

## JOURNAL OF REFUGEE STUDIES

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# Journal of Refugee Studies

VOLUME 6 NUMBER 2 1993

### Contents

#### *Articles*

- The Meaning of Marriage and Status in Exile:  
The Experience of Iraqi Women  
MADAWI AL-RASHEED 89
- War-Uprooting and the Political Mobilization of  
Central American Refugees  
JOHN L. HAMMOND 105
- Development-induced Relocation and Refugee Studies:  
37 Years of Change and Continuity among Zambia's Gwembe Tonga  
T. SCUDDER 123
- USA Refugee Policy: A Human Rights Analysis Update  
(Mark Gibney, Vanessa Dalton and Mark Vockell)  
Response by DAVID A. MARTIN 153  
Rejoinder from MARK GIBNEY 154

#### *Field Report*

- Preventing Asylum Flows in Southern Italy and Sicily  
LYNNE L. SNOWDEN 158

#### *Conference and Symposium Reports*

- Asian Law on Refugees and the Vietnamese Boat People  
ALAN NICHOLS 171
- An Arab Declaration on the Protection of Refugees  
and Displaced Persons in the Arab World  
KHADIJA ELMADMAD 173
- Health Hazards of Organized Violence in Children: Conclusions and  
Recommendations of the Meeting of the Advisory Group  
LOES VAN WILLIGEN 176

- The dual role of protection and repatriation for UNHCR has caused much misunderstanding, with the result that asylum-seekers do not always see UNHCR as being 'on their side'. Giving a more specific rôle to NGOs in the last phase might alter that perception and allow UNHCR to concentrate on its traditional protection mandate.
- The problem of 'double screening' needs to be addressed, when governments of resettlement countries, such as the United States, repeat the screening process of the host country and often reject most of the successfully screened-in cases.
- The question of resettlement in the host country for refugees in the situation above should be reconsidered. Although the CPA was originally based on the premise that no country in the region would allow them to stay, there was a hint at the colloquium that the few thousands left on Palawan in Philippines may be allowed to stay on there and be integrated with the local population.
- It would be particularly helpful if there was an attempt in the last phases of the CPA to clarify the proper standards for evaluating fear of persecution, the scope of recognized ground for persecution, and the agents of persecution. Interpretations have varied from country to country, and clarification would help in East Timor and Burma, within the region, as well as anywhere else where principles such as those enshrined in the CPA were the basis of handling refugee determination.

The book also discusses whether the CPA is a model for other refugee situations.

1. *Refugee Dilemmas: Reviewing the Comprehensive Plan of Action for Vietnamese Asylum-Seekers*, by Paul White and Alan Nichols. To appear in June 1993.

### An Arab Declaration on the Protection of Refugees and Displaced Persons in the Arab World: Report on the Cairo Seminar, 19 November 1992

KHADIJA ELMADMAD  
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The Fourth Seminar of the Arab Experts on Asylum and Refugee Law took place in Cairo from 16 to 19 November, 1992. It was organized by the International Institute of Humanitarian Law of San Remo, in collaboration with the Faculty of Law of Cairo University, and under the auspices of UNHCR. An Arab declaration on the protection of refugees and displaced persons, which had previously been drafted by a specially appointed committee, was discussed at the meeting and an agreed text was issued.

The seminar was attended by civil servants and lawyers from the Arab states and by representatives of the Arab League, UNHCR, ICRC and NGOs from inside and outside the Arab world. The Director of the International Institute of Humanitarian Law was instrumental in the organization of the gathering and the issuing of the declaration.

The presence of refugees and displaced persons has become a major problem in the Arab world. They are present in Somalia, Iraq, Kuwait, Egypt, Sudan, Saudi Arabia, Syria, Jordan, Lebanon, Yemen and even in some states of the Maghreb: Mauritania and Algeria at present, and possibly in Libya, Tunisia and Morocco in the future. Thus, refugees and asylum are pressing problems in the Arab region and regional and domestic legislation and effective action are urgently needed. The Declaration, therefore, has come at an opportune time.

The meeting provided an opportunity for Arab participants to exchange views and to compare the opinions of government representatives with those of academic teachers and researchers. The repercussions of the Gulf War, which divided the Arab world, were evident in all the sessions of the seminar. The Arab participants tended to divide into: those who supported the human rights of the Arab peoples; and those more concerned with the interests of governments. This made it difficult to reach an agreement on some issues, such as the problems of defining refugees and displaced persons in the Arab world, and protecting the stateless.

Nevertheless, the Declaration is a significant achievement and promises to have a great impact on legislation affecting forced migrants, both at Arab and international levels. By linking the problem of refugees and displaced persons and the need to protect them as forced migrants, this document introduced a significant innovation in the field of legal instruments concerned with refugees and migration.

The text of the Declaration (in Arabic) comprises an introduction and 11 articles. The introduction points out the gravity of the problem of forced migration in the Arab world, both past and present. It refers to traditional and Islamic practices and laws pertaining to social solidarity and hospitality. It stresses the urgent need to find a solution to the problem of forced migration, including the Palestinian problem, and calls upon international organizations (notably the United Nations), and non-government organizations, to assist in finding humanitarian solutions to these questions.

The Declaration then states the right to free movement, insisting on the right of individuals to leave and return to their own countries (Article 1). It reaffirms the principle of non-refoulement as an internationally binding customary law (Article 2) and asserts that granting asylum should not be considered as a hostile act against any State (Article 3). It urges the Arab states which have not yet done so, to ratify the international instruments relating to refugees and human rights (Article 4). Meanwhile, it calls upon them to apply Islamic, Arab and international humanitarian principles in their attitudes towards refugees and displaced persons (Article 5).

In addition, the Declaration recommends the adoption of an enlarged definition of the concepts 'refugee' and 'displaced person' and calls for a practice in line with the present international and regional instruments (bearing in mind the latest American definition of a refugee given by the Cartagena Declaration of 1984) (Article 6).

The Arab Declaration reminds the Arab League of its draft convention on asylum and refugees and invites this regional organization to reconsider and revise this draft (Article 7), in collaboration with the Arab States (Article 8).

The Declaration reserves special protection for the Palestinians and stresses their right to return to Palestine. Meanwhile, the Arab states are called upon to implement the clauses of the 1965 Casablanca Protocol relating to the special treatment of Palestinians in the Arab states (Article 9).

It recommends special protection for children and women, who form the majority of the forced migrants in the Arab world. It also calls on the states to facilitate the reunion of refugees and displaced persons (Article 10).

Finally, the Declaration stresses the need to disseminate and promote refugee law in the Arab world and recommends the creation of an Arab Institute of Humanitarian Law, with the collaboration of UNHCR, ICRC and the Arab League (Article 11).

### Conclusion

This Declaration is, without doubt, an important development in the Arab world today. As with any text resulting from a compromise of different views and interests, it has some shortcomings and lacunae. The question of the Palestinians was dealt with very cautiously and the problem of the stateless was ignored completely, despite mention of it by a few participants. This was presumably to avoid arousing the suspicion of some Gulf states, with the risk that the Arab League might refuse to adopt the text if an Arab State agrees to present it to the League for adoption.

The question of the need for free movement between Arab states, and the difficulties Arab nationals and asylum seekers are now facing in leaving some Arab states, was raised by some participants, but no consensus was reached. This shows once again that it is difficult for human rights experts to be neutral and objective in defence of human rights, especially when this is against the interests of their governments.

The reference to Islamic theory and Arab traditions on asylum and social solidarity, was apposite. Many of the Arab states which have not adhered to the international system on refugees and migrants claim that they are ruled by Islamic Law, but nothing in their practice reflects the humanitarian and protective Islamic rules on asylum and *amaan*.

On the whole, this document was a good start, considering the situation in the Arab world today—its present division and neglect of human rights.