

Forced Migration

Class 1

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Who am I and why am I here?

Who are you and why are you here?

Who counts as a refugee?

Who counts as a forced migrant?

Why define this field as “forced migration law”?

What is the difference between a human rights approach and a forced migration approach in confronting harm?

Why did Katrina victims object to being called “refugees”?

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Global forced displacement | 2001-2011 (end-year)

(in millions)

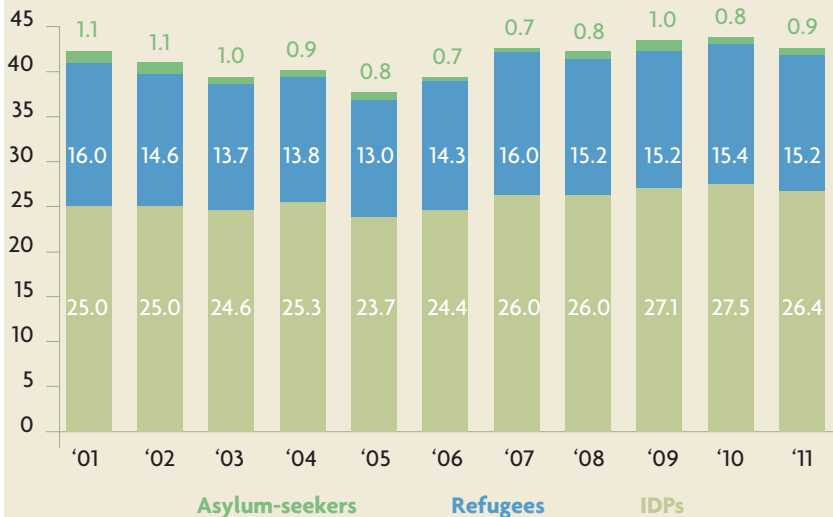
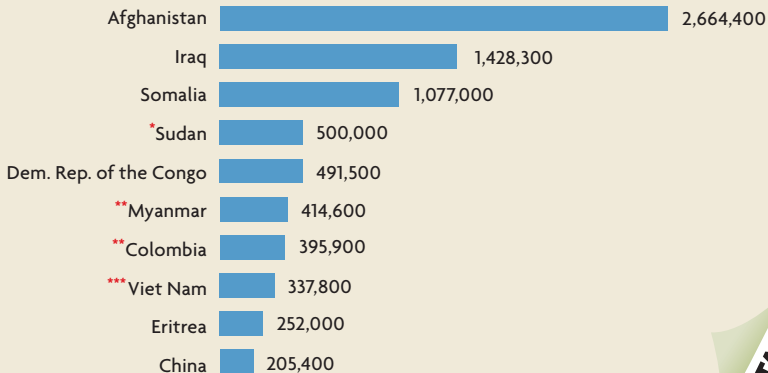


Fig.

5

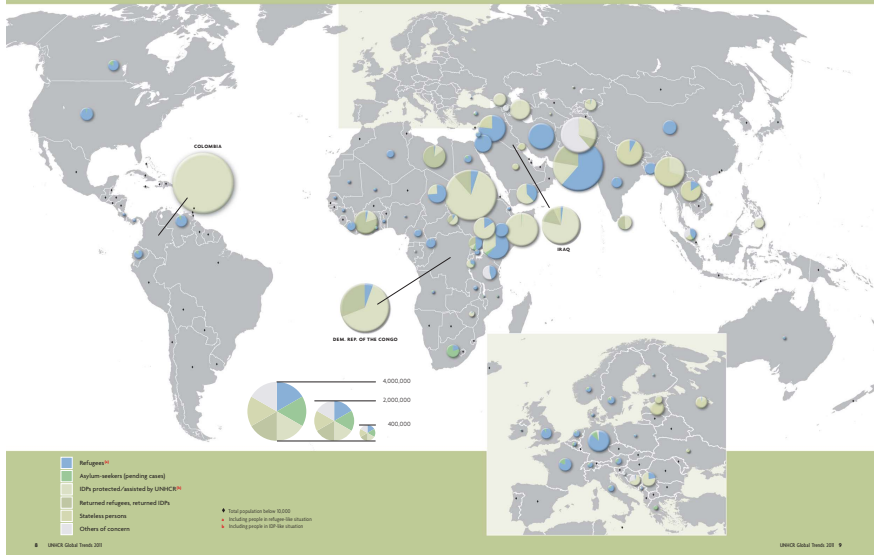
Major source countries of refugees | end-2011

**DATA**

* May include citizens of South Sudan (in absence of separate statistics for both countries).

** Includes people in a refugee-like situation.

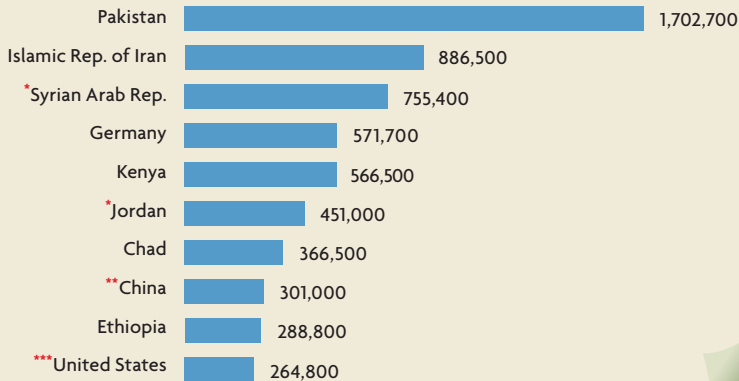
*** The 300,000 Vietnamese refugees are well integrated and in practice receive protection from the Government of China.



From: UNHCR Global Trends 2011

Fig. 4

Major refugee-hosting countries | end-2011



DATA*

* Government estimate. UNHCR has registered and is assisting 132,500 Iraqi refugees in both countries.

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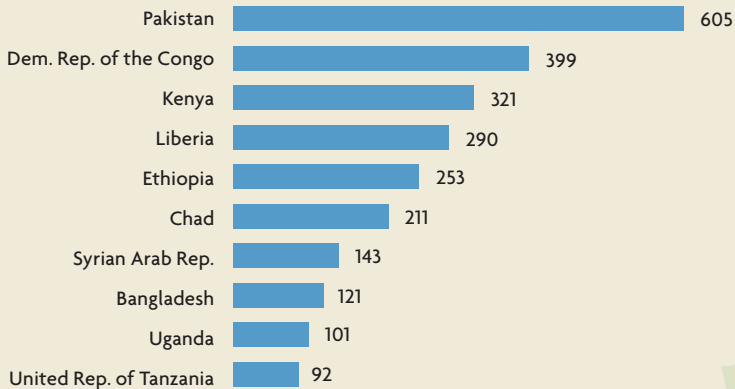
*** UNHCR estimate.

Fig.

6

Number of refugees per 1 USD GDP (PPP) per capita

| 2011

**DATA***

What is international law?

Restatement (Third) of Foreign Relations §101:

International law . . . consists of rules and principles of general application dealing with the conduct of states and of international organizations and with their relations inter se, as well as with some of their relations with persons, whether natural or juridical.

Sources of international law

International agreements

Customary international law

General principles

International agreements on forced migration

Refugee Convention and Protocol

CAT

ECHR

AU/OAU Refugee Convention

Other sources of international law on forced migration

Universal Declaration of Human Rights

Cartegena Declaration

IDP Principles

Customary international law

Article 14:

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Why doesn't this create a right to asylum?

Refugee Convention

Article 1A:

[T]he term “refugee” shall apply to 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, membership of a particular social group or political opinion, is out-side the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country

Refugee Convention

Does this create a right to asylum?

Refugee Convention

Article 33:

No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

AU/OAU Refugee Convention

Article 1.2:

The term “refugee” shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

Article 3:

No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

Article 3:

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Guiding Principles on Internal Displacement

¶2:

. . . [I]nternally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.

What are some of the objections to UNHCR's operational involvement in IDP situations?