; instead it has created a set of internal procedures known as '[Regulations Regarding the Treatment of Asylum Seekers in Israel](#)'. Policy and practice towards refugees in Israel is driven by the ideology of a Jewish state.

Detention and anti-infiltration bill

The Israeli-Egyptian border militarisation is ruled by the restrictions of the 1979 Peace Treaty, when Israel withdrew from Sinai: Egypt can only deploy 750 forces in [Sinai Zone C](#)

(the closest to the border). Only Egyptian civil police armed with light weapons are allowed to be stationed in Zone C. On the other side, in Zone D, Israel can deploy four infantry battalions, consisting of up to 180 armoured personnel vehicles of all types and up to a total of four thousand personnel (Israel Ministry of Foreign Affairs, [Israel-Egypt Peace Treaty](#), 26 March 1979. See also '[Israel may seek amendment of peace treaty with Egypt, says report](#)', *Daily News Egypt*, 1 September 2011). Given these figures, the Egyptian side of the border does not seem to be highly militarised, thus indicating a possible reason for its incapability of controlling the smuggling into Israel of weapons, drugs and, more recently, refugees.

However, this does not justify the Egyptian border police's use of lethal force against refugees in the process of entering Egypt, as denounced by several non-governmental organisations (NGOs) (see *IRIN News*, '[EGYPT-ISRAEL: How many migrants are dying at the border?](#)', 30 September 2009). Refugees who managed to cross the border are considered 'unlawfully present persons' and deportation and arrest warrants will be issued against an asylum seeker present in the country without authorisation. However, 'the execution of the deportation order will be suspended pending completion of the procedures in his application for refugee status' (Refugees Rights Forum, '[Policy Paper: the Detention of Asylum Seekers and Refugees](#)', June 2008.)

In fact, refugees apprehended at the border are initially issued a deportation/detention order by the Israeli Defence Forces (IDF). They are held by the IDF for a few days with no review, then they are transferred to a prison where they can start the application for refugee status.

The law does not set a limit to the length of time a refugee can be held in administrative detention. Since the sole purpose of detention is to execute the order of deportation from Israel, if the period of detention exceeds 60 days and there is no possibility to execute the deportation, authorities have the discretion to release 'cooperative' detainees. In practice such discretion is rarely exercised, and refugees can be detained for an indefinite amount of time (Global Detention Project, '[Israel Detention Profile](#)', February 2011). Those who can demonstrate that they come from Eritrea or Sudan, and who are not deemed to be a security threat, are released and issued a 2(A)(5) 'conditional release' visa, which only protects them from *refoulement*.

In addition, the Israeli Government has enacted two responses in order to prevent entrance into Israel: the 'immediate coordinated return' (Hot Return) policy and the Infiltration Prevention Law.

'Hot Return' is a term used to describe an immediate forced return of either migrants or asylum seekers to the country from which they arrived. Under this policy refugees are returned to Egypt by Israeli army soldiers or border police

officers within 72 hours of crossing. In July 2011 the Israeli High Court of Justice, after four years of deliberations and petitions filed by different NGOs has decided that Hot Returns are illegal:

From the beginning we were concerned that even if there was an unwritten agreement with Egypt, it seemed to be not sufficient. After the recent regime change, this concern became even stronger... But, due to the fact that the coordinate return policy has for now been suspended, there is no reason to examine the legality of a practice no longer implemented ('[High Court of Justice Ruling on Petition against 'Hot Return'](#)', Section 1(9) and section 12(4), 7 July 2011 (in Hebrew, translated by the author)).

A police investigation is currently taking place after considerable public criticism and different Israeli NGOs filed a complaint in August 2011, claiming the Hot Return policy 'never stopped' (Yediot Ahronot, *Physicians for Human Rights website*, '[Soldiers: 'We could returning refugees to their death'](#)', 2 September 2011). In any case, the Hot Return procedure has been reformulated through the Prevention of Infiltration Bill and a fence is being constructed along 140 kilometres of Israel's 250-kilometre border with Egypt which is supposed to function as a deterrent to 'infiltrators'.

The term 'infiltrator' (*mistanen*), which is broadly used by the Israeli Authorities when referring to asylum seekers entering Israel through Egypt, derives from the Infiltration Prevention Law. This Law, signed in 1954, was originally intended for dealing with a security threat posed by the Palestinian 'infiltrators' (*fedayyin*), whereby a person who is either a national of an enemy country or who has passed through one of these countries may legally be detained for a term of five years.

Since 2007, when the numbers of Sudanese asylum seekers arriving in Israel began to increase dramatically, the Anti-Infiltration Law was applied, even to cases which obviously were not related to security. However, in the eyes of the Government, security was involved because Sudanese were citizens of an enemy nation. After Hotline for Migrant Workers and Refugee Rights Clinic challenged this ruling in court, and perhaps because the court itself had to recognise that refugees were currently beyond the original counterterrorism scope of the law, the Anti-Infiltration Bill was tabled in 2008 to replace the Infiltration Law. The bill, which saw its drafted version dropped in 2010 after significant public criticism, went through a second and third reading in the Knesset (Israeli Parliament) in July 2011; if finally approved, it would lead to an even harsher treatment of refugees, criminalising asylum seeking (with up to three years of detention), and rendering it illegal to assist refugees. It will make the possibility of Hot Returns at the border normative (Meeting of the Knesset Internal Affairs and Environment, 25 July 2011, '[Prevention of Infiltration' Bill, Preparation for a Second and Third Reading](#)' (in Hebrew)). At the meeting, Ahaz Ben Ari, legal advisor to the Israeli Defense Ministry, explained the bill as being,

... a temporary order for a period of three years, it is supposed to

be an experiment. (...) We believe that if an enough drastic tools will be implemented, so that people will understand that the way to Tel Aviv is blocked, instead of coming from Africa, across Egypt, then the Sinai, and then after staying two or three weeks in Saharonim [the main Migrant Detention Center], they are released and they make their way into the Israeli Labour market, if they understand this [that the way is blocked], the phenomenon can be curbed. We are only looking for a break, not a punishment, we don't want anything else.

The implementation of the bill is conditional to the building of an 'open refugee camp' in the South Negev Region, with a capacity of only up to 10,000 people. Voted by the Knesset in November 2010, the construction of this detention facility has not started yet because of a lack of agreement between the Minister of Interior and the Minister of Finance.

The establishment of the Lod Unit and the determination of refugee status

Formerly, the Israeli office of UN High Commissioner for Refugees (UNHCR) assumed responsibility for refugee status determination (RSD) in cooperation with the Israeli Minister of Interior. In 2001 UNHCR relinquished this responsibility to the National Status Granting Body (NSGB). The Hebrew Immigrant Aid Society (HIAS) and UNHCR took the responsibility for training the staff of NSGB. As HIAS put it, 'the training was good, but the patient was ill'. In 2008 the 'Infiltration Identification and Classification Unit' at Lod (hereafter Lod Unit, now located in Tel Aviv) was established and, within it, the Refugee Status Determination (RSD) Unit (Hotline for Migrant Workers, '[Treatment of Asylum Seekers in Israel](#)', September 2010). By 2009 the entire procedure was in the hands of the Ministry of Interior. Today, the first step in the procedure requires all asylum seekers to first approach the Lod Unit.

The first step is determination of nationality; most of the asylum seekers carry no identification papers, in order to avoid *refoulement*. Eritreans and Sudanese, who make up 85% of the refugee population, are automatically granted Temporary Group Protection. There are a large number of cases where the nationality of an asylum seeker is contested; for example, very often Eritreans are deemed to be Ethiopians by the Israeli officials (for more on the actions of the Ethiopian embassy in Israel, see [this article](#)). Other nationalities who have registered with the Lod Unit are sent a letter summoning them to the RSD Unit, which is located in south Tel Aviv. From the results of these interviews, it would appear that the decision-making process is more concerned with finding a justification for denying a claim than granting asylum, since it is hard to believe that only two asylum-seekers among thousands of applicants were eligible for refugee status in 2010.

There is no official provision of legal aid to asylum seekers (except for unaccompanied minors) but there are three NGOs attempting to address the problem by providing some individuals with assistance in preparing their cases and, more importantly, using the High Court to challenge policy (for a

detailed explanation of the range of NGOs who make up the Israeli civil society, see the [Southern Refugee Legal Aid Network website's Israel page](#)). It is hoped that each positive result achieved will finally lead to Israel conforming to the standards of the 1951 Refugee Convention.

The 'Temporary Protection' ruse

As mentioned, 85% of the refugee population in Israel comes from Sudan and Eritrea and both nationalities are entitled to Temporary Protection (TP). According to the Israeli asylum system logic and to Joan Fitzpatrick's definition, TP is the perfect 'magic gift' because it provides a 'diluted substitute protection for Convention refugees' ('Temporary protection of refugees: Elements of a formalised regime', *American Journal of International Law* 94(2), April 2000: 279–306). TP perfectly suits the Israeli principles of temporariness and exclusion together with its alleged deterrence function.

The Israelis have different reasons for offering temporary protection to the Eritreans and the Sudanese. UNHCR has advised the state that there is a presumption that most Eritrean asylum seekers are likely to satisfy the Refugee Convention's criteria and so it would be a waste of resources to adjudicate their cases individually (The general acceptance rate of Eritrean asylum claims is estimated to be 98%. For an overview of the Eritrean regime see: Human Rights Watch, *Service for Life: State Repression and Indefinite Conscription in Eritrea*, 2009). Sudanese, on the other hand, fall under Article 10 of the 2011 Internal Procedures, which reserves the right for the state of Israel not to absorb or grant permits to subjects of enemy or hostile states, therefore making citizens of Sudan not eligible to submit asylum applications. NGO workers have repeatedly underlined how this provision is extremely discriminatory and thus in violation of the Refugee Convention's art. 3 which prohibits discrimination as to race, religion or country of origin; the Universal Declaration of Human Rights, arts. 1 and 2 and the International Covenant on Civil and Political Right (CCPR), art. 2(1), also reaffirm the same principles of equality and non-discrimination (many academics, social activists and Israeli citizens have also stressed the importance of a 'kinship of genocide' between Darfuris and Jews, but although this legacy was very much felt when the phenomenon started, it has slowly faded away).

In addition, this temporary protection is informal since it has never been declared. Formalising it would mean admitting the Eritrean government's guilt, thus compromising their close relationship with Israel. As far as Sudan is concerned, it is theoretically impossible to grant protection to members of an enemy state.

Those entitled to Temporary Protection are issued a 2(A)(5) 'Conditional Release Visa', which has to be renewed either every month or every three months and which does not allow its holders to access any social or economic benefits. For example, none of the 2(A)(5) visa holders has access to the national health system except for 'emergency cases', and

even in those cases, treatment is not free. Those who receive medical care but cannot pay the hospital are in debt for the amount, but given the fact that they are not citizens, the state cannot force them to repay the debt. However, being in debt to a hospital means that they are denied any subsequent medical care. Furthermore, by granting group protection and by dropping any further responsibility, no one takes account of the individual stories that led them to enter Israel, and of their needs, such as tracing family members and taking care of trauma or addressing gender based violence experiences.

The 2(A)(5) visa's exclusionary logic is also reflected in fact that it does not grant the permission to work, but this rule is not enforced and employers cannot be prosecuted, thus leaving refugees dependent on the black market economy, encountering difficulties in getting any employment and likely to be easily exploited. According to the Israeli authorities the prohibition to work will be enforced with the construction of the new detention facility in the Negev.

Like a legal limbo, 'Temporary Protection Visas are psychic prisons imposed upon the detainees on their release from the razor wire prisons of the detention centres' (see Pugliese, J., 'The Incommensurability of Law to Justice: Refugees and Australia's Temporary Protection', 2005).

As a 38-year-old man from Eritrea commented:

I fled my country alone and my wife was supposed to follow me when I had achieved a stable situation, I crossed Sudan and Egypt, the Bedouins in the Sinai tortured me for one month before I could find the money to pay my ransom. I was caught at the Israeli border and spent seven months in Saharonim [Migrant Detention Center], and for what? For being in a cage again! Israel for me is like a big prison, it's a trap! You have nowhere to go and you cannot go back. I didn't want my wife to join me in this trap. I worked for two years almost 12 hours per day, I put money [aside] and sent them to my wife in Eritrea telling her to try the way to Libya. She made it and she got a refugee status in Italy and now I can ask for family reunification, I only need some travel documents, which HIAS is helping me to get.

The lack of proper evaluation of asylum claims has caused the number of individuals in a 'refugee-like situation' to increase and, by not allowing them to access the welfare state, they are then viewed as a burden to society. Furthermore, whereas every nation-state is entitled to decide who to accept into its borders and who to exclude because of the same principle of state sovereignty, the asylum regime must be governed by international legal obligations and not by demographic fears in regards to the Jewish identity of the state.

Given how recent the phenomenon is, it is fair to say that there is still time to avoid the Sinai becoming a new mass grave like the Mediterranean Sea or the US–Mexico border, and there is still time to accept the challenge posed by refugees in a less drastic and exclusionary way. Indeed, to those who argue that Israel has too many problems, and that refugees can only occupy the bottom level of the political agenda, we can simply reply: fair enough, treat refugees decently and you will have one less problem. ●

P U B L I C A T I O N S

'The *Externalisation of Europe's Migration Controls* report is based on original research, and focuses on two relatively unknown aspects of the outsourcing of immigration controls at the gates of Europe and beyond': the Turkish border with Iran, and responses to 'hitchhiking' on boats and merchant vessels. [Aux bords de l'Europe: l'externalisation des contrôles migratoires](#) (The Externalisation of Europe's Migration Controls), Migreurop, 18 November 2011.

'Refugees and asylum-seekers returned to Eritrea have been detained incommunicado and tortured ... The act of seeking asylum itself is considered as an act of treason by the Eritrean authorities, rendering all returned asylum seekers at risk of detention on this basis.' Amnesty International, [Egypt: Eritreans in Egypt at risk of forcible return](#), Amnesty International, 2 November 2011.

'On October 17, 2011, Sudan handed over 300 Eritreans to the Eritrean military without screening them for refugee status ... The mass deportation follows dozens of other unlawful deportations by Sudan since May of Eritrean asylum seekers and of Eritreans who had been denied access to asylum.' - [Sudan: End Mass Summary Deportations of Eritreans](#), Human Rights Watch, 25 October 2011.

'The Iraqi authorities have publicly announced their plans to close Camp New Iraq, formerly known as Camp Ashraf, 60 kilometres north of Baghdad, on 31 December this year. The camp is home to some 3,250 Iranian asylum-seekers who have lived in Iraq for some 25 years.' [Iraq: Iranian Asylum-Seekers in Iraq at Risk](#), Amnesty International, 2 November 2011. (For more on Camp Ashraf, see our [October issue](#).)

'Government officials and their agents [have confined] thousands of petitioners – citizens from the rural countryside seeking legal redress in Beijing and other cities – in unlawful secret detention facilities known as 'black jails.' [China: Enforced Disappearances a Growing Threat](#), Human Rights Watch, 9 November 2011.

'The UNHCR can recommend cessation, yet it is up to individual states to agree and enforce the cessation clause. Exceptions to the clause are yet to be finalised, and some such exceptions include those who are in Hutu-Tutsi life partnerships or marriages. But Nshimiyimana has no faith in such exceptions. 'On paper, there may be exceptions. But in practice, the implementation is this: the cessation clause allows countries to remove foreigners. We will be forced to go home.' [Op-Ed: Rwandan Refugees Fear Cessation Clause](#).

'3% of those surveyed have a permit to live outside refugee camps. The remaining participants live in constant fear of deportation back to countries where they face persecution. This protection gap means that refugees have little choice but to conceal their identities and nationalities for a better chance at a reasonable livelihood.' [Urban Refugees in Tanzania - No Place Called Home](#), Asylum Access.

'The Fifth Edition of *The Refugee* is here. *The Refugee* is a bi-monthly newspaper written by refugee youth in Dadaab for the refugee community. It is the only locally produced newspaper and serves a population in Dadaab which is now more than 450,000.' [The Refugee Newspaper - Edition Five and Online](#), FilmAid Blog.

'The research maps the number and profile of stateless persons in the UK and puts a human face on their situation. It also examines the UK's legal obligations to stateless persons under international law and analyses the impact of current policy and practice. Based on these findings the report makes recommendations for improvement.' [Mapping Statelessness in the United Kingdom](#), UN High Commissioner for Refugees and Asylum Aid, 22 November 2011.

'Concern[ing] the government's practice of detaining children and families for immigration purposes ... I have exposed official mendacity used in defence of this hazardous practice, and the surprising cosiness enjoyed by some commercial contractors in their relations with ministers and civil servants.' [How official lying threatens our democracy and what should be done about it](#), OurKingdom submission to the House of Lords Select Committee on Communications, 21 November 2011.

'The Executive Office for Immigration Review (EOIR) today announced new guidance on the EOIR asylum clock for immigration judges, court administrators and immigration court staff... [which will increase] efficiency by reducing the time that immigration judges and court staff spend on administering the asylum clock'. [Operating Policies and Procedures Memorandum 11-02: The Asylum Clock](#), United States Department of Justice Executive Office for Immigration Review, 15 November 2011.

'This article has explored the challenges faced by Sahrawi and Palestinian refugees who were studying and working in Libya at the start of the conflict in February 2011, and the nature and implications of the international community's responses to these challenges.' [Invisible Refugees: Protecting Sahrawis and Palestinians Displaced by the 2011 Libyan Uprising](#), United Nations High Commissioner for Refugees, November 2011.

MIGREUROP explores readmission instruments, continued from page 5

but for all undocumented migrants, including those who became irregular as a consequence of the requesting state's migration policy. Financial incentives are even awarded to complete this task, particularly through the funding of detention centers, the purchases of border control equipment, or the training of police and border patrols in migration management and border surveillance.

Incentive policies

The underlying agenda of these agreements, far from being merely technical, should not be overlooked. The way towards those agreements is paved through incentive policies to the benefit of third parties: visa facilitations, financial support, and partnership if not integration prospects; this is a pro-active policy.

Indeed, the interest of receiving states is fragile and a few such incentives will often suffice to ensure their cooperation. This explains the tendency to embed readmission issues in agreements of a larger scope which will enable receiving states to meet as many interests in them as the sending states do. Lately, the bargain readmission/visa is no longer a secret. The recent Union's agreements with third countries systematically come with visa facilitation agreements, as exemplified by the four-year long negotiations between the EU and Turkey in this respect. Likewise, the European Commission evaluation report of February 2011 expressly states that the failure of certain negotiations is due to the lack of incentives or of adequate counterparts. The report then dwells on and details measures deemed efficient to implement those agreements and especially visa facilitation and financial assistance.

With the impossibility of developing new agreements, the Commission therefore offers new instruments, which would mix readmission together with other issues while providing efficient sanction mechanisms.

An externalization tool

The readmission procedure is another tool in the EU externalization policy initiated a few years ago, not least because the management of expelled migrants is passed onto third states: they are sent back, without being taken care of.

Third countries are now controlling our borders and dealing with our asylum seekers. . Quite logically, as they are not willing to bear the burden, they tend to move the issue through the adoption of similar legislation, i.e. readmission agreements with other states (this is the phenomenon of chain 'readmission agreements') and through the systematic policy of detaining foreigners in camps.

This phenomenon will probably continue until a few states will accept, being provided with advantageous compensation, to keep these populations or until new migration cycles start again – migration thus becomes perpetual and migrants have no safe place where to stop, not even their own country, for fear they might be persecuted or legally condemned for their 'clandestine emigration'.

And the story is not over. As soon as the agreement with Pakistan was approved, another agreement with Georgia was signed, even though this country is at war, home to powerful persecutors and cut off from a sizable portion of its territory.

With this kind of practice in place we must stop speaking of high levels of protection in Europe. First, this is only true for an increasingly small portion of the population after multiple screenings, ensured by the out-sourcing of visa deliverance and joint operations, notably through interceptions at sea by the European agency, Frontex.

ANNOUNCEMENTS**LGBTI issues in refugee legal aid: a new resource on the Southern Refugee Legal Aid Network website**

The [website](#) of the Fahamu Refugee Programme (FRP) now has a [special page](#), managed by Eddie Bruce-Jones, to provide legal advisers with credible, country-specific resources in representing LGBTI asylum claims. Attached to the LGBTI page on SRLAN is a [list of countries](#). On each country page a team of interns will be compiling the legal situation for LGBTIs in each, case law, public attitudes and/or capacity of state to protect, NGOs who wish to be on this website who are working in LGBTI advocacy and legal representation in or for that country, country of origin specialists prepared to offer their services to legal advisors who are representing LGBTI cases for refugee status, and other relevant materials. This is in line with the FRP's objective for www.srlan.org to be a low-bandwidth one-stop shop for providers of legal aid for refugees. We need your help to accomplish this task. Please send suggestions to Intern Team Leader [Peter Kikomaga](#).

Moreover, it can not be said of a legal system that it is protective when one of its main objectives is to send back individuals to systems which do not protect. By sending people back to torture or death, we ourselves become the torturer or criminal, which the Strasbourg Court stated in technical terms in the *Soering* case. And this also goes for every human rights violation. We cannot boast about our remedies, if, even before they can be used, we send migrants back to countries that have none. Put differently, through this policy, we compromise, we are accomplices; a legal system which delegates to another legal system to some extent integrates the latter and receives parts of its logic.

The matter of chain agreements and indirect refoulement
How long will the other states hold out? Due to these agreements, states are becoming 'countries of immigration' by default when previously they were countries of emigration and transit. By preventing individuals from leaving their territories, they automatically become the 'final' or ultimate destination for individuals, unless pressure is placed on sending states to prevent immigration by closing the borders. With this logic, there will be a time when this will only be possible if one country accepts those who were rejected elsewhere. Migrants will eventually be 'locked out' of every state, that is to say, have no place or nowhere to go.

Chain readmission agreements between our partners and other States play the game of chain expulsion. Legally, this means that if we paid special attention to safely expel an alien to a destination country, no guarantee can be provided that no expulsion will be carried out from this country to another State offering no guarantees or even openly violating Human Rights.

Threats for human rights

Generally, there is no guarantee that migrants in readmission will be protected against the infringement on their fundamental rights whether on the territory of a European state, of the contracting party or of another state. Even more, some mechanisms such as fast-track procedures or nationality presumption can only lead to human rights violations.. The European Commission expressly admits this fact in its February 2011 evaluation report. It insists on the necessary improvements to be made to avoid such violations in an EU country and offers to include a suspension clause on any forthcoming agreement in cases of 'continued' violations (sic) of human rights in the third-party country concerned, which implicitly means that the current system is not satisfactory. Indeed, the Commission states in its report that: 'the implementation of readmission agreements with the EU and issues related to Human Rights can obviously benefit from improvements, especially through a reinforcement of the role played by joint committees regarding readmission'.

The most vulnerable migrants (victims of the sex trade, of trafficking, unaccompanied minors, women, asylum seekers) are not protected but drowned in the flow of irregular migrants.

Even more, some partner countries are persecuting states or under persecution themselves, if not at war. Two of the latest are emblematic of a new step further: Pakistan, where persecutors abound, and which gradually sees the war Afghan refugees are fleeing looming ahead; and Georgia, in the middle of a partition crisis with South Ossetia and Abkhazia. ●

O P P O R T U N I T I E S

Opening for Legal Assistance Centre Programme Manager at the International Rescue Committee (IRC), Thailand

The [IRC in Thailand](#) is seeking a Legal Assistance Centre Programme Manager to be based in Mae Sot, along the Thai-Burma border. The position will involve managing and supporting the Legal Assistance Center staff on all aspects of their work, including legal counseling, case management and capacity building. For more information, please visit the [application website](#).

Short courses on refugee issues, January and February 2012 in Cairo, Egypt

The Center for Migration and Refugee Studies (CMRS) at the American University in Cairo will hold four short courses in the new year: *Demographics Measures of Migration* (January 29- February 2, 2012) taught by Dr. Ayman Zohry; *Migration and Refugee Movements in the Middle East and North Africa* (February 5-9, 2012) taught by Dr. Shaden Khallaf; *Palestinian Refugees* (February 12-16, 2012) taught by Prof. Michael Kagan; *Training Skills for Trainers of Psychosocial and Mental Health Workers in Countries Affected by Emergencies* (February 18-25, 2012) taught by Dr. Nancy Baron. The courses are offered for graduate level students, researchers and practitioners in the field of migration and refugees. All courses are conducted in English, without translation, so applicants should have a sufficient command of English. To apply for the courses or for more information, visit the [CMRS Short Course web page](#). Applicants may apply and be accepted to more than one course; the **application deadline is 10 January 2012**.

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Asia Pacific Regional Immigration Detention Working Group Workshop

This month about 50 people from 18 countries participated in two day meeting of the Asia Pacific Regional Immigration Detention Working Group (IDWG) Workshop in Kuala Lumpur. Though a lot to cover in 2 days, it was a good way to continue the momentum on collaboration, undertake capacity building on monitoring and working with immigration detainees and further exploration on implementing action plans, particularly on children in detention, alternatives to detention and enhancing access and monitoring.

Many States have begun exploring and implementing alternatives to immigration detention, which have been found to be cheaper than detention and effective in ensuring compliance in the community. Alternatives to detention are more humane, effective and fulfill human rights and governments must start using them for vulnerable groups such as children, unaccompanied minors and families. In this region, Thailand and Japan have both released large number of refugee children from detention over the past year. NGOs are calling on governments across Asia Pacific to use the 60th anniversary of the Refugee Convention to commit end the detention of children. The workshop occurs two weeks before a high level ministerial meeting in Geneva to commemorate the 60th anniversary of the Refugee Convention.

Further details of the meeting are available [online here](#); the [International Detention Coalition](#) will release a full report and revised regional detention action plans in the coming month. •

NEWS & INFORMATION LINKS

[southern refugee legal aid network web, list-serv](#)

[statelessness in focus, alertnet](#)

[statelessness programme, tilburg law school, netherlands](#)

[european council on refugees and exiles weekly bulletin](#)

[kakuma refugee free press](#)

[pan african media portal](#)

[rsdwatch](#)

[international detention coalition news](#)

[shelter and legal aid for refugees in the US](#)

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