

# THE PRACTICE OF REFUGEE LAW IN THE PHILIPPINES\*

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## I. INTRODUCTION

This paper discusses the situation of refugees and asylum-seekers in the Philippines and their rights under international law, addressing in particular the following subjects: a) the attitude of the Philippine Government concerning the protection of refugees; b) existing domestic laws and regulations affecting refugees; and, c) suggested strategies to implement the 1951 Convention Relating to the Status of Refugees.

## II. CONSTITUTIONAL POLICY ON TREATY OBLIGATIONS

The Philippines signed the Instrument of Accession to the 1951 Convention and the 1967 Protocol on June 26, 1981. Subsequently, the Convention entered into force for the Philippines on October 20, 1981, while the Protocol entered into force on July 22, 1981.

To date there has been no comprehensive implementing legislation pursuant to our commitment under the 1951 Convention. It has been observed by Prof. Vitit Muntarbhorn in his 1992 study on "The Status of Refugees in Asia" that:

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\*The author is grateful to Raquel Constantino and Generose Misleng of the Ateneo Human Rights Center for their assistance in the preparation of this paper. He also wishes to acknowledge the contribution of Ms. Rhoda Yabes and Mr. Ferdinand Jose to the development of some portions of this study based on their previous researches. Finally, the ideas expressed in this work are the author's own and do not reflect the positions of the institutions to which he is affiliated.

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It is problematic whether these instruments are self-executing in the Philippines, thereby not requiring local legislation.<sup>1</sup>

An examination of Philippine constitutional policy on treaty obligations would serve to clarify the observation of Prof. Muntarbhorn.

Constitutional law practice in the Philippines recognizes that treaties "(w)hen concluded create rights and obligations and thus become international law between the parties to the agreement and, in the Philippines as in most other countries, they also become part of the domestic law of the land."<sup>2</sup> The effect of this policy is that international law "can be used by Philippine courts to settle domestic disputes in much the same way that they would use the Civil Code or the Penal Code and other laws passed by Congress."<sup>3</sup>

The implementation of treaty obligations at the domestic level may sometimes depend upon the tenor of the treaty provisions. Passage of an implementing legislation is necessary, particularly when the treaty requires expenditure of public funds.<sup>4</sup> On the other hand, our Supreme Court had occasion to apply international law through some self-executing provisions of human rights instruments, such as, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.<sup>5</sup>

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<sup>1</sup>Vitit Muntarbhorn, *The Status of Refugees in Asia* (Oxford: Clarendon Press, 1992), p. 83, citing E.B. Astudillo, "Philippine Laws and Regulations Affecting the Status of Aliens in the Philippines Who are Married to Filipinos and Other Related Matters" (Mimeo, Manila, 1980), 38-41. (Hereinafter cited as MUNTARBHORN)

<sup>2</sup>Joaquin G. Bernas, S.J., *FOREIGN RELATIONS IN CONSTITUTIONAL LAW* (Manila: Rex Book Store, 1995) p. 109.

<sup>3</sup>*Ibid.*, at 16.

<sup>4</sup>*Ibid.*, 112.

<sup>5</sup>See *Mejoff v. Director of Prisons*, 90 Phil. 70 (1951) and *Marcos v. Manglapus*, G.R. No. 88211 (September 15, 1989)

In the case of the 1951 Convention, there are existing provisions that are arguably self-executory in nature requiring no implementing legislation. For instance, rights of refugees pertaining to juridical status under Chapter II; gainful employment under Chapter III; and administrative measures sanctioned in Chapter V (e.g., assistance in acquiring documents, identity papers and travel documents, or freedom of movement) could be implemented through mere enforcement or execution action. But provisions on welfare as enumerated in Chapter VI, which include rationing of products, housing, public education, public relief and social security are obviously in need of appropriation from the legislature of the host State. The implication of this distinction is that the Philippine Government, by having acceded to the 1951 Convention, should comply with these provisions through the instrumentality of either the executive or the legislative branches.

### III. STATE PRACTICE AND PROCEDURES CONCERNING THE PROTECTION OF REFUGEES UNDER PHILIPPINE LAW

#### A. *The Task Force on International Refugee Assistance and Administration*

The influx of the Vietnamese boat people in the 1970s and 1980s prompted then President Marcos, in cooperation with the UNHCR, to provide temporary lodging for refugees prior to their final resettlement in other countries. Through Executive Order No. 554, he created the Task Force on International Refugee Assistance and Administration (TFIRAA) on August 21, 1979.

Executive Order No. 332 issued by former President Corazon C. Aquino on August 12, 1988 reconstituted the TFIRAA and introduced changes to its structures and functions, providing it with proper directions concerning international refugee assistance.

The statement of Prof. Muntarbhorn should be noted that the Philippine response to asylum-seekers particularly in Southeast Asia was based upon the need for reassessment of

protection and assistance in the light of mass influx.<sup>6</sup> In 1981, Conclusion 22 (XXXII) of the Executive Committee of the UNHCR specified that in cases of mass influx, asylum-seekers should be admitted by the recipient and if the state is unable to admit them on a durable basis, it should always admit them on a temporary basis. This is not the same as the 1951 Convention which is based on long-term settlement rather than temporary refuge.

The TFIRAA is composed of representatives from the Department of Foreign Affairs as Chairperson, and, as members, representatives from the following departments: the Office of the President, the Department of Justice, the Department of National Defense and the Department of Social Welfare and Development.

The TFIRAA, under the Department of Foreign Affairs, is tasked with the following duties and responsibilities:

- a. To coordinate and cooperate with the United Nations High Commissioner for Refugees efforts and activities relative to refugee assistance;
- b. To formulate guidelines for a more efficient refugee assistance regarding the operation and management of all established refugee camps/centers in the Philippines and the disposition of funds and other assistance received from the United Nations High Commissioner for Refugees and other international refugee-assistance institutions;
- c. To assess, review and evaluate existing structures and policies of the government for the refugee assistance and management and make recommendations thereon to the President;
- d. To call upon any department, bureau, office, agency or instrumentality of the Philippine Government for such assistance as it may require in the performance of its duties and functions;
- e. To submit reports to the President and to the United Nations, through the President, on its activities, including the

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<sup>6</sup>Muntarbhorn, *supra* note 1, at 150.

disposition of funds and other assistance received from the United Nations and other international institutions." <sup>7</sup>

The TFIRAA is assisted by a Secretariat headed by the Philippine Refugee Processing Center Administrator in charge of processing Vietnamese refugees housed in the camps in Palawan and Bataan and the center in Parañaque.<sup>8</sup>

Under Executive Order No. 332, the Philippine Refugee Processing Center discharges its mandated functions per agreement between the Philippine Government and the United Nations High Commissioner for Refugees.<sup>9</sup> Under the same mandate, the Western Command of the Armed Forces of the Republic of the Philippines (WESCOM) continues up to the present to discharge its mandated functions per agreement with the UNHCR in providing peace and security inside the camps.

Although the TFIRAA should address the problem of all refugee situations, in practice it is clear that the TFIRAA was created to address only the plight of the Vietnamese refugees.

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<sup>7</sup>Executive Order No. 332, Section 2.

<sup>8</sup>*Ibid.*, Section 3.

<sup>9</sup>The Administrator of the Philippine Refugee Processing Center, appointed by the President, manages the day-to-day operations of the refugee camps/centers in the Philippines, and implements all guidelines promulgated by the TFIRAA regarding the operation and management of all refugee-established camps and centers in the country. He receives, administers and utilizes funds, equipment and other forms of assistance provided by the United Nations High Commissioner for Refugees (UNHCR), other international refugee assistance institutions, foreign governments and other sources, and submits to the TFIRAA quarterly reports of all activities received from the UNHCR and other international refugee-assistance institutions. Finally, the Administrator hires and maintains such working groups, staff or personnel as may be necessary to carry out the purposes and objectives of the TFIRAA.

***B. The United Nations High Commissioner for Refugees and the Refugee Services Philippines as Implementing Agency for UNHCR Projects***

The UNHCR commenced its operations in the Philippines in 1978. Its implementing agency in the country is the Refugee Service Philippines, Inc. (RSPI).

The UNHCR and RSPI assist two categories of refugees, namely: the Indochinese (the Vietnamese, Kampuchians, Laotians, etc.) and the Non-Indochinese (the Afghans, Iraqis, Iranians, Ethiopians, Sri Lankans, etc.). They are temporarily staying in the Philippines while waiting for durable solutions to their problems.<sup>10</sup>

The Refugee Services Philippines, Inc. (RSPI), the implementing agency of the UNHCR in the country, is a non-stock, non-profit, social welfare agency which provides basic social services to refugees and other persons of concern.<sup>11</sup> It provides programs and services to Indochinese refugees who were based in the Philippine Refugee Transit Center (PRTC) in Parañaque, Metro Manila, Regional Refugee Transit Center (RRTC) in Morong, Bataan and the Philippine First Asylum Camp (PFAC) in Puerto Princesa, Palawan. Its main beneficiaries at present, however, are the non-Indochinese who, unlike their Vietnamese counterparts, are not based in camps and do not receive any form of assistance from the Philippine Government.<sup>12</sup>

To this date, RSPI is serving around 205 non-Indochinese refugees (Principal Applicants) excluding dependents.<sup>13</sup>

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<sup>10</sup>Ester Mansos-Felix, BACKGROUND INFORMATION PAPER OF UNHCR/RSPI (1993) (hereinafter Background Paper).

<sup>11</sup>*Ibid.*, at 6.

<sup>12</sup>Interview with Rufino Seva, Social Counselor, RSPI, Makati, December 27, 1993.

<sup>13</sup>Based on the objective assessment of the Social Counselors, almost all of them would like to be resettled in other countries, or return to their respective

***C. Enforcement of the 1951 Convention and the 1967 Protocol***

***1. Identity and Travel Documents***

Executive Order No. 304 was passed under the administration of President Corazon Aquino in August 31, 1987, authorizing the TFIRAA and the Department of Foreign Affairs to respectively issue Identity Papers and Travel Documents to refugees staying in the Philippines pursuant to Articles 27 and 28 of the Convention. The Executive Order authorized the TFIRAA to conduct such investigations as may be necessary and practicable to the end that only lawfully staying refugees are issued identity papers. Issuance of travel documents to refugees lawfully staying in the Philippines enables them to travel outside Philippine territory, subject to the requirements of national security or public order. In issuing travel documents, the Department of Foreign Affairs shall, in particular, give sympathetic consideration to

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countries of origin. While they are here, the basic needs provided by the UNHCR/RSPI are as follows:

**I. FINANCIAL ASSISTANCE**

A. Monthly Subsistence Allowance (SA) represents supplemental assistance for a refugee's basic needs such as housing/room or space accommodation, food, transportation and other personal needs:

1. Single refugees - P 3,430.00
2. Married refugees - P 4,320.00

B. Refugee's dependents/children's monthly dependency allowance:

1. Below 4 years old - P 925.00
2. Above 4 years old - P 1,234.00

**II. MEDICAL ASSISTANCE**

1. Medical
2. Dental
3. Optical
4. Psychiatric/psychological

**III. EDUCATION ASSISTANCE** - Only refugees' dependents/children who are enrolled in primary/elementary (Grades 1-6) grades can avail of this assistance.

**IV. CASEWORK/COUNSELING SERVICES** - from Background Paper, *supra* note 10.

refugees who are unable to obtain travel documents from the country of their lawful residence.<sup>14</sup>

The actual convention travel documents were issued for the first time by the Philippine Government on July 29, 1991 to commemorate the 40th anniversary of the founding of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the local signing of the United Nations Convention relating to the Status of Refugees in 1981.

The documents, as described in Article 28 of the Convention, can only be issued by States which have signed the Convention. With this document, a refugee can travel for medical treatment to visit his family and for any other reason. Since many refugees originally came to the Philippines to study and since the level of health care is so high in the country, it was anticipated by the government that the majority of the documents issued here will facilitate the employment of the refugees abroad. The Convention travel document is valid for travel worldwide except to the refugee's country of origin.

The recipients of the travel documents were mostly Vietnamese who have been conferred refugee status. While some non-Indochinese refugees have been recipients of the Convention travel document, they have encountered problems traveling abroad using these documents.<sup>15</sup> As earlier stated, the TFIRAA caters almost exclusively to Vietnamese.

The status determination of the group of non-Indochinese refugees is handled by the UNHCR, notwithstanding the fact that such refugee situation arose after the Philippine accession to the 1951 Convention and the 1967 Protocol. Further, the task of

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<sup>14</sup>Interview with Ms. Eva Singer of the United Nations High Commissioner for Refugees (UNHCR), Makati, November 4, 1993. Miss Singer was the former Protection Officer at the UNHCR, Philippines.

<sup>15</sup>Interview with Ms. Ester Mansos-Felix of RSPI, Mandaluyong City, May 28, 1996.



maintaining the costs of these refugees is, likewise, borne by the UNHCR.

It seems that twelve years from the Philippine accession to the refugee instruments, the Philippines has yet to come up with a status determination process for refugees, without qualification as to number and nationality<sup>16</sup> in consonance with the Convention.

Among the unregistered aliens in the Philippines, there are some non-Indochinese refugees who have at one point sought asylum but were not aware of the proper mechanism (perhaps for lack of one). And then there are those who have actually applied for refugee status but whose applications were never processed by Philippine authorities.<sup>17</sup>

In 1992 alone, 101 persons approached UNHCR for protection and assistance. One hundred eighty-nine (189) are presently under the protection of the United Nations High Commissioner for Refugees (UNHCR), thirty-eight (38) of them were recognized as mandate refugees in 1992.<sup>18</sup> Most of the refugees come not only from Iran, but also from Iraq, Sri Lanka, Somalia, Palestine and from the Middle East. It would seem that the Philippine Government does not formally recognize the refugees but tolerates their presence as long as they are being assisted by the UNHCR.<sup>19</sup>

#### *D. No Clear Policy on Non-Indochinese Refugees*

The DFA recognizes that, through the TFIRAA, the treatment of Indochinese refugees is clearly within its mandate. However, it admits the fact that the matter on non-Indochinese refugees and asylum-seekers is not within its province.

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<sup>16</sup>1951 Convention Preamble.

<sup>17</sup>Interview with Ms. Eva Singer, *supra* note 14.

<sup>18</sup>*Ibid.*

<sup>19</sup>*Ibid.*

It is the common perception that the problem with all asylum-seekers falls squarely within the jurisdiction of the DFA. Such, however, is a misconception because there is as yet no policy on the matter.<sup>20</sup>

Although during the term of the TFIRAA it has not as yet encountered a case of non-Indochinese seeking asylum in the country, if the need arises, the procedure likely to be taken by the TFIRAA would be to make a referral to the Geographic and Legal Office of the DFA who shall, together with the Secretary of Foreign Affairs, make a pronouncement on the matter.

It would appear that the issue of asylum-seekers, apart from the Vietnamese, is relegated to an immigration problem in the light of the absence of a clear policy on the matter.

### *1. Immigration Controls*

Prior to the advent of immigration control,<sup>21</sup> many states restricted exit but not entry. Viewed from the perspective of immigration law, the idea of providing asylum to a refugee is an exception to the control rule of evolving state interest.<sup>22</sup>

The Philippine Immigration Act of 1940 nowhere defines the term refugees but speaks of "alien" under which category the refugee will legally fall.<sup>23</sup> The existing provisions of the Act are pertinent even after the accession to the treaty in the absence of any subsequent pronouncement to conform with the Convention.

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<sup>20</sup>Interview with Ambassador Jose Zaide, Department of Foreign Affairs, Manila, December 15, 1993.

<sup>21</sup>Immigration control is a relatively new concept introduced this century. See Alan Nicols and Paul White, *Refugee Dilemmas*, Metro Manila: LAWASIA, 1993, p. 10.

<sup>22</sup>*Ibid.*

<sup>23</sup>See Commonwealth Act No. 613, (An Act to Control and Regulate the Immigration of Aliens into the Philippines), Sec. 29 on "Excluded Aliens" (hereinafter Philippine Immigration Act of 1940).

According to Atty. Estanislao Canta of the Bureau of Immigration and Deportation (BID), Section 47(b) of the Immigration Act is sufficient protection for anyone who seeks asylum in the country.<sup>24</sup> It has been emphasized that the Philippines is not an ideal settlement country, thus, there is no need for any further enactment for the protection of refugees. He makes the distinction that an alien "recognized as a refugee" by the Philippines enjoys special status. On the other hand, one who does not apply for recognition and who marries a Filipina becomes a permanent resident,<sup>25</sup> but he must fend for himself. He is practically on his own.

## *2. Forms of Application for Refugee Status*

When an alien does not have the proper documentation, he is arrested and detained in the BID. If he claims the defense of being a refugee, then he can avail of two (2) options for the application of refugee status regardless of his nationality.

The ordinary alien, under which category the unrecognized refugee would fall under Philippine law, has the option to leave the determination of his refugee status to the Philippine Government, in which case the determination will be guided by the Philippine Immigration Act, or he may opt to have his status determined by the UNHCR.<sup>26</sup>

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<sup>24</sup>Interview with Atty. Estanislao Canta, Bureau of Immigration and Deportation, Manila, December 17, 1993.

<sup>25</sup>Philippine Immigration Act, Sec. 13, *supra* note 30. Under the conditions set forth in this Act, there may be admitted into the Philippines immigrants, termed "quota immigrants", not in excess of five hundred of any one nationality or without nationality for any one calendar year, except that the following immigrants, termed "non-quota immigrants" may be admitted without regard to such numerical limitations:

"xxx

b. The wife or the husband of the unmarried child under twenty-one years of age of a Philippine citizen, accompanying or following to join such citizen. xxx"

<sup>26</sup>Interview with Atty. Estanislao Canta, *supra* note 24.

a. *Immigration Act*

Taking the first option, the applicable provision under the Immigration Act is Section 47(b). It reads:

The President is authorized x x x

(f)or humanitarian reasons, and when not opposed to the public interest, to admit aliens who are refugees for religious, political, or racial reasons, in such classes of cases and under such conditions as he may prescribe.

This power of the Chief Executive is delegated to the Secretary of Justice under the doctrine of "qualified political agency."<sup>27</sup>

The Application Form<sup>28</sup> issued by the DOJ provides for the requisites for the issuance of visa, or for change of admission status to "special non-immigrant" or what is referred to as a refugee for humanitarian considerations under Section 47(b) of the Immigration Act, as amended.

The applicant, or the sponsor who applies on behalf of the foreign national, must submit his personal circumstances and

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<sup>27</sup>This doctrine, which recognizes that the Constitution has established a single and not a plural executive, postulates that "all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the chief executive is required by the Constitution or law to act in person or the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the secretaries of such department, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive." *Villena vs. Secretary of Interior*, 67 Phil. 451, 463.

<sup>28</sup>OMJ Form No. 7 Application for Issuance of Visas, or for Change of Admission Status to Special Non-Immigrant Under Section 47(b) of the Philippine Immigration Act of 1940. As Amended.

representations.<sup>29</sup> He must state the date of arrival in the Philippines, his port of origin, the admission status into the country, and the approximate length of stay. The applicant must set forth his educational background, training and experience and the reason why he seeks admission as a refugee for humanitarian considerations. Should the applicant claim to be a scientist or highly skilled technician or specialist, he must state how he can make a positive contribution to the country's economy.

The applicant must make the representations and commitments enumerated in the Form.<sup>30</sup> As an integral part of the application, documents are required to be submitted depending on

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<sup>29</sup>Name of applicant/sponsor/foreign national, date of birth, address, occupation, place of business or employment, nationality, if married, name of spouse and children.

<sup>30</sup>a) the applicant or members of his family accompanying him or following to join him do not belong to that class of aliens who are precluded from entry into the Philippines under Section 29 of the Immigration Act, As Amended.

b) the applicant and/or the members of his family shall personally report to the Ministry (now Department) of Justice to apply for extension and to submit a brief statement regarding his/their whereabouts once every three (3) months for the duration of his/their authorized stay in the Philippines.

c) the applicant and/or the members of his family shall immediately notify the Ministry (now Department) of Justice of his/their change of address during his/their stay in the Philippines.

d) the applicant accepts that his sojourn in the Philippines is only temporary and that he can acquire no status entitling him to remain indefinitely in this country.

e) the applicant acknowledges the right of the Philippine Government to expel or deport him and the members of his family if his/their presence in the country is deemed detrimental to the public welfare.

f) the applicant shall leave on the first available means of transportation, as soon as disability which renders him unable to leave no longer warrants his protracted stay.

g) the applicant or members of his family will not engage in employment or activity in the Philippines inconsistent with his/their status unless permission is first obtained from the Ministry (now Department) of Justice.

h) the applicant or members of his family will comply with the requirement of registration and periodic reporting and fulfill other conditions imposed by Philippine Immigration laws to assure his/their maintenance of status and timely departure.

the circumstances surrounding the applicant's case.<sup>31</sup> The common requirement in all the four classes besides the proper documentation is proof that the foreign national has sufficient means to support himself and the members of his family, if any, during his stay in the Philippines. If the applicant's economic capacity is doubtful, he may be required to file a bond to guarantee against his being a potential public charge. In lieu thereof, affidavits of support from any Philippine permanent resident ensuring that the applicant for entry will be supported may be accepted.<sup>32</sup>

According to the Department of Justice, each application is evaluated and the speed of disposition varies on the merits of each case. There is no clear cut policy on the matter.<sup>33</sup> In the meantime, the applicant remains in detention. He may be released upon the filing of a bond conditioned on the outcome of the determination of his status.<sup>34</sup>

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<sup>31</sup>The applicants are grouped into four categories, as follows:

1. Persons whose entry under the Philippine Immigration Act, as amended, are not provided for or are presently restricted by existing policy (i.e., Chinese, South Africans and nationals or countries not granting reciprocal immigration privileges to RP nationals) but should otherwise be allowed for moral and compassionate grounds, as in the case of those related by blood or by marriage or by operation of law (adoption) to natural-born citizens of the Philippines.

2. Groups of aliens who are already in the Philippines and are known victims of racial, political, religious or social persecution in their country of origin.

3. Known political figures seeking political asylum in the Philippines whose lives may be in imminent danger if forced to return to their country, e.g. scientists, highly skilled technicians in the industrial fields and medical specialists.

For those falling under Class 2, the application, together with all the supporting papers and documents shall be referred to the Department of Foreign Affairs (DFA), the Department of Social Welfare and Development (DSWD), the NICA (National Intelligence Coordinating Agency). For those falling under Class 4, the application, together with all the supporting papers and documents shall be referred to the NSDB (National Science Development Board), DOLE (Department of Labor and Employment) or any appropriate government agency for their comment and recommendations.

<sup>32</sup> See OMJ No. 7, *supra* note 28.

<sup>33</sup> Interview with Atty. Tony Abanilla, Department of Justice (DOJ), Manila, December 17, 1993.

<sup>34</sup> Interview with Atty. Estanislao Canta, *supra* note 24.

b. *Under the Statute of the Office of the UNHCR*

The second option is the application for the exercise of the mandate of the UNHCR.

The Office of the UNHCR is governed by its Statute<sup>35</sup> which contains definitions of those persons falling within the competence of the High Commissioner. These definitions are very close but not identical to the definition stated in the 1951 Convention. Persons falling within the Statute definitions are within the mandate of the UNHCR and they are termed "mandate refugees." These mandate refugees are under the protection of the United Nations through UNHCR, whether or not in States which are parties to the Convention and the Protocol.

The UNHCR Statute defines a "refugee" as any person:

... who is outside the country of his nationality, or if he has no nationality, the country of his former habitual residence, because he has or had well-founded fear of persecution by reason of his race, religion, nationality or political opinion and is unable or because of such fear is unwilling to avail himself of the protection of the government of the country of his nationality, or, if he has no nationality, to return to the country of his former habitual residence.<sup>36</sup>

An applicant for refugee status under the mandate of the UNHCR must fill up a Registration Form available at the UNHCR office in Makati, Metro Manila.

The form opens with a note on the confidentiality of all information and a warning that falsification of facts could affect determination of refugee status. The applicant must state his

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<sup>35</sup> The Statute of the UNHCR is the governing law of the Office of the United Nations High Commissioner for Refugees. The Statute was adopted as an annex in UN General Assembly Resolution 428 (v) of December 14, 1951.

<sup>36</sup> Chapter II, Art. 6B.

personal circumstances<sup>37</sup> and the fact of previous recognition as a refugee, either by the UNHCR or another country. He must disclose registration with any other agency dealing with refugees, the country/countries in which he has resided since leaving the country of origin, as well as the presence of relatives abroad. He must set forth his current means of support, including any material means of assistance received from any source.

Further, he must indicate the documents in his possession specifying the fact of whether he is entitled to return to the country of issue of passport. He must state any political or similar organization to which he or any member of his family belongs or previously belonged or which he had actively supported in his home country. He must disclose the circumstances of his departure or flight from his home country (whether with authorization or not), and the circumstances of entry into the country of his present residence (if clandestinely, or with authorization). He must disclose the reasons why he left his home country setting forth the detailed reasons why he does not wish to return there. The form closes with the applicant being given the opportunity to state any other details which he thinks will assist in his determination as refugee.

Following this, the applicant is scheduled for interview by the Protection Officer of the UNHCR who shall render decision based on the merits.<sup>38</sup> In the meantime, the applicant is issued temporary identification papers to the effect that the holder has applied for UNHCR protection and mandate refugee status.

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<sup>37</sup> Name, Sex, Place and Date of Birth, Nationality, Ethnic Origin, Present Address, Contact Telephone No., Name of Parents, Marital Status, Religion, Basic Data on all family members and dependents accompanying the applicant, Education/Training of applicant and accompanying members/dependents, Languages, Employment Record of applicant and all accompanying family members/dependents accompanying the applicant family members remaining in the country of origin.

<sup>38</sup> Interview with Ms. Eva Singer, UNHCR. *supra* note 14.



### 3. *An Asylum Seeker's Choice*

To an alien, the choice of which option to take does not work to his prejudice. An asylum seeker can avail of either option in the alternative, or both simultaneously.<sup>39</sup> There is no prohibition in this regard, and such does not operate as a double screening. Both bodies respect the other's findings and a grant of status in one is automatically respected by the other subject to the requirements of national security on the part of the Philippine Government.<sup>40</sup> To effect coordination, the Department of Justice and the Bureau of Immigration and Deportation, on one hand, and the UNHCR, on the other, work to apprise the other with the current list of recognized refugees.<sup>41</sup>

The difference between recognition under either machinery is that a grant of refugee status under the DOJ procedure limits recognition as a refugee only to the Philippines. One is not automatically recognized to possess refugee status in any part of the world.<sup>42</sup> In contrast, one granted mandate refugee status is a refugee recognized in any part of the world.<sup>43</sup>

Despite the mechanism under the Philippine system, however, the practice has been to deny refugee status to applicants who have come to seek asylum and protection. The reason posited is that the grant of refugee status might generate publicity and, consequently, a surge of aliens from all over might suddenly turn up at our door, venturing to be granted asylum and refuge.<sup>44</sup> The BID opines that denial of applications, being an exercise of political power inherent in the Executive, cannot be submitted for judicial review.<sup>45</sup> It also happens that those who are actually granted

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<sup>39</sup> Interview with Atty. Tony Abanilla, *supra* note 33.

<sup>40</sup> *Ibid.*

<sup>41</sup> Interview with Atty. Estanislao Canta, BID, *supra* note 24.

<sup>42</sup> Hence, the problem of double screening elsewhere may arise.

<sup>43</sup> Interview with Atty. Estanislao Canta, *supra* note 24.

<sup>44</sup> Interview with Ambassador Jose Zaide, *supra* note 20.

<sup>45</sup> Interview with Atty. Estanislao Canta, *supra* note 24.

refugee status under the Philippine procedure are, subsequently, referred to the protection functions of the UNHCR.

Under the refugee instruments, a recognized refugee is entitled to the Convention rights while the signatory country of asylum is obliged to enforce these rights. In the event the Party State is remiss in its duty, the UNHCR steps in to perform its mandated functions.

As regards UNHCR mandate refugees, it would seem that the Philippines tolerates their presence in the country for as long as they remain in the charge of the UNHCR.<sup>46</sup>

#### *E. Critique of Philippine Practice*

From the above discussion, one can clearly see that there is no definite state policy as regards the Philippine obligations as a State Party to the 1951 Convention and the 1967 Protocol. What has been accomplished by the Philippine Government is the creation of the Task Force (TFIRAA), whose function is to primarily and effectively oversee the refugee camps in the country and administer the funds provided therefor. As previously stressed, the focus of the TFIRAA was only on the Vietnamese. The non-Indochinese refugees have not been its main concern. Moreover, this response by the Philippine Government is not exactly pursuant to its obligations under the Convention but only as a cooperative gesture with the UNHCR and, later, in the light of the Comprehensive Plan of Action (CPA).

The Philippines clearly has not provided for a status determination procedure for refugees following its accession to the Convention. The screening process of the bulk of Indochinese people falls under the country's obligations under the regional arrangement, that is, the CPA.

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<sup>46</sup> Interview with Ms. Eva Singer, UNHCR, *supra* note 14.

A review of existing Philippine immigration procedure for change of admission status to special non-immigrant under Section 47(b) would show that the procedure tends to be more restrictive than accommodating to applicants.<sup>47</sup> In the application form used, the line of questioning lays stress on how the applicant can contribute to Philippine society rather than on how the Philippines can best be of assistance to the asylum seeker. Furthermore, an application is screened on the basis of whether or not the applicant has visible means of support. The application form states that the applicant makes among its commitments, the following:

xxx the foreign national accepts that his sojourn in the Philippines is only temporary and that he can acquire no status entitling him to remain indefinitely in this country, and that the foreign national acknowledges the right of the Philippine government to expel or deport him and the members of his family if his/their presence in the country are deemed detrimental to the public welfare.<sup>48</sup>

The tenor of this application fails to reflect the humanitarian character of refugee assistance. Limited official access of a refugee to government health, education and other community services further aggravates his or her uncertain status while in the Philippines.

The development of refugee protection schemes and practices under Philippine law reveals that there is no long-term policy in place at the moment. Focus on the influx of Indochinese refugees in the 1970s and 1980s limited the attention of our policy-makers to the immediate goal of resettling or repatriating this class of refugees. Meanwhile, non-Indochinese refugees remain in limbo. Professor Muntarbhorn is of the opinion that:

the (Philippine) policy of admitting asylum-seekers only temporarily vindicates a reluctance to accord full refugee status, with attendant rights and duties as embodied in the

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<sup>47</sup> C.A. 613, *supra* note 23.

<sup>48</sup> OMJ Form 7, *supra* note 28.

international refugee instruments, to asylum-seekers from other countries.<sup>49</sup>

#### IV. EMERGING ISSUES

The absence of a clear-cut policy for non-Indochinese refugees has brought about some problems in dealing with their continued stay in the Philippines. In this regard, a portion of the lecture attempts to explore some legal and policy considerations in seeking a durable solution to mandate refugees in this country. In another segment of the discussion, the relationship between human rights and refugee concerns will be clarified. Another section will be devoted to an analysis of the problem faced by those who fail to satisfy the international criteria for refugee status under the screening procedures provided by the CPA.

##### *A. Non-Indochinese Refugees*

###### *1. Gainful Employment and Liberal Professions*

As of 31 August 1995, RSPI, a non-governmental agency providing financial and counseling assistance to refugees, reported in a recent study that:

"The total population of the non-Indochinese refugees in the Philippines is 164 (principal) or 299, if the dependents are included. The total number of refugee children is 135 while the total number of refugee women is 12... of the total population, 72 are married to Filipino nationals and 118 are considered 'longstayers' as they had been in the country for more than 5 years..."

Most of these refugees, particularly longstayers, possess sufficient professional qualifications in the field of Medicine, Dentistry, Agriculture, Engineering/Architecture, Computer Science, Management and Education. But existing labor and immigration policies coupled with Government's failure to

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<sup>49</sup> Muntarhorn, *supra* note 1, at 85.

implement the 1951 Convention provisions relating to employment or travel permits prevent them from applying their skills.

At present, refugees rely upon UNHCR's protection assistance and RSPI material assistance or basic social services consisting of monthly subsistence allowance, dependency allowance and education assistance for the children, housing, medical, counseling and legal assistance.

Long-term dependence upon UNHCR and RSPI has been viewed with much reluctance both by these institutions and many of the refugees themselves. One reason is that funding may not be sufficient in the near future on account of the various demands upon UNHCR in other parts of the world. Another is the inability of these refugees to apply themselves in their respective professions due to legal and policy constraints in the Philippines. Reliance upon donor support is insufficient to meet the basic needs of the refugees' growing families. Given the opportunity to work legally, the refugees believe that they can forego UNHCR and RSPI financial support. Many feel that with their qualifications, they could be potential contributors to the economy of a host state rather than being public charges through long-term dependency.

Current UNHCR policy recognizes three distinct durable solutions to the situation of refugees in general, namely: voluntary repatriation, resettlement and local integration.

*Voluntary repatriation* as a solution is considered only when conditions in the country of origin have changed so much that the refugees no longer believe their lives or liberty to be threatened. Few have availed of this through UNHCR. This is easily understood in the light of the political background of most of these refugees who took critical or militant stance against a newly installed government or dominant ethnic/tribal group in the home state. Some of the deeply troubled countries are in fact represented in the current number of refugees here in the

Philippines, such as, Iran, Iraq, Somalia, Palestine, Ethiopia, Sri Lanka, Afghanistan, Libya, Kuwait and Burma, among others.

*Resettlement* to a third state while more practicable has become more difficult in recent years since several resettlement countries have declared that they have maximized their absorptive capacity. The influx of Indochinese refugees in the 1970s and 1980s alone contributed to the saturation point of third country resettlement. New regional refugee problems in Europe and Africa will continue to put pressure on the international community to review resettlement policies by more economically advanced states.

Finally, *integration* into the asylum country appears to be the most viable option, particularly in situations wherein the refugees may have established themselves through inter-marriages with local residents, or by professional involvement within the adoptive community.

A review of the RSPI study on the situation of non-Indochinese refugees in the Philippines reveals that approximately 54% of the refugees are college graduates with diplomas obtained from Philippine colleges and universities. Seventy-two of these refugees are married to Filipinos and now have an average of 2-3 children.

The Philippine Government to this date has not given any official explanation why non-Indochinese refugees have not been allowed to acquire work permits despite their qualifications. An apparent reason, perhaps, is the possible economic displacement of equally qualified Filipinos once a waiver is made of the Department of Labor and Employment policy mandating the exhaustion of a qualified local person before a specific job is offered to an alien.

Legal and policy considerations militate against this attitude of the Government. Under the 1951 Convention, the host State is obliged to apply a different standard for refugees vis-à-vis

other aliens in regard to the issuance of work permits. Article 17 of the Convention states:

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfills one of the following conditions:

a. He has completed three years' residence in the country;

b. He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;

c. He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals and, in particular, of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes."

The DOLE policy under Article 40 of the Labor Code and Rule XIV of the implementing rules allowing non-resident aliens to be employed only "after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application to perform the services for which the alien is desired" is a form of "restrictive measure" as contemplated in Article 17(2) of the Convention. By virtue of the self-executing character of the Convention provision, Philippine law is deemed to accommodate this obligation in favor of refugees meeting any of the conditions enumerated under Article 17(2)(a-c).

Similarly, Article 18 on Self-Employment and Article 19 on Liberal Professions of the Convention require the Philippine Government "to accord a refugee treatment as favourable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances."

On a more practical level, the Government would be alleviating the conditions not only of the refugee-applicant but even his/her dependents who are Filipino nationals, in most cases of inter-marriages. To confine the refugee to minimum assistance of the UNHCR is to penalize further the Filipino dependents.

The fear of the Government that an influx of refugees may soon follow once a more "open" policy is adopted may be more apparent than real. It may be worth citing the attitude of refugee-respondents (in the RSPI Study) towards staying in the Philippines for good. About 77% do not want to stay in the Philippines for good primarily due to uncertain economic opportunities. However, this may be attributed to the fact that they have not been given the opportunity to be legally employed by the Government. But even assuming that the refugee would like to be integrated into the local community, the option does not preclude him from further awaiting repatriation or resettlement at a more opportune time.

The situation of "longstayers" in the Philippines merits immediate remedial measure in the form of either temporary or more or less permanent integration into the country of residence. Temporary integration actually translates into a compromise between the Government's fear of opening the floodgates to large-scale exodus of refugees and strict compliance with its Convention obligations. For instance, temporary integration should not mean that repatriation or resettlement would be excluded as options for the refugee at a later time. On the contrary, integration in the meantime would better prepare the refugee in arriving at an ultimate solution.



In this situation, some flexibility is given to a host state in extending other privileges under the Convention. A State may choose, perhaps, to postpone facilitating naturalization proceedings but allow the exercise of other privileges under the Convention. Refugee conditions at present do not provide them with the appropriate environment to enable them to arrive at an enlightened decision.

Permanent integration, on the other hand, contemplates a refugee population intending to fully embrace life within the host state. With this intention, the country of asylum should provide all possible measures to normalize the living conditions of the refugee.

Theoretically, there should be no distinction in terms of treatment of refugees either as longstayers or not. But reluctance of first asylum countries, like the Philippines, in enforcing fully the 1951 Convention for economic reasons should not lead to outright deprivation of the basic rights of refugees. As in the International Covenant on Economic, Social and Cultural Rights, some kind of "progressive realization" measures may be accorded refugees. A humanitarian instrument, like the Convention, does not necessarily intend to impose undue burden upon the obligor state. But the extraordinary circumstances which surround the life of a refugee demand that state compliance with its obligations under the Convention should contribute to the realization of a life of dignity for every refugee.

## 2. *Human Rights*

It is crucial to note that the 1951 Convention recognizes in its Preamble the application of the 1948 Universal Declaration of Human Rights (UDHR) which affirmed the principle that "human beings shall enjoy fundamental rights and freedoms without discrimination". The second preambular provision of the Convention further emphasizes that "the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of

these fundamental rights and freedoms." Commenting on the *travaux preparatoires* of the Convention, Dr. Paul Weis observed (in relation to the Preamble) that:

The first two paragraphs refer to fundamental rights and freedoms. They give expression to the thought that the Convention is designed to ensure for refugees such fundamental rights and freedoms. It implies, on the other hand, that refugees are entitled, apart from and beyond the Convention, to all these fundamental rights and freedoms which have been proclaimed for all human beings.<sup>50</sup> (Emphasis supplied)

There is no doubt that the intent of the Convention is to "place refugees on an equal footing with the citizens of the countries of refuge, in conformity with the principle of non-discrimination set forth in the Universal Declaration of Human Rights."<sup>51</sup>

The legislative history of the 1951 Convention is worth recalling, particularly in light of the manner by which our policy-makers have neglected the conditions of refugees in this country. Part of the problem in this reluctant refugee policy is the misappreciation of the legal status of the refugees.

While it is true that refugees belong to the general category of aliens received by States, what is stressed by Philippine authorities, as far as refugees are concerned, is the list of limitations on their freedom rather than the ideal condition sought to be achieved by the 1951 Convention. Reference to the legal status of refugees in isolation from the guarantees under the UDHR leads to discrimination against the refugees in our country.

The duty of a member-State under the 1951 Convention is to facilitate the ultimate achievement of the fundamental rights and

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<sup>50</sup> Cambridge International Document Series, Vol. 7, *The Refugee Convention, 1951: The Travaux Preparatoires Analyzed, With a Commentary by the Late Dr. Paul Weis*, p. 34.

<sup>51</sup> *Ibid.*, at 8.

freedoms under the UDHR. Unfortunately, our Government falls short of its duty to comply with its international commitment.

The "humanitarian" character of the 1951 Convention may be misinterpreted by policy-makers as giving the Government a wide latitude to determine the applicability of the Convention provisions, including the substantive guarantees. Although the drafters of the text of the Convention recognized that even countries with very liberal reception policies may not be able to extend exactly the same treatment to refugees as nationals, the standard for treatment may evidently be higher for refugees vis-à-vis other aliens. But this has not been true for refugees in our country. Other resident aliens in the Philippines enjoy privileges denied to mandate refugees.

The issue of work permits and realization of other substantive rights of refugees in the Philippines continue to be stalled by the absence of officially declared rules and guidelines addressing these rights and privileges.

The continuing non-compliance by the Philippine Government with its legal obligations under 1951 Convention consequently affects the exercise by refugees of other basic human rights dependent upon the provisions of the Convention.

Denial of work permits and non-recognition of the refugees' education degrees for professional employment have enormous implications on the rights of refugees under Article 22 of the UDHR which provides that:

Everyone, as a member of society has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Similarly, under Article 25, these refugees have the "right to a standard of living adequate for the health and well-being of

himself and of his family." Special assistance to refugee children is also mandated under Article 22 of the Convention on the Rights of the Child.

The marginalization of refugees further limits their capacity to effectively decide on the most viable durable solutions available to them. It is essential that a refugee be given the widest possible opportunity to arrive at an informed judgment on his future, including that of his family. RSPI cites the length of time that many "long-stayer" refugees had spent to date in the Philippines. Our Government should take into account that development of the capacity of this pool of human resources could even generate positive contributions to the growth of Philippine society at large.

*3. Non-Discrimination and the Alien Social Integration Act of 1995 (R.A. 7919)*

In February 1995, the Philippine Congress passed the Alien Social Integration Law which grants legal residence status to certain aliens. The ultimate purpose of this legislation is to integrate these aliens into the mainstream of Philippine society "subject to national security and interest, and in deference to internationally recognized human rights."

There are corresponding requirements and fees before one can avail of the privileges under the new law. Suffice it to note that the amount of fees being imposed is reflective of the other purpose of this Act, i.e., revenue-raising.

The coverage of the law, however, has given rise to the question of discrimination against refugees in general and to screened-out Vietnamese asylum-seekers, in particular, who are technically declared to be illegally staying aliens once determined to be non-refugees by the CPA process. Section 3 provides "that in no case shall alien refugees in the Philippines be qualified to apply under this Act." Discrimination becomes more evident in the light of Section 10 which makes an alien granted legal residence eligible

to apply for naturalization after 5 years from the approval of his/her application.

It may be worth referring to the 1951 Convention on Refugees, particularly Section 7(1) wherein "a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally." The Philippine Government, being a signatory to this Convention, is obliged to observe this principle whenever privileges, such as those available under R.A. 7919, are granted to other aliens. But when one further examines existing policy of our Government concerning Convention refugees, there is very little to work from in order to realize the rights of the latter. To this date, the Government has no clear state policy on the subject. As a matter of fact, several of the rights accorded refugees under the Convention, including the right to engage in wage-earning employment, have not been effectively enforced by the Government as mentioned earlier.

Another glaring example of inaction relates to the obligation of the Philippine Government under Section 34 of the Convention to "as far as possible facilitate the assimilation and naturalization of refugees" and "in particular make every effort to expedite naturalization." Read with the new law, it becomes apparent that discrimination exists against the refugees.

It is the principle in most states that persons should not be denied the equal protection of the law. While one may view the classification of refugees as distinct from illegally staying aliens, once applied within the context of the Convention, the distinction made in R.A. 7919 falls short of the standard of "same treatment" under Section 7(1) of the Convention.

The Philippine Government probably fears that should refugees be allowed to avail of the privileges under R.A. 7919, the influx of asylum-seekers into this country may be difficult to control in the future. This phenomenon appears remote under the present situation, particularly when one looks at the low number of

mandate refugees now in the country. The figure for non-refugees is overwhelmingly outweighed by the potential applicants under the new integration law. Besides, the reasons for entering the Philippines as far as genuine refugees are concerned are often non-economic in nature compared with illegal entrants violating Philippine immigration law. Why should the latter be more favored than genuine refugees who are forced to leave their country of origin for fear of political persecution?

It may also be argued by the Philippine Government that solutions for refugees are governed under internationally agreed instruments and, therefore, beyond the ambit of applicable immigration policy such as the social integration law. This view does not sit well with the solutions or options available for Convention refugees. Local integration, on the contrary, is one of the durable solutions for refugees aside from voluntary repatriation or resettlement.

What may be concluded from this critique of the new law is that the Philippine Government has conveniently evaded, if not neglected, the assumption of its obligations vis-à-vis the refugees. As it finds solutions for illegally staying aliens without compromising our national interest, the Philippine Government must not lose sight of the fact that compliance with its obligations under the Convention must be given serious consideration today on account of the injustice now being experienced by the refugees.

#### ***B. The Case of Screened-out Indo-Chinese Asylum-seekers***

As the CPA comes to a close by June 30, 1996, the Philippine Government and Church-based non-governmental organizations are currently grappling with the consequence of the termination process. During the past few months, a series of negotiations between the Government and the Church was conducted to arrive at a more humane approach in dealing with eventual repatriation of the remaining Vietnamese asylum-seekers

in the Philippines. Opposition against forcible repatriation was mounted by Church groups and human rights organizations.

Prof. Muntarbhorn had earlier identified the case of screened-out Vietnamese asylum-seekers as "the most intractable problem" confronting policy-makers within the Southeast Asian region. The following observation of Prof. Muntarbhorn is instructive:

The ASEAN position was to push for forced return to the country of origin, but Vietnam and the United States favoured voluntary rather than forced return. Both sides neglected the fact that there might be a gray zone between political and economic refugees, with cases that should be classified neither as refugees nor as illegal immigrants in the traditional sense. If there were such cases, there should have been humanitarian options that did not mean mandatory return to the country of origin, coupled with emigration possibilities in the long term, that could have been explored for those with uncertain status.<sup>52</sup>

The latest strategy adopted by the UNHCR and the first asylum countries in dealing with the termination process is the so-called Orderly Repatriation Program. If the manner of forcible repatriation conducted a few months ago in the PFAC is reflective of the ORP process, then, there is much to be desired in improving this strategy. Besides, if one were to examine the text of the CPA, the ORP may not stand the human rights standard laid down in the Universal Declaration of Human Rights. Other humane approaches may be explored at this stage consistent with Section F(14) and F(15) of the CPA which states:

14. If, after the passage of reasonable time, it becomes clear that voluntary repatriation is not making sufficient progress towards the desired objective, alternatives recognized as being acceptable under international practices would be examined.

15. Persons determined not to be refugees shall be provided humane care and assistance by UNHCR and international agencies pending return to the country of origin. Such assistance

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<sup>52</sup> Muntarbhorn, *supra* note 1, at 153-154.

would include educational and orientation programmes designed to encourage return and reduce reintegration problems.

Nothing in the CPA precludes the Government from granting relief to the asylum-seekers either through an executive act or legislative measure. The second option may take some time, but exploring the avenues open for the Executive Branch may yield a timely solution.

By way of suggestion, one may cite Section 47 (a) (2) of the Immigration Act authorizing the President as follows:

a) When the public interests so warrant---

(2) To admit, as non-immigrants, aliens not otherwise provided for by this Act, who are coming for a temporary period only, under such conditions as he may prescribe;

The asylum-seekers may first be admitted as non-immigrants for a temporary period and, subsequently, granted a permanent residence status pursuant to Section 9 of Book III, Title I, Chapter 3 of the Revised Administrative Code of 1987 which provides:

*Sec. 9. Power to Change Non-Immigrant Status of Aliens.-*  
The President, subject to the provisions of the law, shall have the power to change status of non-immigrants by allowing them to acquire permanent residence status without necessity of visa.

This is quite an indirect route but, nevertheless, arguable. Of course, the other option is to waive at the outset some of the requirements for permanent residence status. A third option is to grant refugee status in favor of the most vulnerable groups pursuant to Section 47 (b) of the Immigration Act under the following condition:

(b) For humanitarian reasons, and when not opposed to the public interests, to admit aliens who are refugees for religious, political, or racial reasons, in such classes of cases and under such conditions as he may prescribe.



The process of making our own determination of refugee status in accordance with the 1951 Convention and the 1967 Protocol upon conclusion of the CPA may still be acceptable practice considering that some resettlement countries in the past have in fact "double-screened" Vietnamese refugees who have undergone the CPA status determination procedure. Proper coordination with the United Nations High Commissioner for Refugees need only to be made for purposes of accommodating this practice.

Another problematic situation is the "lumping together" of all Vietnamese cases in the Orderly Departure Program (ORP). Attention should be called to the different categories of Vietnamese in the Philippines. There are those who have been transferred from the Bataan Refugee Processing Center. These Vietnamese were allegedly found not to be qualified under the U.S. ODP for Amerasians. Others, now detained by the BID in Fort Bonifacio, have yet to be processed for proper determination of their status. A handful of screened-out asylum-seekers are still housed at the Transit Center in Pasay City.

Suggestions for alternative arrangements after June 30, 1996 have been discussed by some sectors. A non-violent method of resolving the issue of termination may be pursued by the different concerned agencies of the Government in cooperation with the Church or non-governmental organizations.

## V. CONCLUSIONS AND RECOMMENDATIONS

This survey of existing practice of refugee law in the Philippines reveals the fact that the Government adheres to an adhoc approach in dealing with the non-Indochinese refugees. One may attribute this approach to the absence of a well-placed system of refugee status determination. Dependence upon the UNHCR process only indicates a policy of reluctance to realize the 1951 Convention in our country.

While TFIRAA has largely been a key player in the processing of Indochinese asylum-seekers under the CPA, its role with regard to non-Indochinese mandate refugees has been marginal. It may be suggested that TFIRAA's involvement with the latter group be properly defined upon termination of the CPA.

Another crucial realization after this research is the possibility of resorting to the Philippine courts for redress of violations of basic human rights of the refugees and asylum-seekers. The strategy of forcible repatriation for asylum-seekers or non-compliance by the Government with the 1951 Convention provisions in relation to mandate refugees presents some interesting justiciable controversies.

However, this writer would like to end this discussion of refugee law with a word of caution, i.e., that any resolution of the refugee issues and concerns should not lose sight of the goal of the 1951 Convention - to realize a dignified life for the refugees.