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Joint Oral Statement by Friends World Committee for Consultation (Quakers) and Jesuit Refugee Service to 59th session of the UN Commission on Human Rights under Item 14(c)¹

SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Delivered by Rachel Brett, Quaker UN Office, Geneva, on Thursday 17 April 2003

Human Rights and Refugees

As non-governmental organizations working to promote respect for the effective protection of the human rights of refugees and asylum seekers, we identify the need for a more coherent method of engaging human rights bodies and mechanisms in this area.

In doing so, we recall that everyone is entitled to human rights and fundamental freedoms without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth *or other status*. We also recall that, because of their particular need for international protection, refugees and asylum seekers have certain additional rights.

In a range of ways, this Commission and the Sub-Commission on the Promotion and Protection of Human Rights have raised issues concerning the human rights of 'people on the move', including the rights of refugees and asylum-seekers, internally displaced persons (IDPs), and migrants; forced population transfer, mass exodus, and detention; as well as Palestinian refugee issues which are specifically excluded from the mandate of UNHCR. So, while UNHCR's mandate remains central, the human rights of individual refugees, asylum seekers and rejected asylum-seekers also come, in a complementary way, within the remit of the UN's human rights bodies.

There are, however, some areas of violations of refugee rights that have not been dealt with in much detail. Take the right to food, for example. Over the last few years it has been increasingly difficult for organisations such as UNHCR and WFP to obtain adequate levels of funding, especially for protracted refugee situations in Africa. Refugees in Zambia were kept on half food rations for 8 months when WFP had problems with their food "pipe-line" during famine in the region. For the new arrivals from Angola, who had not been allocated any land, this led to unassisted repatriation to Angola, where humanitarian organisations were not yet in place to

¹ This statement is also supported by Amnesty International, who is precluded from making it jointly because of the decision to cluster item 14 and items 16-20 of the Agenda of this session of the UN Commission on Human Rights.

receive them. Since the Iraq war began, the lack of funding for the food "pipe-lines" in Africa has increased.

The first expert consultation on the right to food² clarified that the obligation to fulfil the right directly exists when individuals or groups are unable, for reasons beyond their control, to enjoy the right to adequate food through the means at their disposal.³ The obligation to fulfil (facilitate) means that States must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security.⁴ These obligations apply to many other human rights.⁵

Because of the complexity of the problems, there is a need for a thorough exploration of key rights issues, in particular access to education, to health care, and to food, the rights to nationality, freedom of movement and from arbitrary detention, and the prohibition on return to places where an individual's life or freedom is under threat.⁶

Too many governments do not, in practice, recognize that asylum seekers and refugees have rights under international human rights law as well as under the refugee standards. In the post-Cold War and post-11 September world, respect for the human rights of refugees and asylum-seekers, including rejected asylum-seekers, is at a low ebb. There is a pressing need to develop and strengthen understanding of how human rights - economic, social, cultural as well as civil and political - apply to such persons.

We welcome the increased cooperation between the UN High Commissioner for Refugees and the UN High Commissioner for Human Rights, and in light of this urge the Commission specifically to:

1. affirm that refugees and asylum seekers have civil, political, economic, social, and cultural rights;
2. request the High Commissioner for Human Rights to produce a thematic report on the protection of the human rights of refugees and asylum-seekers (including rejected asylum-seekers) based on the reports submitted to this Commission;
3. call on the Special Procedures, as appropriate, to give specific attention to the human rights of refugees, asylum-seekers and rejected asylum-seekers; and
4. remind States of their obligation to promote and protect the human rights of all individuals regardless of status.

² held in Geneva on 1 and 2 December 1997

³ World Food Summit: Five Years later, Rome, Italy, 10-13 June 2002: Report by the United Nations High Commissioner for Human Rights, <http://www.unhchr.ch/html/menu2/i2ecortf.htm>

⁴ General Comment 12 of the Committee on Economic, Social and Cultural Rights, E/C.12/1999/5, CESCR, 12 May 1999

⁵ In 2002 44% of refugee children had access to primary education. However, only 3% of the children of concern to UNHCR in the 12-17 year age group have access to education - whether secondary education or vocation training - whereas the equivalent figure for the least developed countries is 17%.

⁶ Other human rights issues directly relevant in the context of protection of 'people on the move' include: torture and "disappearance"; racial, religious, and nationality-based discrimination; cruel, inhuman and degrading treatment, in particular in the context of detention. 'People on the move' are also vulnerable to and suffer from physical abuse (including sexual violence and exploitation); exploitative labour practices (including child labour); and trafficking in refugee women and girls.