

Sanremo Declaration on the Principle of Non-Refoulement

**Sanremo, Italy
September 2001**

On the occasion of the 50th Anniversary of the Convention relating to the Status of Refugees of 28 July 1951, the International Institute of Humanitarian Law, in co-operation with the United Nations High Commissioner for Refugees, organised the 25th Round Table, from 6-8 September 2001, in Sanremo (Italy), including a Panel of Experts on current issues related to the international protection of refugees.

The Council of the International Institute of Humanitarian Law, bearing in mind the Institute's long-term interest in and association with the development and codification of international law pertaining to the status of refugees, adopts the following text as the:

San Remo Declaration on the Principle of Non-Refoulement

**The Principle of Non-Refoulement of Refugees incorporated in Article 33
of the Convention relating to the Status of Refugees of 28 July 1951
is an integral part of Customary International Law.**

Explanatory note on the Principle of Non-Refoulement of Refugees
as Customary International Law

Currently, 141 States are contracting Parties either to the Convention relating to the Status of Refugees of 1951 or to the Protocol Relating to the Status of Refugees of 1967, or both. All these States are, of course, bound by the principle of non-refoulement of refugees as incorporated in Article 33 (1) of the Convention, subject to the exceptions spelt out in Article 33 (2) as well as Article 1 (F). However, the principle of non-refoulement of refugees can now be deemed as an integral part of customary international law. Consequently, non-contracting Parties to the Convention and/or the Protocol are equally bound by the principle of non-refoulement of refugees: not because of any treaty obligation, but because this is general international law.

The principle of non-refoulement of refugees can be regarded as embodied in customary international law on the basis of the general practice of States supported by a strong *opinio juris*. The telling point is that, in the last half-century, no State has expelled or returned a refugee to the frontiers of a country where his life or freedom would be in danger – on account of his race, religion, nationality, membership of a particular social group or political opinion – using the argument that refoulement is permissible under contemporary international law. Whenever refoulement occurred, it did so on the grounds that the person concerned was not a refugee (as the term is properly defined) or that a legitimate exception applied. As the International Court of Justice pointed out in a different context, in the 1986 *Nicaragua* Judgement, the application of a particular rule in the practice of States need not be perfect for customary international law to emerge: if a State acts in a way *prima facie* incompatible with a recognized rule, but defends its conduct by appealing to exceptions or justifications contained within the rule itself, this confirms rather than weakens the rule as customary international law.

Non-refoulement is a very important legal and humanitarian principle of international law. This principle is normatively established both in treaty and in custom, and thus it constitutes an integral part of customary international law. It may be regarded as the cornerstone of international refugee law.

That is not to say that every specific legal ramification of the principle of non-refoulement of refugees is generally agreed upon today in the context of customary international law. The nature of customary international law (as distinct from treaty law) is such that not every “i” can be dotted and not every “t” can be crossed. But while there are doubts affecting borderline issues, the essence of the principle is beyond dispute. This essence is encapsulated in the words of Article 33 (1) of the 1951 Refugee Convention, which can be regarded at present as a reflection of general international law.