

nationality, ethnic origin,²⁴ membership of a particular social group or political opinion.²⁵

2. The provision as outlined above may not however be claimed by a person when there is reasonable ground to believe the person's presence is a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.²⁶
3. In cases where a State decides to apply any of the above-mentioned measures to a person seeking asylum, it should grant provisional asylum under such conditions it may deem appropriate, to enable the person thus endangered to seek asylum in another country.²⁷

Article VI

Minimum Standards of Treatment

1. A State shall accord to refugees treatment no less favourable than that generally accorded to aliens in similar circumstances, with due regard to basic human rights as recognized in generally accepted international instruments.²⁸

²⁴ The addition of "ethnic origin" in the non-refoulement provisions was recommended at the Tehran Meeting of Experts. It is in any case consistent with the grounds in the refugee definition.

²⁵ Rephrasing of Art. III as per footnote (23) above.

²⁶ Idem.

²⁷ Para 3 of Art. III as per footnote (23) above.

²⁸ Insert recommended by the Manila Seminar. At the Tehran Meeting of Experts, one participant suggested substituting "as regards" for "with due regard". No explanation was given. Another suggested substituting "international human rights conventions" for "generally accepted international instruments". One participant in the Meeting of Experts complained that refugees were sometimes given a higher standard of treatment than nationals. Another doubted this, pointing out that the rules of operation were precisely not to give the refugees higher treatment than the locals. On the contrary, the services made available to refugees in a given area often extended, as necessary, to internally displaced persons and the local population as well.

2. The standard of treatment referred to in paragraph I²⁹ shall include the rights relating to aliens contained in the Final Report of the Committee on the status of aliens, to the extent they are applicable to refugees.
3. A refugee shall not be denied any rights on the ground that he does not fulfil requirements which by their nature a refugee is incapable of fulfilling.
4. A refugee shall not be denied any rights on the ground that there is not reciprocity in regard to the grant of such rights between the receiving State and the State or Country of nationality of the refugee or, if he is stateless, the State or Country of his former habitual residence.
5. State undertake to apply these principles to all refugees without distinction as to race, religion, ethnic origin, gender, membership of a particular social group or political opinions, in accordance with the principle of non-discrimination.³⁰
6. States shall adopt effective measures for improving the protection of refugee women and, as appropriate, ensure that the needs and resources of refugee women are fully understood and integrated to the extent possible into their activities and programmes.³¹

²⁹ As this is a treatment of Para.2 of this Art. VI, it had to be rephrased accordingly.

³⁰ Derived from art. IV of the OAU Convention and Art. 3 (partially) of the 1951 Convention. The grounds of "ethnic origin" and "gender" are added to reflect current international standards, the latter reflecting Art. 18 of the Vienna Declaration on Human Rights and foreshadowing the next paragraph. This clause reflects recommendation (d) of the Manila Seminar under "Points for Further Review".

³¹ See para (a) of UNHCR Executive Committee Conclusion No.64 (XLI) on Refugee Women and International Protection. At the Tehran Meeting of Experts, during the discussion of a possible provision on women, children and elderly refugees, one participant proposed a general provision on vulnerable groups as an alternative to a separate one on each such groups as in paragraphs 6, 7 and 8.

7. States shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Principles and in other international human rights instruments to which said States are Parties.³²

8. States shall give special attention to the protection needs of elderly refugees to ensure not only their physical safety, but also the full exercise of their rights, including their right to family reunification. Special attention shall also be given to their assistance needs, including those relating to social welfare, health and housing.

Article VIII

Expulsion and Deportation

1. Save in the national or public interest or in order to safeguard the population,³³ the State shall not expel a refugee.

2. Before expelling refugee, the States shall allow him a reasonable period within which to seek admission into another State. The State shall, however, have the right to apply during the period such internal measures as it may

³² Art. 22 (1) of the 1989 Convention on the Rights of the Child.

³³ This excerpt is taken from Art. 3(2) of the UN Declaration on Territorial Asylum. It substitutes for "on the ground of violation of the conditions of asylum". Another alternative proposed in Note (1) to art. VIII of the Bangkok Principles would be: "save on ground of national security or public order, or a violation of the vital or fundamental conditions of asylum"; "national security and public order" are the only grounds provided for by the 1951 Convention in Art. 32 (1).

deem necessary and as applicable to aliens under such circumstances.³⁴

3. A refugee shall not be deported or returned to a State or Country where his life or liberty would be threatened for reasons of race, colour, nationality, ethnic origin,³⁵ religion, political opinion,³⁶ or membership of a particular social group.

4. The expulsion of a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and be represented for the purpose before the competent authority or a person or persons specially designated by the competent authority.³⁷

III. Durable Solutions

Article IV

Right of Return

1. A refugee shall have the right to return if he so chooses to the State of which he is a national or the country of his

³⁴ The phrase "as applicable to aliens under the same circumstances" is taken from Note (2) to Art. VIII.

³⁵ These additional grounds were recommended for the refugee definition by the Manila Seminar and the Tehran Meeting of Experts respectively. See footnote (2) above.

³⁶ See footnote (3) above.

³⁷ Art. 32(2) of the 1951 Convention. This paragraph is consistent with the recommendation of a participant of the Tehran Meeting of Experts that a refugee should not be expelled without due process of law. It is also in conformity with Art. 13 of the 1966 International Covenant on Civil and Political Rights. In the national context, the refugee's right to due process of law in expulsion cases was reaffirmed in the January 1996 decision of the Supreme Court of India in the case of *National Human Rights Commission v. State of Arunachal Pradesh and Another* (1996 [1] SC 295).

national and in this event it shall be the duty of such a State or Country to receive him.

2. ³⁸ This principle should apply to, *inter alia*³⁹, any person who because of foreign domination, external aggression or occupation has left his habitual place of residence, or who⁴⁰ being outside such place desires to return thereto.
3. It shall [...] be the duty of the Government or authorities in control of such place of habitual residence to facilitate, by all means at their disposal, the return of all such persons as are referred to in the foregoing paragraph, and the restitution of their property to them.⁴¹
4. This natural right of return shall also be enjoyed and facilitated to the same extent as stated above in respect of the dependants of all such persons as are referred to in paragraph 1⁴² above.⁴³

Article V

Right to Compensation

1. A refugee shall have the right to receive compensation from the State or the Country which he left or to which he was unable to return.⁴⁴

³⁸ This and the next two paragraphs are paras. (1), (2) and (3) of the 1970 Addendum to the Bangkok Principles. The incorporation of this Addendum was understood as appropriate in both Manila and Tehran.

³⁹ Stylistic addition.

⁴⁰ *Idem*

⁴¹ 1970 Addendum, para.2.

⁴² Modified due to change in paragraph numbering.

⁴³ 1970 Addendum, para.3.

⁴⁴ While a Tehran Meeting of Experts participant called compensation a utopia, another called attention to its necessity when, for example, refugees' property has been confiscated. He was probably referring to historical cases of compensation and restitution from Germany and from Uganda.

2. The compensation referred to in paragraph 1 shall be for such loss as bodily injury, deprivation of personal liberty in denial of human rights, death of the refugee or of the person whose dependant the refugee was, and destruction of or damage to property and assets, caused by the authority of the state or country, public officials or mob violence.

3.⁴⁵ Where such person does not desire to return, he shall be entitled to prompt and full compensation by the Government or the authorities in control of such place of habitual residence as determined, in the absence of agreement by the parties concerned, by an international body designated or constituted for the purpose by the Secretary General of the United Nations at the request of either party.

4. If the status of such a person is disputed by the Government or the authorities in control of such place of habitual residence, or if any other dispute arises, such matter shall also be determined, in the absence of agreement by the parties concerned, by an international body designated or constituted as specified in paragraph (3)⁴⁶ above.⁴⁷

Article V(A)⁴⁸

Voluntary Repatriation⁴⁹

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.
2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.

⁴⁵ This paragraph and the next are paras. (4) and (5) of the 1970 Addendum. See footnote (38) above for explanation.

⁴⁶ Numbering modified as per the new numbering of the paragraphs.

⁴⁷ 1970 Addendum, para.5.

⁴⁸ Under "Durable Solution" the Manila Seminar made detailed recommendations on voluntary repatriation which are reflected in this new article taken from the OAU Convention.

⁴⁹ Art. V of the OAU Convention. Similar provisions are found in UNHCR's EXCOM Conclusion No.40 (XXXVI) Voluntary Repatriation.

3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligation.
4. Refugees who voluntarily return to their country shall in no way be penalized for having left it or for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the relevant universal and regional organisations⁵⁰ inviting refugees to return home without risk and to take up a normal and peaceful life without fear of being disturbed and punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.
5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and intergovernmental organisations to facilitate their return.⁵¹

Article V (B)⁵²

Other solutions

1.⁵³ Voluntary repatriation, local settlement or resettlement, that is, the traditional solutions, all remain viable and important responses to refugee situations, even while voluntary repatriation is the pre-eminent solution. To this effect, States should undertake, with the help of international governmental and non-governmental organisations,⁵⁴ development measures which would underpin and broaden the acceptance of the three traditional durable solutions.

2. States shall promote comprehensive approaches, including a mix of solutions involving all concerned States and relevant international organization in the search for and implementation of, durable solutions to refugee problems.⁵⁵

⁵² While the Manila Seminar expressed the sense that the international climate was not ripe for a formal inclusion of local integration as a solution, it conceded that it had provided some positive experiences. As for third-country resettlement, while the Seminar deemed it not a solution for the vast majority of refugees in the Afro-Asian region, it nevertheless agreed that the resettlement option needed to be left open. (Report of the Seminar, p.6). At the Tehran Meeting of Experts, both views were expressed and several participants called attention to the need to preserve these three traditional solutions in light of positive experiences in specific refugee contexts. This proposed Article reflects these views.

⁵³ UNHCR's EXCOM Conclusion No.61 (XLI) Note on International Protection, paras. (iv) and (v).

⁵⁴ Stylistic insertion.

⁵⁵ Manila Seminar (see Report of the Seminar, p.6). At the Tehran Meeting of Experts, one participant recommended the consideration of "regional approaches" which in fact are not at all excluded from the concept of "comprehensive approaches".

3. The issue⁵⁶ of root⁵⁷ causes is crucial for solutions and international efforts should also be directed to the removal of the causes of refugee movements⁵⁸ and the creation of the political, economic, social humanitarian and environmental conditions conducive to voluntary repatriation.⁵⁹

IV. Burden Sharing

Article IX⁶⁰

Burden Sharing

1. The refugee phenomenon continues to be a matter of global concern and needs the support international community as a whole for its solution and as such the principle of burden sharing should be viewed in that context.

2. The principle of international solidarity and burden sharing needs to be applied progressively to facilitate the process of durable solutions for [...] refugees, whether within or outside a particular region, keeping in perspective that durable solutions in certain situations may need to be found by allowing access to refugees in countries outside the region, due to political, social and economic considerations.

3. The principle of international solidarity and burden sharing should be seen as 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.

4. International solidarity and co-operation in burden sharing should be manifested whenever necessary, through effective concrete measures in support of States requiring

⁵⁶ The word "issue" is substituted for "aspect" for stylistic purposes.

⁵⁷ The word "root" is added to the text in order better to reflect the recommendation made at the Tehran Meeting of Experts.

⁵⁸ UNHCR's EXCOM Conclusion NO.40 (XXXVI), para. (c).

⁵⁹ Addressing the root causes of refugee movements by ensuring "sustainable repatriation" was recommended at the Tehran Meeting of Experts.

⁶⁰ The Manila Seminar recommended that paras. I to IV of the 1987 Addendum be incorporated into the Bangkok Principles under the heading of "Burden Sharing" and become a new Art. IX (Report of the Seminar P.6).

assistance refugees, the provision of durable solutions and the support of international bodies with responsibilities for the protection and assistance of refugees.

5.⁶¹ In all circumstances, the respect for fundamental humanitarian principles is an obligation for all members of the international community. Giving practical effect to the principle of international solidarity and burden sharing considerably facilitates States' fulfilment of their responsibilities in this regard.

Additional Provisions⁶²

Article X⁶³

Rights granted apart from these Principles⁶⁴

Nothing in these Articles shall be deemed to impair any higher rights and benefits granted or which may hereafter be granted by a State to refugees.

Article XI⁶⁵

Cooperation with international organisations

States shall cooperate with the Office of the United Nations High Commissioner for Refugees and, in the region of its mandate, with the United Nations Relief and Works Agency for Palestine Refugees in the Near-East.⁶⁶

⁶¹ This paragraph is added to ensure a more complete statement of the principle of burden sharing and arises out of the discussions at the Tehran Meeting of Experts.

⁶² Title added for clarity.

⁶³ This is the former Art. IX. The Manila Seminar had recommended that a new Art. IX be inserted under the rubric "Burden Sharing" and that this text be renumbered Art. X.

⁶⁴ Title added for clarity.

⁶⁵ Under the heading of "Cooperation with international organisations", the Manila Seminar "expressed its appreciation to UNHCR as well as to UNRWA for their dedication to their duties on behalf of refugees". (Report of the Seminar, p.5).

⁶⁶ On cooperation with UNHCR, see Art. VIII (1) of the OAU Convention, Art. 35 of the 1951 Convention, and Art. II of the 1967 Protocol relating to the Status of Refugees.

ANNEX-II

Proposal Submitted at the Experts Group Meeting in Tehran.

1. Egypt

The delegation of Egypt proposed that an expanded definition should include, in its "exceptions" part, the "crime of terrorism". Moreover the crime of terrorism should also be considered as one of the reasons for the loss of status as refugee.

2. Ghana

The Delegate of Ghana proposed a definition of refugee as follows: "A refugee is a person who... Is outside the country of his nationality and is unwilling or cannot, for the time being, return to his home country because his life, freedom or personal security would be at risk there; the risks emanating from a pattern of persecution on account of race, religion, nationality, membership of a particular social group or political opinion and or from generalized violence (international war, internal armed conflict, foreign aggression or occupation, severe disruption of public order) or from massive violations of human rights in the whole or part of the country of nationality".

3. Uganda

The delegate of Uganda proposed to include 'colour' in the definition of refugees i.e. "persecution as result of colour ethnicity..." etc.

4. Islamic Republic of Iran

Proposal made by the delegate of the Islamic Republic of Iran concerning Article IV (right to return):

Taking into consideration that voluntary repatriation constitutes a right of the refugee, the importance of strengthening, extending and promoting the ways and means to facilitate conditions for voluntary return should be emphasized.

ANNEX-III

Comments Received by the Secretariat as of 18 March 1999 from AALCC's Member States on the Consolidated Text on the Revised Bangkok Principles

1. People's Republic of China

The Government of the People's Republic of China has no comments on the consolidated text on the revision of the Bangkok Principles at this stage". (Letter from the Embassy of the People's Republic of China, dated July 31, 1998).

2. Republic of Indonesia

The Government of Indonesia has studied the text on the Revision of Bangkok principles on Status and Treatment of Refugees and recommends to submit it without any further revisions. (Letter from the Embassy of the Republic of Indonesia, New Delhi, dated July 30, 1998).

3. Japan

The Government of Japan has no particular comment on the above revision and is agreeable to the Revision of the AALCC's Bangkok Principles on Status and Treatment of Refugees. (Letter from the Embassy of Japan, New Delhi, dated August 13, 1998).

4. Pakistan

Definition of the term "refugee"

In these Revisions we support the additions of the words "ethnic origin" as proposed in Tehran as far as the term "he" is concerned the substitution 'he/she' and 'his/her' may be adopted.

Asylum to a Refugee

We support the details already provided and agree that we should avoid giving erroneous impression that all refugees are terrorists which would in turn undermine the institution of asylum from persecution according to universal declaration of human rights.

Non-refoulement

This article laid down the condition that no one seeking asylum in accordance with these principles shall be subjected to measures such as rejection at the frontier, return or expulsion from the host country. Although Pakistan has not resorted to using these harsh measures against refugees yet we do not support making it legally binding.

Migrant standards of treatment

We support in principle the provision and amendments made in this article.

Expulsion and deportation

We support in principle the provision and amendments made in this article.

Right of return

We support in principle the provision and amendments made in this article.

Right to compensation

Implementation of this article is likely to create financial hardships for developing and third world countries including Pakistan.

Voluntary reparation

We support in principle the provision and amendments made in this article.