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## Principles of International Refugee Law

### 5. Solutions

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## The Principle of Solutions

### Refugee solutions and international law

#### The principle of international co-operation

- Article 1(3) UN Charter
- Article 2(1) UN Charter
- *Declaration of Principles of International Law concerning Friendly Relations and Co-operation*, UNGA res. 2625(XXV), 24 October 1970
  - ▶ ... to co-operate ... irrespective of the differences in their political, economic and social systems...

### Protection and solutions – A summary history

1921 – League of Nations High Commissioner for Refugees

**Task:** to provide legal and political protection

**Assistance** < private voluntary organisations

1943 – United Nations Relief and Rehabilitation Administration

**Task:** repatriation and return post conflict

**'Refugees':** No mandate

1946 – International Refugee Organization

**Task:** Repatriation and resettlement

**Context:** The ideology and politics of exile



## UNHCR Statute

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**UNGA resolution 428 (V), 14 December 1950  
Annex, paragraph 1**

The United Nations High Commissioner for Refugees shall assume the function of...

- Providing international protection... to refugees...  
**and**
- ... **seeking permanent solutions** for the problem of refugees

## UNHCR Statute

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**Protection, plus**

- Paragraph 8
  - **Promoting voluntary repatriation or assimilation within new national communities**
  - **Promoting the admission of refugees**
  - **Contact with private organisations**
  - **Facilitating co-ordination of private organisations**
- Paragraph 9
  - **Additional activities: repatriation and resettlement, within the limits of resources**

## Refugee solutions and international law

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### The principle of international co-operation –1951 Convention

#### ■ Final Act

- ▶ *‘Recommends* that Governments **continue to receive** refugees in their territories and that they act in concert in a true spirit of **international co-operation** in order that these refugees may find asylum and the possibility of resettlement.’

#### ■ Preamble

- ▶ ... **international co-operation**
- ▶ ... **effective co-ordination**

## Refugee solutions and international law

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### The principle of international co-operation – Regional approaches

#### ■ 1969 OAU Convention

- ▶ **Article II(1): ... best endeavours...**
- ▶ **Article II(4): ... African solidarity and international co-operation**

#### ■ EU Council Directive 2001/55/EC on temporary protection in the event of a mass influx

- ▶ **European Asylum Support Office**

## UNHCR Executive Committee 2005

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### Solutions – the hierarchy

- ... voluntary repatriation, in safety and dignity, **where and when feasible**, remains the **most preferred solution** in the majority of refugee situations;
- ... a **combination of solutions**, taking into account the specific circumstances of each refugee situation, can help achieve lasting solutions...

## 1. Asylum and local integration

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## UNHCR Executive Committee 2005

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### Conclusion on Local Integration

- ... **local integration** is a **sovereign decision** and **an option** to be exercised by States guided by their treaty obligations and human rights principles, and that the provisions of this Conclusion are for the **guidance** of States and UNHCR when local integration is to be considered...

## Asylum and local integration

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### Treaties and other rules of law

- 1951 Convention relating to the Status of Refugees
  - **Articles 2-34**
- 1969 OAU Convention on Refugee Problems in Africa
  - **Articles II, III**
- 2004 EU Qualification Directive
- International human rights law

## 2. Third country resettlement

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## UNHCR Executive Committee 2005

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### General Conclusion on International Protection

- (s) Also welcomes the progress that has been achieved in **increasing the number of refugees resettled** and the number of States offering opportunities for resettlement; and encourages **UNHCR to ensure high quality and well-documented resettlement referrals**, to continue **to strengthen its resettlement capacity** ...

## Third country resettlement

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- 1951 Convention, Final Act
  - **Recommendation D** : ‘...that Governments continue to receive refugees in their territories and that they act in concert in a true spirit of international co-operation in order that these refugees may find asylum and the possibility of resettlement.’

## Third country resettlement

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### Strategic uses, obstacles, places

- Resettlement and protection
  - **Women at risk**
  - **Vulnerable groups**
  - **Security (individual)**
  - **Protracted refugee situations**
- Resettlement criteria
- Resettlement numbers
  - **Resettled: 2004** ➡ 42000; **2008** ➡ 84000
  - **Needed: 2010** ➡ 203,000
  - **Submitted: 2009** ➡ 128,000

## 3. Voluntary repatriation

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## UNHCR Executive Committee 2005

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### General Conclusion on International Protection

- Paragraph ④
  - **Welcomes voluntary repatriation, in safety and dignity**
  - **Reiterates that UNHCR be given free and unhindered access** to returning refugees
  - **In particular, to monitor the proper treatment of returning refugees** in accordance with international standards
  - **Encourages UNHCR to strengthen its returnee monitoring activities**

## Voluntary repatriation

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### Law and practice

- 1951 Convention, Article 1C
  - ...shall cease to apply in the case of a person who **'has voluntarily re-established'** themselves in the country in which he or she had a fear of persecution
- 1969 OAU Convention, Article V

## 1969 OAU Convention

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### Article V : Voluntary repatriation

- 1. ... essentially **voluntary character**
- 2. ... **adequate arrangements** for safe return
- 3. ... **facilitate resettlement** of those returning
- 4. ... **no penalization**; appeals and assurances of safe return and reintegration
- 5. ... refugees who **freely decide** ... every possible **assistance** by country of asylum, country of origin, voluntary agencies and international and intergovernmental organizations

## Protracted refugee situations

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... in which refugees find themselves in a long-lasting and intractable state of limbo...

- 38 'situations' world-wide
  - **Encompassing some 6.2 million refugees**
- Causes and consequences
  - **Politics**
  - **Costs and capacity**
- The 'anti-warehousing' movement
  - **US Committee for Refugees and Immigrants – 'A Denial of Rights, a Waste of Humanity'**
  - <http://www.refugees.org/>

## Protracted refugee situations

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### Executive Committee Conclusion 2009

- Need for countries of origin to prevent, to address root causes, to promote and facilitate voluntary return home and sustainable reintegration
- Refugees' right of return in safety and dignity
- In principle, restitution or compensation for property
- Self-reliance pending solutions
- Voluntary repatriation preferred, but no 'one size' fits all situations