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A PROFOUND STUDY ON THE STATUS AND ROLE OF UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

Pooja^{1*} Baljinder Singh²

¹Assistant Professor of Law at KCC Institute of Legal & Higher Education, Greater Noida, India.

²Research Scholar at National Law University, Delhi, India.

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*Corresponding Author: Pooja

Assistant Professor of Law at KCC Institute of Legal & Higher Education, Greater Noida, India.

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ABSTRACT

United Nation High Commissioner for Refugees (UNHCR) has a stake in disseminating the results of its legal and protective policy studies to decision-makers, scholars, attorneys, judges, non-governmental organizations, and the general public because it is the custodian of the 1951 Convention and its 1967 Protocol. The current paper emphasizes on the historical background of UNHCR and further in detail. Refugee rights find their legal basis from important international instruments that simultaneously establish state obligations and the current paper highlights the legal framework and international instruments governing UNHCR. The UNHCR organizational framework follows certain primary purposes consisting of international protection with assistance along with durable solution programs and this paper laid emphasis upon the mandate of UNHCR and the organizational structure. The function of UNHCR has also been explained in detail. Non-refoulement represents the foundational principle upon which the UNHCR bases its protective mandate because the organization must prevent forcibly pushing refugees into danger and following this role of non-refoulement principle has been discussed in the current paper. The current paper analyses certain cases along with the challenges faced by UNHCR inclusive of perspective on jurisdictional challenge following the strategic responses with respect to it. Thus, the current research demonstrates that UNHCR continues to play an essential role with its defined functions and position.

KEYWORDS: Refugee, Status of UNHCR, Functions of UNHCR, UNHCR.

INTRODUCTION

Forced displacement worldwide requires a definitive international system which defends people who must escape persecution as well as conflict and violence. As the central agency of this framework stands the Office of the United Nations High Commissioner for Refugees (UNHCR) which leads and coordinates worldwide efforts to protect refugees to solve their refugee difficulties.

An estimated 50 million people have benefited from the agency's assistance in starting again in more than 50 years. Today, UNHCR employs over 16,803 people who serve 70.8 million people in 134 countries.¹ As the United Nations General Assembly (UNGA) initiated in 1950 UNHCR became the core component responsible for protecting refugees through asylum provision and securing lasting solutions while providing safe refuge. This research paper examines the diverse nature, status and responsibilities of UNHCR as an entity inclusive of other points under international refugee legal frameworks. This paper investigates all aspects of UNHCR's role as a primary international actor in refugee protection through analysis of its legal foundation and organizational structure together with its main functions and operational work and existing organizational challenges. The research relies solely on UNHCR official documents, academic literature and scholarly research to study about the UNHCR's mission.

HISTORICAL BACKGROUND OF UNHCR

In order to aid the millions of Europeans who had been displaced by World War II, the „UNHCR“ was established. The United Nations General Assembly (UNGA) created the “Office of the United Nations High Commissioner for Refugees” on December 14, 1950, with a three-year mandate to finish its duties before disbanding.² The „United Nations Convention pertaining to the Status of Refugees,“ which serves as the legal basis for aiding refugees and the fundamental law directing UNHCR's operations, was ratified on July 28 of the following year.

The United States actively funded both the United Nations Relief and Rehabilitation Agency (UNRRA) and the International Refugee Organization (IRO) as well as other refugee agencies in World War II so America wanted to avoid increased financial responsibilities. During the creation of UNHCR Western governments restricted its functions to protect refugees legally and find permanent solutions while avoiding funding material support directly.³ During this period the

United States preferred to supervise refugee policy because they wanted to focus on communist defection numbers while also avoiding unconditional support for UN organizational power. The US formed two independent American organizations namely the US Escapee Program (USEP) and ICEM⁴ which would later become IOM („International Organization for Migration“) to run refugee and migration operations directly.⁵ Throughout the years UNHCR managed to strengthen its operational influence. The 1950 Statute together with the 1951 UN Refugee Convention established both ethical authority and legal power for the organization.

200,000 escaped to Austria, a neighboring country, after the 1956 Hungarian Revolution. The UNHCR took the lead in resettling the Hungarians after recognizing them as “prima facie” refugees.⁶ The “Good Offices” resolutions passed by the General Assembly together with time allowed UNHCR to expand its activities toward refugee issues in Africa and Asia after starting in Europe. The way humanitarian groups will handle refugee situations in the future was influenced by this rebellion and its aftermath. The first of Africa’s many refugee crises was brought on by the continent’s decolonization in the year 1960s.⁷ Over the next 20 years, UNHCR also provided support to displaced persons across Asia as well as Latin America.

Numerous expansions of UNHCR transpired from its autonomous organizational format which granted the High Commissioner unrestricted operational power outside of the normal UN Secretariat control system. Under its independent structure the High Commissioners „Gerrit van Heuven Goedhart, Auguste Lindt, Felix Schnyder and Sadruddin Aga Khan“ had the authority to accelerate UNHCR’s global expansion of its mission.

UNHCR used its original binding structure alongside its management framework and directorship to establish itself as an independent humanitarian force during the latter part of the twentieth Century. UNHCR’s focus has expanded over time to encompass aiding refugees who are returning home, those who have been forcibly displaced within their own nation, and those who have been denied nationality and are left stateless.

LEGAL FRAMEWORK & INTERNATIONAL INSTRUMENTS GOVERNING UNHCR

The international legal standing of UNHCR derives from the UN General Assembly resolutions which were solidified through major refugee protection treaties including the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The global definition of the term „refugee“ is found in the 1951, „Convention Relating to the Status of Refugees.“ Nonetheless, UNHCR uses the 1951 Convention’s eligibility requirements, which

are the later, more authoritative, more detailed definition of a refugee.

Meaning of Refugee The Convention of 1951: According to “Article 1(A)(2) of the 1951 Convention Convention relating to the Status of Refugees,” as modified by its 1967 Protocol, the main and universal definition of the term „refugee“ that pertains to States is outlined as follows:

“owing to 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.”⁸

It can be analysed from the above-mentioned definition that Refugees are persons who escape their home country because they have solid reasons to expect persecution from authorities based on their membership in specific categories including “race, religion, nationality or social groups and political opinions.” The 1951 Refugee Convention and its 1967 Protocol establish refugees as individuals who both lack and resist obtaining safety in their native homeland. The international community must provide protection to these individuals because they require defense of their rights and security while finding sustainable solutions through relocation programs and returning freely to their home countries.

Articles 1D -1F of the 1951 Convention contain clauses that supplement the inclusion demands set forth in Article 1A. Although they collectively constitute the 1951 Convention’s definition of a refugee, emergency situations typically do not prioritize taking these definitional factors into account. They are mentioned below for completeness:

Those who are currently receiving protection or help from a different UN body – as for instance mostly Palestinian refugees - are clearly excluded under Article 1 D within its face, but it also specifically covers them once that protection or aid has ended.⁹ People who now enjoy rights typically granted to citizens of the country in which they have settled are excluded by Article 1 E.¹⁰ People who might have been eligible for refugee status are excluded under Article 1 F because they have committed or assisted in the conduct of specific heinous actions. The 1951 Convention’s Article 1 C explains the specific situations that remove refugee status eligibility from individuals. Emergency situations never trigger the considerations required for cessation of refugee status under Article 1 C.

During emergency situations refugees maintain their refugee status according to UNHCR

standards yet the necessity of early return would not challenge this status.¹¹ A voluntary return can never exist under these circumstances since there is only one possible option or because it does not offer better protection than the person's home country. The people maintain their refugee status because of this condition.

The UNHCR extends a comprehensive conceptualization through its definition: Refugees according to the UNHCR are: "A refugee is someone who has been forced to flee his or her country because of persecution, war or violence...."¹² This definition has two major distinctions from 1951 „Refugee Convention“ that include violent conflicts together with wars as causes of forced migration rather than persecution alone. The UNHCR protects refugees in practice even if they do not precisely fit the requirements of the 1951 Convention. It is therefore stated that to extend protection to refugees who do not match 1951 Convention criteria UNHCR works for "complementary protection" along with other safeguards which provide defense to people affected by generalized violence or natural disasters.

Relationship with States and Other Actors

Effective discharge of UNHCR's mandate hinges on its collaborative relationships with various stakeholders, most notably States. Under its Statute UNHCR welcomes government collaboration towards refugee issues. The functions of UNHCR comprise three essential duties including the support for international conventions related to refugee protection and the oversight of their enforcement as well as the generation of proposed changes.¹³ The organization enables State territories to accept refugees for permanent settlement and provides assistance to government initiatives about voluntary repatriation or assimilation programs.¹⁴ The States that signed the Refugee Convention must actively cooperate with UNHCR regarding its essential supervisory role by providing desired information.

UNHCR conducts active institutional collaborations with multiple United Nations agencies through their membership in the UN Inter-Agency Standing Committee (IASC).¹⁵ A revised and updated version of the Refugee Coordination Model (RCM) from 2013 presents guidelines for refugee response coordination under government leadership where UNHCR stands as the primary Refugee Coordinator. UNHCR plays a central part in the execution and follow-up and review process of the Global Compact on Refugees (GCR) that was established in 2018 for advancing refugee management responsibility sharing among parties.¹⁶ It can be observed that UNHCR functions as the principal humanitarian organization for overseeing camps and protecting people displaced by conflict through lead

agency responsibilities.

UNHCR functions with non-governmental organizations (NGOs) as essential partners. The agency extends financial backing to NGOs as they implement material relief operations while validating NGO roles that defend refugee rights by conducting assistance programs.¹⁷ NGOs maintain on- site positions from which they can identify and document protection needs of refugees while informing UNHCR about these findings.

Organizational Structure of UNHCR

As being the subsidiary organ of the UN General Assembly „UNHCR“ maintains its operational presence. Its headquarters operate from Geneva Switzerland but most of its personnel including national staff and international offices exist in operational field locations throughout the world. The High Commissioner directs the agency after being selected by the General Assembly when the Secretary-General submits a nomination. This five-year term is established through a UNGA election. Mr. Filippo Grandi serves as the current High Commissioner since his appointment in 2016 and received reappointment to continue until December 31 2025.¹⁸ The High Commissioner reports to the UNGA during each year while the UNGA selects a resolution to support UNHCR activities. As the leader of UNHCR the High Commissioner defines the agency’s strategic path while employing its moral value and international reputation to support refugee protection standards.¹⁹ The Head of UNHCR implements essential leadership roles which define agency direction and affects multilateral government policies about refugee and asylum matters.

Mandate of UNHCR

United Nation General Assembly (UNGA) has established the mandate of „United Nation High Commissioner for Refugees“ according to which High Commissioner is having moral authority as well as „prestige“ with grant of special as well as independent in status for effectively carrying out their obligations. Beyond political involvement the dedication to humanitarian services is the main characteristic of the UNHCR mandate.²⁰ For preserving the operational impartiality the organisation is mostly maintaining complete political neutrality as well as is making itself stay out from the public debates with respect to politics.

The core principles of UNHCR mission are originating from two principal legal framework that is: „firstly, the 1950 statue of UNHCR and secondly it receives backing from the 1951

refugee Convention along with its 1967 protocol“ to gather with multiple General Assembly resolution as well as regional refugee agreements. The UNHCR holds absolute responsibility for carrying out its assigned functions toward refugees as well as other categories of persons under its protection.²¹ Under the agreed mandate UNHCR assists persons of concern by delivering aid for every aspect of their well-being to support rights access and achieve lasting problem solutions. Since 2003 through „UN GA Res. 58/153“ the UNHCR received a permanent mandate.²² The UNHCR holds everlasting responsibility for refugees as their mandate cannot be transferred to other United Nations bodies except when explicitly stated. Through „Article 35“ of the Refugee Convention States Parties must collaborate with UNHCR to obtain necessary information about refugees along with implementing data regarding the Convention.²³ The original refugee protection responsibilities of UNHCR have expanded throughout its history. The UNGA stressed between 2006 and present day four essential responsibilities for the UNHCR regarding stateless people: detection of stateless persons along with preventing statelessness combined with reducing statelessness and protecting stateless individuals.²⁴ The organization receives authorization from its Executive Committee combined with UN General Assembly backing to extend assistance for internally displaced persons (IDPs) despite its role not being considered a primary mandate.²⁵ Having a presence in both countries of origin and asylum enables UNHCR to provide assistance for IDPs as an extension of its core responsibilities regarding refugees and stateless individuals.

Functions of the UNHCR

Providing protective measures to refugees under the UNHCR Statute represents a core obligation of the organization which operates under General Assembly guidance.²⁶ The Preamble of the Convention relates to the Status of Refugees shows the UNHCR has responsibility to monitor agreements that protect refugees because it explicitly establishes this key duty.²⁷ Article 35²⁸ establishes that States must support UNHCR through offering cooperation as they perform supervisory work to enforce the Convention“s provisions.

It is to be noted that UNHCR must perform exclusively non-political humanitarian and social work.²⁹ The Statute of the Office of the UNHCR (“which is annexed to United Nations General Assembly Resolution 428(V) adopted on 14 December 1950”) contains „Chapter II“ (Articles 6 to 12) which presents provisions about UNHCR functions. Article 6³⁰ defines the „protected refugee“ population by covering previous refugee designations followed by individuals forced to flee their native territory by persecution stemming from „race, religion,

nationality or political opinion“ before the start of 1951. The UNHCR protection exclusions encompass individuals who are having multiple nationalities as well as people who maintain complete nationality rights in another country and offenders who have committed serious crimes.

Article 8³¹ typifies the main functions of the UN High Commissioner through refugee agreement oversight and promotion alongside repatriation support and governance of intergovernmental and private organization activities. The High Commissioner can carry out additional actions for repatriation and resettlement when the General Assembly authorizes these tasks under available funding.³² The High Commissioner needs General Assembly approval for every general fundraising appeal which governs all refugee support funds including public donations and private contributions according to Article 10.³³ Under Article 11³⁴ the High Commissioner has the right to deliver views about operations to both the General Assembly and „Economic and Social Council.“

The High Commissioner has the authorization under „Article 12“ to work together with specialized agencies to achieve better results in fulfilling the mandate. These provisions establish the operative foundation for UNHCR to protect and assist refugees throughout the world.

Further, under Article 3³⁵ of the Statute the „High Commissioner“ needs to execute policy directions received from both the „General Assembly“ and „Economic and Social Council.“ Article 11³⁶ specifies that the High Commissioner obtains rights to deliver his viewpoints to both the General Assembly and Economic and Social Council and their subsidiary organizations. Further, functions includes that according to the requirements each year the High Commissioner must submit an annual report to the General Assembly through the Economic and Social Council which will receive independent consideration during the General Assembly meetings. The reporting requirement exists within Article 35(2)³⁷ of the Refugee Convention concerning submissions towards United Nations competent organs.

Function of Seeking Durable Solutions

UNHCR“s mission entails both safeguarding refugees in the short-term as well as working for sustainable solutions for their displacement. The UNHCR strives to enable refugees to return home safely with dignity whenever their country of origin has suitable conditions. The agency both creates and evaluates the return conditions to guarantee that returnees experience proper safety and wellness during the process.³⁸ Through its local integration program

UNHCR helps host nations make possible the smooth transition of refugees into local societal structures to help refugees achieve sustainable independence.³⁹ The UNHCR helps refugees find permanent refuge in third countries whenever home return and integration within their asylum nation fail.

The international refugee law contains “non-refoulement” as its central non-derogable principle which serves as the foundation of UNHCR’s protection duties.⁴⁰ „Article 33(1)” of the Refugee Convention states:

“Article 33 - Prohibition of expulsion or return (“refoulement”) 1. 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.”⁴¹

From the abovementioned paragraph it can be analyzed that a basic principle of „Article 33(1)” within the 1951 Refugee Convention states that signatory nations cannot compel refugees to return to regions where they face endangerment in their life or freedom stemming from race, religion, nationality, particular social affiliation or political beliefs. Official deportation proceedings and informal border pushing do not change the application of this rule because the refugee convention applies to any attempted forced return regardless of method. The essential factor depends on the threatened risks a person would encounter upon return. The foundation of refugee law requires countries to maintain refugee status protection as the basis for safeguarding people who leave danger.

Additionally, UNHCR identifies this concept of non-refoulement as an essential norm of customary international law all states must respect it without requiring formal. According to the UN General Assembly it stands as a basic principle that states cannot suspend in any instance. Because of its position as the leading organization protecting the Refugee Convention UNHCR must engage in direct efforts to defend the principle of non-refoulement. UNHCR performs functions through direct monitoring of state practices and intervention during refoulement threats while advocating its implementation in national executive legislation.

UNHCR IN ACTION: KEY CASES, CHALLENGES FACED & STRATEGIC RESPONSES

Certain cases where the role played by UNHCR is significant are as follows:

Rohingya Refugee Crisis (2017–present)⁴⁴ is one of cases highlighting role of UNHCR. A

large number of Rohingya refugees escaped to neighboring countries particularly India after the Myanmar military conducted a crackdown in 2017. Undercurrents of the 1951 Refugee Convention do not bind India because the nation has not signed on as a member however the UNHCR still supports by registering and assisting Rohingya refugees in the country. The Indian position on Rohingya deportations has caused international worry about respecting the non- refoulement principle.

Tamil Refugees from Sri Lanka (1980s–2000s),⁴⁵ when the Sri Lankan civil war escalated many Tamil refugees found refuge inside the borders of India by taking residence in Tamil Nadu. The Indian government oversaw refugee camps but UNHCR assisted with voluntary repatriation procedures and checked upon returning refugees.

Rwanda Genocide Refugee Crisis (1994)⁴⁶ in this result of the „Rwandan genocide“ in the year 1994 many refugees crossed national borders seeking safety in neighboring countries. Through coordination with UNHCR refugee camps got established and the essential services got distributed in emergency relief operations.

Afghan Refugee Crisis (1980s and 2021),⁴⁷ political turmoil together with warfare has caused Afghanistan to face multiple sweeping waves of refugees leaving the country. Through its operation UNHCR supports Afghan refugees by safeguarding their protection rights and implements programs for repatriation and sponsors relief activities for host communities.

It is observed that India has not signed up for the 1951 Refugee Convention yet it grants UNHCR permission to work in its borders to support individual groups of refugees. UNHCR functions worldwide as the organization that connects governments with NGOs and other stakeholders to provide both safeguarding and assistance for refugees. The fundamental principle of international refugee law which governs states“ treatment of refugees prevents sending them to territories where their life or freedom might be endangered.

Certain challenges Faced by UNHCR

a. Funding shortfalls: The operations of UNHCR depend exclusively on funds donated by volunteers.⁴⁸ Major donors cut their funding contributions to UNHCR recently which forced the agency to decrease availability of basic essential services.⁴⁹ For instance, funding deficiencies in Ukraine resulted in the termination of psychosocial assistance and emergency housing as well as financial help programs for displaced people.

b. Climate change and environmental disasters: Climate change has developed into a

major reason that triggers displacement.⁵⁰ The combination of rising climate hazards affects refugees and internally displaced people thus requiring protection-based solutions that support environmental conservation efforts.

c. Protection in urban settings: UNHCR experiences difficulties in offering protection and assistance to refugees who no longer live in conventional camps because the refugee population shifts toward urban environments. Basic service availability remains scarce for refugees in cities who become especially vulnerable to mistreatment and separation from society.

UNHCR's Solutions and Strategic Responses

a. Pursuit of durable solutions: UNHCR supports three core formats of lasting responses to refugee situations: Firstly, the program of Voluntary Repatriation helps refugees to return home after their homelands become suitable for their return. Secondly, the program provides local opportunities for refugees to merge into resident communities by ensuring their access to employment chances and schooling as well as citizenship paths.⁵¹ Thirdly, the organization facilitates refugee movements to third countries which give permanent resettlement solutions through its resettlement program.

b. Climate action initiatives: UNHCR has created its Strategic Plan for Climate Action (2024- 2030) after recognizing the climate change displacement connection.⁵² The strategic plan works to strengthen displaced peoples' ability to resist adversity and uses resources efficiently while reducing environmental impacts of the agency.

c. Strengthening urban refugee support: The organization UNHCR implements new strategies to enhance its services toward refugees living in cities. The organization works with local entities to set up better service access and legal and economic assistance programs for refugees in urban areas.

d. Enhancing data protection & privacy: The UNHCR together with its partners develops safe data management systems to protect personal records of refugees and Internally displaced persons.⁵³ Such security measures enable the protection of private information that leads to enhanced safety and increased trust among displaced persons.

PERSPECTIVE W.R.T. JURISDICTIONAL CHALLENGES FACED BY UNHCR

State Sovereignty and limited enforcement power⁵⁴ is one of the major jurisdictional challenges faced by UNHCR as the organization depends on states to enforce its recommendations through limited authority which stems from the doctrine of state

sovereignty. The 1951 Refugee Convention together with its 1967 Protocol grants UNHCR its authority to operate through established refugee rights and state responsibilities.⁵⁴ The organization lacks enforcement capabilities to implement recommendations since states decide independently if and how to approve them. The realization of refugee protection remains inadequate when states put their domestic issues in front of UN agreements since UNHCR needs state cooperation to carry out its plans.

Secondly „non-uniform adoption and implementation of International Refugee law“ is another issue of jurisdictional challenge faced by UNHCR as most countries endorsed the 1951 Convention although their implementation methods and compliance rates exist at different levels. The protection of refugees is compromised because certain states have failed to integrate the Convention into their national legal systems

Thirdly, „complexities in mixed migration flows,“ is another issue of jurisdictional challenge faced by UNHCR as regions across the world are experiencing the movement of both refugees and migrants who seek economic benefits which leads to combined migration patterns.⁵⁵ The proper identification of refugees stands vital because international law gives refugee groups distinct entitlements from other groups of migrants. The distinction between refugees and other migrants presents significant challenges for proper classification because incorrect identification means refugees would lack their needed protection.

Certain strategies for dealing with jurisdictional issues:

It is to be noted that the multiple strategies to deal with jurisdictional issues that are mostly adopted includes:

Firstly, through „advocacy and diplomatic engagement,“ the UNHCR maintains regular correspondence with governmental institutions to encourage both law implementation and adoption of international refugee standards.⁵⁶ The agency highlights both humanitarian necessity and future advantage of refugee protection in order to positively shape national policy decisions. Further through „capacity building and legal support,“ the agency trains different organizations and legal operations together with national authorities and civil society organizations to boost domestic asylum system capabilities.⁵⁷ The organization provides valuable standards for professional procedures and assists countries in constructing legal systems that fulfill international requirements.

Additionally, through „innovative solutions and policy development“ UNHCR develops policies that incorporate specialized responses to meet the different needs of displaced groups

through mixed migration.⁵⁸ The development of frameworks aims to correctly identify refugees and provide proper protection despite being part of wider migration situations. Thus, with the mentioned strategies UNHCR tries to reduce the jurisdictional challenges faced by it.

CONCLUSION

UNHCR operates as a fundamental organization which supports the international framework designed to protect refugees. A subsidiary organ of the UNGA supports this institution which draws its authority from its Statute and the Refugee Convention to perform diverse functions. UNHCR performs its role which assist worldwide efforts to solve complex issues affecting displaced populations around the world. The organization provides international protection while seeking solutions and executes operational activities and advocacy campaigns.

UNHCR functions within an operational setting that contains multiple layers of complexity and limitation. The organization faces difficulties achieving full effectiveness because states decide its funding and the level of support through political choices yet UNHCR continues to pursue asylum policy changes and state sovereignty-related concerns. The organization needs to find a balanced approach between its humanitarian obligations and its duty to protect rights to maintain focus on refugee rights throughout its operations. UNHCR uses its strategic components of normative work and operational capacity and advocacy to protect the millions of displaced individuals worldwide. As the cornerstone of its mission UNHCR defends refugees because non-refoulement holds an essential position in its mandate. The primary international role of UNHCR in refugee protection remains vital for global forced migration while demanding continuous backing combined with adjustments and intensified dedication from international actors toward refugee law and humanitarian services. Refugee protection success requires international countries to fulfill their international obligations jointly through their sustained commitment to finding lasting safe solutions for displaced populations.

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