

Introduction

1 The need for some form of personal documentation is a constant of daily life in most modern societies. Depending on the prevailing administrative arrangements, establishing one's identity may be essential for a wide range of activities, including the registration of births and deaths, contracting marriage, obtaining employment, housing, hospital care or rations, qualifying for social benefits, entering educational institutions, or requesting the issuance of official documents and permits. To meet these needs, as well as for reasons of public order, many countries have established a system of national identity cards. Such cards, besides identifying the holder, can also serve as evidence of civil status and of nationality.^[1] In virtually all countries, lawfully resident aliens also receive some kind of residence permit which may at the same time serve as an identity document.

2 For a refugee, the lack of identity documents may be far more than a source of inconvenience. In almost all countries an alien must be able to prove not only his identity but also that his presence in the country is lawful. In some countries aliens without appropriate documentation are subject to detention and sometimes even to summary expulsion. Such measures are particularly serious for a refugee, for whom they could also involve the risk of being returned to his country of origin. Even where the consequences of being without documentation are less drastic, the refugee, in order to benefit from treatment in accordance with internationally accepted standards, needs to be able to establish vis-a-vis government officials not only his identity but also his refugee character.

3 Due to the circumstances in which they are sometimes forced to leave their home country, refugees are perhaps more likely than other aliens to find themselves without identity documents. Moreover, while other aliens can turn to the authorities of their country of origin for help in obtaining documents, refugees do not have this option and are therefore dependent upon the authorities of their country of refuge or upon UNHCR for assistance in this regard.

Identity documents under the 1951 Convention

4 Beginning with the Arrangement of 5 July 1922, several of the international agreements concerning refugees adopted prior to the 1951 United Nations Convention relating to the Status of Refugees provided for the issue to refugees of a certificate which served both as an identity and a travel document. Although in the earlier arrangements these documents were designated "certificates of identity", they were primarily intended to remedy the lack of national passports, and were in fact generally referred to as "Nansen passports". Successive agreements increasingly emphasized their value in facilitating travel to and from other countries, and beginning with the Convention of 10 February 1938 the term "travel document" was used.

5 In the agreements that preceded the 1951 Convention, the issue of certificates of identity or travel documents was generally limited, with certain exceptions, to refugees lawfully residing in the territory of contracting States. In the 1951 Convention, a somewhat more liberal and comprehensive approach was adopted both with regard to the travel document provided for in Article 28 and with regard to the question of refugee identity documents in general.

6 Under Article 28, contracting States are required to issue Convention Travel Documents to refugees lawfully staying in their territory, unless compelling reasons of national security or public order otherwise require. They are also permitted and indeed encouraged to issue such documents to any other refugee in their territory who would otherwise be without a travel document. Despite these favourable provisions of Article 28, there are nevertheless circumstances in which a refugee may not receive a Convention Travel Document. In order to ensure that all refugees have some personal documentation, the drafters of the 1951 Convention introduced Article 27, which provides:

"The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document."

Every refugee is thus to be provided by contracting States with a means of identifying himself: either a valid travel document as provided in Article 28 ^[2], or identity papers issued pursuant to Article 27.

7 The "travaux préparatoires" to the 1951 Convention show that the purpose of Article 27 was to ensure that all refugees, even those not lawfully residing in the territory, would be spared the hardship of having no identity papers at all. The representative of the International Refugee Organization to the Conference of Plenipotentiaries said that this provision was necessary because a person without papers was "a pariah subject to arrest for that reason alone". The representative of France stated that under Article 27 a refugee whose presence was irregular would at least be given a provisional document "which he could produce if he was stopped in the street". ^[3]

8 Article 27 does not specify the nature of the identity papers that are to be issued. It is clear that the document need not confer any right to residence, and the Article does not even require that the person be identified as a refugee. Article 27 simply requires every refugee to be given the means to prove his identity, leaving each State party free to determine the particular form and content to be given to the document provided for this purpose.

The need for documenting refugee status

9 Identity papers which show only the name, the date and place of birth, and the current address of the refugee would satisfy the literal requirements of Article 27, and also spare the refugee some of the inconvenience of having no documents at all. For

purposes of international protection, however, it is often essential that such identity papers also indicate the holder's refugee status. Proof of refugee status may be of vital importance, for example, in situations where refugees are caught up in police operations directed against aliens whose presence in the country is considered unlawful.

10 Besides being of greater value for the refugee, identity documents which indicate refugee status are also useful for the national authorities concerned with implementing the provisions of the Convention and Protocol. By providing competent officials, especially at the local level, with a means of readily ascertaining that a person is a recognized refugee, such documents can facilitate the implementation of governmental refugee policies and help to obviate administrative errors concerning the treatment of refugees.

11 The importance of providing refugees with a means of establishing their refugee status was recognized by the Executive Committee in its conclusion on the determination of refugee status adopted at its twenty-eighth session in 1977 [4] The Committee recommended as one of the basic requirements of procedures for the determination of refugee status that a person recognized as a refugee "should be informed accordingly and issued with documentation certifying his refugee status".

The practice of States with respect to refugee identity documents

12 It is the general practice of States with established procedures for determining refugee status to provide recognized refugees with some form of documentation attesting to their identity and to their status as refugees. The specific type of document provided varies considerably, and corresponds generally to the documents which are issued to nationals or resident aliens in the country concerned. A few countries provide all recognized refugees with Convention Travel Documents. More commonly, recognized refugees receive either a refugee certificate or an identity card attesting to their refugee status. Frequently these also serve as evidence of the right to reside and work in the country. Several countries issue to recognized refugees a residence card which also serves as an identity document. Finally, in a few countries which do not have a system of national identity cards or residence permits, a recognized refugee receives a letter informing him that his request for asylum and/or refugee status has been approved.

13 In most States which are not parties to the Convention or Protocol, no possibility exists for refugees to be officially recognized or to obtain refugee identity documents. In such situations UNHCR has sometimes found it necessary, in order to identify refugees and to ensure that protection is accorded to them, to issue a certificate to the effect that the person in question is regarded by the office as a refugee within its mandate. Although such UNHCR "mandate certificates" technically have no legal force in the States concerned, in certain countries the authorities have agreed that refugees holding such certificates will be granted a residence permit.

14 An analogous situation exists in countries which, although parties to the Convention and Protocol, continue to apply the geographical limitation in Article I B (1) (a) and to limit their responsibility under the Convention to persons who are refugees "as a result of events occurring in Europe". In these countries UNHCR mandate certificates are frequently issued to refugees from regions other than Europe.

Identity documents for refugees in large-scale influx situations

15 In many States which receive refugees in large groups, refugee status is not determined on an individual basis. In several of these States, refugees accommodated in camps and settlements are nonetheless registered and provided with identity papers. A significant number of other States confronted with a such a large-scale influx have not found it feasible to provide refugees with official documentation of any kind. Recently, however, there has been an increasing recognition of the value of providing refugees with suitable documentation in large-scale influx situations.

16 In the situations described in the preceding paragraph, the issue of documentation to refugees may be connected with programmes for their registration. The registration and documentation of all refugees in a country has obvious advantages not only for purposes of international protection but also in terms of the planning and implementation of assistance programmes and the promotion of durable solutions. Such registration and documentation programmes have accordingly been initiated by national authorities, in co-operation with UNHCR, in several States where this had not previously been the practice. In 1983, UNHCR contributed to the cost of providing identity cards to refugees in several countries and printed some 250,000 refugee identity cards at the request of a number of Governments.

17 Various problems exist with regard to refugee documentation in certain States which continue to classify refugees and asylum-seekers as "illegal entrants" who have no lawful basis for their presence in the country. In such cases there is often no possibility for refugees to obtain any kind of official identity document. In these countries ad hoc arrangements are sometimes made at the local or camp level for such purposes as the distribution of rations, but large numbers of refugees are left with no legally recognized means of identifying themselves.

Identity documents for applicants for refugee status

18 During the period preceding the determination of refugee status, asylum applicants clearly have the same need for appropriate identity documents as recognized refugees. In previous conclusions the Executive Committee has recommended that an applicant for refugee status "should be permitted to remain in the country pending a decision on his ... request" [5]5, and has stated that the principle of non-refoulement applies to persons who may be subjected to persecution irrespective of whether their refugee status has been formally recognized[6] The risk of expulsion or refoulement may indeed be greater for the asylum applicant - whose status in the country has not yet been regularized whose and entitlement to refugee status has yet to be determined - than for the recognized refugee. It follows therefore that the asylum applicant should be provided with documentation adequate to ensure that

his provisional right to protection against refoulement will be respected and that he will be treated in accordance with his status as a person who may in fact be a refugee.

19 Most States which have established formal procedures for determining refugee status issue some kind of certificate acknowledging that an application for refugee status has been made. Such a certificate may be used by asylum applicants as provisional documentation until a decision has been taken on their application.

The format of identity papers

20 Although there is no prescribed format for refugee identity documents, there are certain practical requirements that must be satisfied if the papers issued to a refugee are to be useful for purposes of identification. It must be possible for an official examining the document to be satisfied that the document is authentic and also that the person using the document is in fact the person to whom it was issued. There are various methods of ensuring that the authenticity of a document is readily apparent. The specifications for Convention Travel Documents, for example, recommend the use of forms printed on special paper which makes it possible for any alteration to be detected. Less elaborate methods, such as the use of an official stamp or seal, are usually adequate to give sufficient reliability to a document intended for use within the issuing country.

21 In order to prevent misuse of refugee identity documents (for example, if they fall into the hands of persons other than those to whom they were issued), most identity documents now have a permanently affixed and stamped photograph of the person identified. When this method has not proved feasible, some other distinguishing personal characteristic of the holder, such as a signature or thumbprint, has been used. A letter or certificate which does not provide any means of establishing that the person presenting it is in fact the person referred to is of lesser practical value for purposes of identification. Such a letter or certificate is however useful to show the status of the person designated, provided his identity can be established by other means.

Conclusions

1 It is important that refugees have documentation enabling them to establish their identity. The necessity of providing all refugees with such documentation is recognized in Article 27 of the 1951 United Nations Convention relating to the Status of Refugees.

2 In order to ensure that they are treated in accordance with internationally accepted standards, it is also necessary that persons recognized as refugees be provided with documentation certifying their refugee status. The issue of such documentation was recommended in the conclusion on the determination of refugee status adopted by the Executive Committee at its twenty-eighth session (No. 8) and recorded in paragraph 53 (6) of document A/32/12/Add.1.

3 Applicants for refugee status should be provided with provisional documentation showing their identity and the fact that they are permitted to remain in the country until a decision concerning refugee status has been reached by the competent authority.

4 Identity papers for refugees and asylum applicants should be issued in a format that prevents misuse and enables the relevant authorities to be satisfied that the person using the document is in fact the person to whom it has been issued.

5 In certain countries where there is no provision for the formal recognition of refugee status, it may be necessary for UNHCR to certify that a person is considered a refugee within the UNHCR mandate.

6 The extension of the practice of registering and issuing documentation to refugees and asylum-seekers in large-scale influx situations is to be welcomed. It is hoped that States which have not yet done so will undertake such documentation programmes, where appropriate in co-operation with UNHCR.

[1] In countries where national identity cards are not used, citizens may have recourse to various other methods such as birth certificates, tax receipts, social security cards, employee cards and the like, to prove their identity.

[2] The requirements of Article 27 would also be satisfied if a refugee possesses a valid travel document other than a Convention Travel Document, such as an aliens passport issued by another State.

[3] E/AC.32/SR.38, page 24

[4] A/32/12/Add.1, para. 53 (6)

[5] Ibid. para. 53 (6) (e)(vii).

[6] Ibid. para 53 (4) (c).