

A SHORT OVERVIEW OF REFUGEES

Discuss around your tables seeing if you can agree to who is a refugee and who is not.

Refugees are officially defined and protected in international law, and must not be expelled or returned to situations where their life and freedom are at risk. It is fair to say that not all the people coming to Europe across the Mediterranean or through Turkey meet the criteria set out in international law. We need to be aware of the laws and terms used if we are really going to be able to help either in the countries to which they first flee or once they arrive in Europe. We will look at some of those issues and also try to give a context to what is currently going on in the Middle East and Europe compared to recent history.

I spent 25 years of my life working with refugees from 1979 to 2004. It covered countries as far apart as Thailand/Cambodia, Malawi/Mozambique, Turkey/Iraq, Tanzania/Rwanda and Sudan/Eritrea among others. I also helped Cambodians who had been granted refugee status by the UK to settle into life in the UK. One of my roles was negotiating with the UN and host governments in establishing community services in refugee camps which were long term in their existence. The whole aim was to help refugees have some form of dignity and identity again. In the end that what was became the driving force, not just the physical aid and development. Refugees are human beings just like us with the same desires, skills and attributes.

Even so I still feel an amateur in many matters. Refugees are a very emotive issue and I have been delighted to see so many responses across Europe to the present situation. However it is often not as simple as it all sounds and we need to take stock of various issues:-

- a) Biblical mandate to care for refugees and heart of welcome
- b) International law as it operates today
- c) Claiming asylum and its different ways of working even across Europe
- d) Refugees are not new and we can learn lessons from the past
- e) Refugees are human beings with skills and resources, not just people to whom we give handouts

1. BIBLICAL MANDATE TO CARE FOR REFUGEES AND A HEART OF WELCOME

I am not going to spend a lot of time covering this as it will be covered elsewhere in the conference. However there are many lessons for Europe where we can learn from others in terms of caring for refugees and having a heart of welcome.

In our world today the bulk of refugees are **NOT** in Europe. Sometimes numbers elsewhere are mind blowing. According to the Jordan Times on 10th June, the population of Jordan has increased to 9.5 million of whom 2.9 million are not of Jordanian origin or 31% of the population. This is much higher than official statistics but probably pretty realistic. The resident population of Lebanon is 4,132,00 but they have 450,00 Palestinians and 1,077,000 registered Syrian refugees – so 28% of the country are refugees, not including those who have not registered.

The welcome given in many countries despite limited resources can sometimes put us to shame. Yet many in Europe consider the refugee crisis is overwhelming not just the services but the institutions which are expected to deal with it. The lack of welcome in many countries is an incredible contrast to often what poorer countries provide.

Although large and unprecedented in recent terms, numbers coming to Europe compared to the countries surrounding the refugee crises themselves are not huge. We must be careful, even when we feel overwhelmed, not to pick up some of the rhetoric of the media. Some countries, especially Germany, have taken on more than their fair share of responsibility for refugees arriving here. Many others – Britain among them – have been resolute in their attitude to accept as few as possible.

So what does the scripture say to us as a church across Europe. Refugees and displaced people have been forced to flee their homes due to hatred and violence. They are among the most traumatised and vulnerable people in the world. To me, God makes it absolutely clear in the scripture that we as the church

are to care for refugees, whatever our Governments do - both here in Europe and at the epi-centres of the crises in Syria itself, Central African Republic, South Sudan, Colombia – wherever there are displaced people. Jesus himself experienced life as a refugee in his early years as his family fled to Egypt and constantly preached about the importance of showing love to the most vulnerable in our societies.

So a few verses to help us as we think about the welcome we are giving and our care for others:

1. Do not mistreat foreigners who are living in your land. Treat them as you would an Israelite, and love them as you love yourselves. Remember that you were once foreigners in the land of Egypt. I am the Lord your God. (Leviticus 19:33-34)
2. He makes sure that orphans and widows are treated fairly; he loves the foreigners who live with our people, and gives them food and clothes. So then, show love for those foreigners, because you were once foreigners in Egypt. (Deuteronomy 10:18-19)
3. “Long ago I gave these commands to my people: ‘You must see that justice is done, and must show kindness and mercy to one another. Do not oppress widows, orphans, foreigners who live among you, or anyone else in need.’” (Zechariah 7:9)
4. I am the Lord, and I consider all people the same, whether they are Israelites or foreigners living among you. (Numbers 15:16)
5. See that justice is done – help those who are oppressed, give orphans their rights, and defend widows. (Isaiah 1:17)
6. If you give food to the hungry and satisfy those who are in need, then the darkness around you will turn to the brightness of noon. (Isaiah 58:10)
7. Remember to welcome strangers in your homes. There were some who did that and welcomed angels without knowing it. (Hebrews 13:2)
8. “Whoever has two shirts must give one to the man who has none, and whoever has food must share it.”(Luke 3:11)

2. WHAT IS A REFUGEE?

The main United Nations body assisting refugees is UNHCR which was formed after the Second World War. Another key agency is UNRWA, which was set up in 1949 to care for displaced Palestinians. There are also other situations where you and I might use the term refugee but the receiving nation does not, so they are not formally registered with UNHCR. Often they are then missing from the statistics. There are several other UN bodies helping in these situations.

The international conventions on the status of refugees are the [1951 Convention relating to the Status of Refugees](#) and its [1967 Optional Protocol relating to the Status of Refugees](#). The original Convention establishes the definition of a refugee as well as the principle of not returning refugees to insecure setting where they might be persecuted again – called refoulement. It also sets out the rights afforded to those granted refugee status.

Article 1(A)(2) Protocol of the 1951 Convention as amended by the 1967 Protocol defines a refugee as “*A person who owing to a **well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion**, is **outside the country of his nationality** and is unable or, owing to such fear, 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 as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*”

It should be noted that four key groups of people are not included as official refugees, though often we use language that implies that they are:-

- Internally displaced persons (IDPs) including individuals fleeing natural disasters and generalised violence
- Stateless individuals not outside their country of habitual residence or not facing persecution
- Individuals who have crossed an international border when fleeing **generalised violence**
- Individuals who have crossed an international border mainly for what are economic reasons

The Convention does not define how countries are to determine whether an individual meets the definition of a refugee. Instead, the establishment of asylum proceedings and refugee status determinations are left to each country to develop. This has resulted in many disparities across the world as governments craft asylum laws based on their different resources, national security concerns, and histories with forced migration movements.

However in some areas of the world, the definition of a refugee has been extended. Two examples are:

- The Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa adopted a regional treaty based on the Convention, adding to the definition that a refugee is: ***Any person compelled to leave his/her country 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***
- The Cartagena Declaration signed by a group of Latin American governments determined that the definition of a refugee includes ***Persons who flee their countries because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.***

So how many of the people displaced within the Middle East or seeking to come into Europe meet the criteria of being a refugee?

A CASE STUDY FROM THE 1980/90s

I spend many years overseeing work with refugees from Cambodia in Thailand. However few were accepted either by Thailand, Western countries or UNHCR as official refugees and were not even allowed to seek asylum officially. From 1979 to 1993, many were kept in unofficial camps on the border, under the mandate of a special UN body called UNBRO. They were not granted refugee status by Thailand and were just unofficial temporary “illegals” kept in huge cities behind barbed wire. They could not work outside the camp, earn money or trade. Many did manage to be resettled in Western countries as refugees, mostly the educated and those with links. Eventually there was a reasonable form of peace in Cambodia and they returned home (they had no choice) – though for many children home has always been behind a barbed wire fence. It was also a brain drain on the Cambodian nation.

What should have happened? Which was better - to have been resettled or forced to stay behind barbed wire for years with little future but then able to go home? Which was better for the long term future of the country?

- Many Cambodians had been traumatised by events of 1970 to 1979 would have struggled to go back to the country – yet some had no choice. How fair were the choices that were made?
- Many Cambodians now leave outside their country and send money home – is it a good or bad thing?
- No one knew what the long term solution would be? Was Thailand right not to allow anyone to settle there?

Even so the protection of refugees has many common aspects and countries need to ensure that those claiming to be refugees are provided with:-

- safety from being returned to danger
- access to fair and efficient asylum procedures
- measures to ensure that their basic human rights are respected while they secure a longer-term solution.

3. CLAIMING ASYLUM – ESPECIALLY IN THE EUROPEAN UNION

It is often assumed that those seeking refugee status are supposed to claim asylum in the first country in which they are safe and protected. However there is no obligation under the refugee convention or any other instrument of international law that requires refugees to seek asylum in any particular country.

The convention requires that countries are required to determine asylum claims made by anyone within their territory. However the principal exception to this is where there is a safe third country to which the person can be sent in order for substantive consideration to be given to their claim.

There has, however, been a longstanding "first country of asylum" principle in international law by which countries are expected to take refugees fleeing from persecution in a neighbouring state. This principle has developed so that an asylum seeker, who had the opportunity to claim asylum in another country, is liable to be returned there in order for the claim to be determined.

So what rights and protections do asylum seekers coming to Europe have in law and especially across the European Union. Within the European Union the Dublin Regulation (see Council Directive 2004/83/EC of 29 April 2004) sets minimum standards for the qualification and status of third country nationals or stateless persons as refugees.

The position on removal to other countries in the European Union is governed by "[Dublin II Regulation](#)". This sets out criteria for determining which member state is responsible for examining any asylum claim made within the EU. One of the main criteria is the point of entry into the EU. Unless other factors such as family unity or existing residence documents are in issue, the member state into which the person first arrived from outside the EU will be responsible for determining any claim for asylum made within 12 months. After that time responsibility lies with the last member state where the asylum seeker has lived continuously for a period of at least five months. This has been a major source of tension in the European Union recently.

Individuals granted asylum receive a residence permit for themselves as well as one for any dependent relatives. Those not granted asylum have a right to appeal their negative decision and generally an applicant may not be removed unless they have exhausted all of their available remedies. However this is not consistent even in the EU. For example France has amended its laws - [France: Amend Immigration Bill to Protect Asylum Seekers](#) – which now means that under French law an appeal does not suspend expulsion for those placed in the fast-track procedure.

4. SOME HISTORICAL DATA ON REFUGEES

Refugees are not new. As I said I worked with refugees for 25 years across the world. Indeed the numbers now are no larger than many historic figures – it is just that a number have come to Europe and suddenly there is a crisis that we notice. One difference today of course is that they are on our doorstep. I will be frank – I campaigned for years about refugees but the church across Europe took little notice until now.

UNHCR has an excellent interactive map showing refugee statistics and trends – see <https://data.unhcr.org/dataviz/> It is well worth taking a look at. Also there is the UNHCR 2014 report available at <http://www.unhcr.org/556725e69.html>

However we do need to be careful as many are left out due to the use by UNHCR of strict definitions. One example from Thailand is Cambodian refugees. The numbers given for Thailand for 1984 are 128,500. This is supposed to include those from Burma/Myanmar, Laos, Vietnam and Cambodia. However it did not include 250,000 Cambodians on the border whom the Thai Government would not classify as refugees and so were not part of UNHCR's mandate, or many of the Burmese. UNHCR is a political entity controlled by the member states, and so has no independence in whom it includes and excludes.

Having said that the highest figure for refugees in the past 50 years is from 1992 with over 17,800,000 refugees, compared to 10,500,00 in 2012. Of course since then there has been a huge increase from Syria and Iraq, so by the end of 2014 there were 14.4 million refugees under the mandate of UNHCR. However do note that neither of these figures include the Palestinians under UNRWA mandate often included in refugee statistics (5.1 million in 2014) or those people not classified as above.

So despite what the media says this is NOT the greatest refugee crisis since the Second World War, though it is one of the first times refugees have got to Europe in such numbers. In addition UNHCR considers that

there is actually *less pressure* now on Western and developed countries than for many years before. In 2004 70% of refugees were being cared for in developing countries, whereas in 2014 it was 86%. By the end of 2014, Syria had become the world's top source country of refugees, overtaking Afghanistan which had held this position for more 30 years – and the numbers continue to increase.

There are of course many missing from statistics, but the UNHCR official numbers for the top 6 countries who have officially registered refugees at the end of 2014 were:-

1. Turkey - 1.59 million (2.78 million in 2015)	2. Pakistan - 1.51 million
3. Lebanon - 1.15 million	4. Iran - 982,000
5. Ethiopia 659,500	6. Jordan - 654,100

Since then there has been the crisis in Europe with so many coming across the Mediterranean from the Middle East or coming through Turkey. I leave Adrian to pick up on that trend but by the end of 2015 there were 600,000 registered in Germany.

Of course none of this includes internally displaced people (IDPs). In 2014 the number of IDPs worldwide reached 38m, the largest number ever recorded. Nowadays they are often also protected or assisted by UNHCR even though not legally refugees.

Some “highlights” - or are they “lowlights” - from 2014 relating to IDPs:-

- **Syria** – continued fighting brought the number of IDPs in that country to **7.6 million**
- **Colombia - 6 million** internally displaced persons registered by the Government, Colombia too continued to face a large displacement situation.
- **Iraq** - In addition to the 1 million existing IDPs who had fled violence in previous years, at least 2.6 million persons were newly displaced during 2014, bringing the figure to **3.6 million IDPs**.
- **Democratic Republic of Congo** - continued fighting displaced a further one million people, bringing the total number of IDPs in the country to **2.8 million**.
- **South Sudan** – the new conflict displaced more than **1.5 million** people within the country.
- **Afghanistan** - Renewed conflict and security concerns meant that by the end of 2014 the number of IDPs in that country was estimated at **805,000**.
- **Central African Republic** – an encouragement that although around **438,000** people remain internally displaced, this is half a million less than 2013.

5. LESSONS LEARNED:

I wanted to give an overview of refugees as the situation today is not new, but it is new for many of us in Europe. Most of my work has been in refugee camps in less economically developed countries, rather than asylum seekers arriving in an affluent country here in the West.

However there are some key issues to address from lessons that I have learnt which are transferrable.

Be careful we do not compound the problem? “My view is that you can change the physical surroundings of people but they can actually be worse off if the change does not also incorporate a continuity of positive and supportive relationships, and the enhancement of dignity.” (Andy Sexton). Refugees are not objects of pity but human beings with talents, skills, background, qualifications and dignity. They lose so much when they become refugees. We must be careful not to take away even more by not acknowledging their skills and being too hand-out orientated. The cry of many refugees is dignity, not handout.

How can we as a church help to enhance dignity when they are still unregistered, in limbo, have few material assets and dependent on others?

Belonging is key: There is a very interesting dissertation available at <http://scgrg.org/wp-content/uploads/2011/09/Potts-Identity-Dissertation.pdf> entitled “We are not here, we are not there - Young Refugees' and Asylum Seekers' Negotiations of Identity and Belonging”. To quote from the summary: ‘The notion that one either belongs or not, and similarly that one either belongs ‘here’ or ‘there’ is

challenged by the figure of the refugee and asylum seeker. The liminal status of refugees and asylum seekers and their frequent exclusion from parts of society through racism or state-sanctioned detention, disrupts the formation of place attachment and identity development. ... Whilst this dissertation also considers the notion of identity formation for refugees and asylum seekers it privileges the concept of belonging as I contend that belonging is more important than identity as belonging encompasses the crucial feelings of feeling safe and at home, around which identities can take shape, which is particularly critical for asylum seekers and refugees who have experienced trauma, loss and upheaval.'

Something that people working with refugees need to understand is the sense of loss of identity and belonging. Often they are not able to find that belonging in their new host country, and seek their identity in their culture, seeking out others from the same place, or in their religion, even though that might have been a factor in their becoming a refugee. My wife Georgina and I have a good friend from Afghanistan who has sought to find identity in Islam, even though they were closely identified with the communist and secular regime under Najibullah and imprisoned for being so by the religious parties. It is part of their search for who they are now that they live in the UK and the familiar has gone.

We need to understand people's needs for identity and belonging. How can the church help in creating identity and belonging?

Aid is not enough- think relationship/friendship: We need to base our work with refugees on relationship. This needs to be based on friendship, humility, respect, honour. In working with refugees we also need to become a listener and a learner – not always the teacher. A crucial lesson is about listen – to stores and heartbreak. Only then will there be true friendship based on the humility that we have not experienced what they have experienced. Recognise the power dynamics of being the rich friend. "Through all the ages to come the Indian church will rise up in gratitude to attest the heroism and self-denying labours of the missionary body. You have given your goods to feed the poor. You have given your bodies to be burned. We also ask for love. Give us FRIENDS!" VS Azariah – Edinburgh 1910

How can the church walk alongside as friends, not as aid workers?

Think interdependence: Interdependency is Biblical and is characterised by reciprocity and responsibility. Dependency focuses on the power of the giver and the weakness of the receiver - reciprocity and responsibility are ignored. The seeds of unhealthy dependency are planted when the only deal struck in a relationship is a one-way flow of resources, whether that is money, training, learning or people. All people are made in God's image, with inherent capacity and gifts. Why do we assume that they lose this capacity when they are refugees? Why do we assume that we have nothing to learn from them? Participation is the process by which people are empowered. Participation is not really a means of development. It is the goal of development. It is people taking an active part in decisions and actions that affect their lives. Participation recognises that people have worth and dignity, and the capacity to engage

Can the church model a new way of working enhancing people's self-worth?

Think sustainability:

- Meeting the **needs** of the present without compromising the ability to meet their own future needs
- More than about short or even long term impacts
- More than something that will last
- It is about restoring hope and dignity

Can the church model a new way of meeting needs while maintaining dignity?

Martin Lee (June 2016)

Prepared for the EEMA Conference – Refugees in Europe - A fence or a bridge?

LIST OF RESOURCES RELATING TO LEGAL STATUS OF REFUGEES

For further information and links, there is an excellent article produced by the International Justice Centre for Refugees – see www.ijrcenter.org/refugee-law/#Who_Is_a_Refugee

Some other helpful links are:-

- [UNHCR Handbook for the Protection of Internally Displaced Persons](#)
- [UN Office for the Coordination of Humanitarian Affairs](#)
- [Guiding Principles on Internal Displacement](#)
- [UNHCR Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and 1967 Protocol relating to the Status of Refugees](#)
- Guy S. Goodwin-Gill, [Convention](#) relating to the Status of Refugees, Geneva 28 July 1951, Protocol relating to the Status of Refugees, New York, 31 January 1967
- [International Organization for Migration](#), an intergovernmental organization which, in addition to other activities, assists governments in developing migration policies and helps return individuals whose asylum claims have been rejected
- [International Organization for Migration: The Refugee Framework](#)
- [U.S. Committee for Refugees and Immigrants: Refugee Warehousing International Standards](#)
- For 2011 statistics on asylum seekers see, Andrew Rininsland, *The Guardian*, [Asylum-seekers around the world: where did they come from and where are they going?](#)
- [UNHCR: Asylum in the European Union. A Study of the Implementation of the Qualification Directive](#)
- [UNHCR RefWorld](#), database for searching asylum law and cases from a variety of countries

UNDERSTANDING TERMS AND THEIR DIFFERENT INTERPRETATIONS

Despite differences, there are a number of commonalities between the asylum procedures in different countries who have national frameworks for granting refugee status. In order to understand how these procedures operate in different countries, it is necessary to first identify how certain key terms in the 1951 Convention are defined within the domestic legal systems of particular countries.

Refugee – Some countries have incorporated the Convention’s definition of a refugee into their domestic laws. Some countries have also incorporated those instruments’ broader definition of a refugee, recognizing individuals fleeing generalized violence and other breakdowns of public order.

Asylum seeker – A person who has applied for recognition as a refugee in a country. If the asylum seeker is determined to meet the definition of a refugee they are granted asylum.

Well-founded fear – Individual countries have interpreted the 1951 Convention's requirement of a well-founded fear of persecution to require asylum seekers to show that there is a reasonable possibility that they will suffer persecution if returned to their country of nationality or habitual residence.

Persecution – Persecution is not defined in the 1951 Convention or the 1967 Optional Protocol. In an attempt to provide guidance on what constitutes persecution, the Council of Europe included a non-exhaustive list in the Qualification Directive of acts that could be considered persecution such as:

- acts of physical or mental violence, including acts of sexual violence;
- legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
- prosecution or punishment, which is disproportionate or discriminatory;
- denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 12(2); acts of a gender-specific or child-specific nature.

Race, religion, nationality – The asylum applicant does not need to actually possess the racial, religious, or national characteristic in question provided that characteristic was attributed to the asylum seeker by the persecutor and is the reason for the persecution

Political opinion – Like the above three grounds, political opinion may be imputed to the asylum seeker. There is some debate as to whether neutrality may qualify as a political opinion for the purposes of obtaining asylum. In one case it was determined that there was no persecution based on political opinion where refusal to join work stoppage resulted in threats and violence from militants because refusal was motivated by desire to earn wages!! In another case it was refused when the persecution based on political opinion where former military member refused to join guerrillas because he wished to remain neutral and neutrality was not seen as a political view!!

Membership in a particular social group – There is still a lack of consensus as to what constitutes a particular social group. This includes classes of persons not included in the 1951 Convention, who nonetheless face specific persecution, such as women and homosexuals.

Exemptions – There are various exemptions if people have committed particularly serious crime (though the definition of a particularly serious crime varies by country) or war crimes or crimes against humanity

Typically, refugee status determinations or asylum adjudications are conducted by an official from a designated government department or agency. These officials should have a solid knowledge of refugee law. In most cases, the official will interview the asylum seeker to evaluate his or her evidence and credibility. The burden is on the asylum seeker to prove that he or she meets the definition of a refugee and asylum seekers are encouraged to supply as much supporting evidence as possible. Supporting evidence may take the form of country reports, NGO reports, news articles, affidavits or the in-person testimony of witnesses.

In accordance with Article 31 of the 1951 Convention, some countries provide in their domestic law that an applicant's irregular entry (without an entry visa or other documentation) will not have a negative effect on the asylum seeker's application. However some countries place time restraints on how many days after entry into their country an asylum seeker may make an application.