



## Moving Forward: Identifying Specific Measures to End Refugee Warehousing

UN High Commissioner for Refugees Pre-ExCom Consultations  
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### Introduction

Of the nearly 12 million refugees in the world today, more than 7 million have been confined to camps or segregated settlements or denied basic human rights—“warehoused,” in effect—for 10 years or more.<sup>1</sup> In its June 10, 2004 Standing Committee document on Protracted Refugee Situations, the UN High Commissioner for Refugees (UNHCR) estimates the average duration of refugee situations has increased from 9 years in 1993 to 17 years in 2003.<sup>2</sup> While durable solutions are the ultimate goal for refugees, the prospects for such solutions for millions of refugees are increasingly out of reach. Fortunately, the 1951 Convention Relating to the Status of Refugees sets forth what amounts to a bill of rights of refugees to live as normal a life as possible while in exile, including the rights to work, own property, run businesses, move about, and reside where they choose.<sup>3</sup>

Since the publication of *World Refugee Survey 2004—Warehousing Issue* back in May, a hundred non-governmental organizations (NGOs) and notable individuals have endorsed the Statement Calling for Solutions to End the Warehousing of Refugees, a broad declaration of principles favoring the implementation of the Convention’s rights. They include major authorities on international refugee law, about two-dozen NGOs representing refugees and activists from the global south, 15 from Europe (including the European Council for Refugees and Exiles), major international humanitarian and human rights groups such as Amnesty International, Human Rights Watch, International Catholic Migration Commission, Jesuit Refugee Service, and Lutheran World Federation, and four Nobel peace and economics laureates.<sup>4</sup>

UNHCR’s document acknowledged that confinement to camps, while perhaps necessary in times of crisis, is “not in conformity with the rights enshrined in refugee

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<sup>1</sup> U.S. Committee for Refugees (USCR), “Warehoused Refugee Populations,” *World Refugee Survey 2004—Warehousing Issue*, 2004, <http://www.refugees.org/wrs04/main.html> (WRS 2004), Table 3, p. 3.

<sup>2</sup> UN High Commissioner for Refugees (UNHCR) Standing Committee, “Protracted Refugee Situations,” EC/54/SC/CRP.14, June 10, 2004 (UNHCR 2004), para. 6.

<sup>3</sup> “Anti-Warehousing Rights,” *WRS 2004*, pp. 40-41.

<sup>4</sup> <http://www.refugees.org/warehousing/docs/statement.pdf>

instruments” and that steps to ensure that refugees enjoy basic Convention rights, including those necessary for self-reliance, are “core, mandate functions for the Office” and applicable even in the absence of immediate durable solution prospects.<sup>5</sup>

So there is general agreement that warehousing refugees is wrong and that honoring their rights is imperative. Accordingly, I will not take your time and attention here to reiterate all the pathologies, debilities, and inequities better detailed in our *Survey* and elsewhere. The question is how do we move forward? Precisely who needs to do specifically what to begin the long process of ending a practice that spans the globe, involves millions of people and hundreds of millions of dollars, and has existed as the de facto norm for decades?<sup>6</sup>

At one level, the answer has always been deceptively simple: implement the Convention. But this answer ignores the context that the vast majority of the world’s refugees are in the territories of the less developed nations of the global south. To simply leave it at this is to deny that refugee protection is an international responsibility.

Most of the basic rights of the Convention do not impose direct costs to host country governments. They are essentially negative freedoms merely calling for the state’s non-interference with refugees’ economic activity or choices of residence.<sup>7</sup> Others, however, like access to courts, primary education, and public assistance, require government expenditures. Hosts may also incur indirect costs due to the economic impact of large influxes of unskilled labor, social tensions between diverse ethnic and religious groups, and security concerns due to continuing conflict in the source country. Many host countries are concerned that allowing refugees even limited enjoyment of rights will be potential “pull” factors.

Here we hope to explore answers to some of these problems and to identify further questions in order to open the dialogue. Our suggestions will no doubt be only partial answers, inadequate to a full mapping out of the journey from warehousing to honoring Convention rights. We seek not to hide shortcomings but to lay them out for consideration and response from our friends and colleagues in UNHCR, among the NGOs and governments represented, and from refugees themselves. We who gather here today have made it our daily work and even life’s mission to protect refugees and their rights and convene in a spirit of collaboration. Our hope is that this panel, and other discussions that will follow at tomorrow morning’s side meeting and elsewhere will explore the genuine challenges to granting refugees their rights and identify specific measures to end warehousing.

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<sup>5</sup> UNHCR 2004, paras. 9 and 17 and “NGO Statement on Protracted Refugee Situations, Item 5(ii),” UNHCR Standing Committee, 30<sup>th</sup> Meeting, 29 June-1 July 2004, <http://www.icva.ch/cgi-bin/browse.pl?doc=doc00001201>.

<sup>6</sup> Merrill Smith, “Warehousing Refugees: A Denial of Rights, a Waste of Humanity,” *WRS 2004*, pp. 38-56, <http://www.refugees.org/wrs04/pdf/38-56.pdf> (USCR 2004), see esp. “Why it Goes On,” pp. 42-50.

<sup>7</sup> Nkurikiye Etienne, “Speech delivered by the Representative of the Lusaka Refugee Coordination on the Occasion to Mark the Fourth World Refugee Day, Sunday, 20<sup>th</sup> June 2004,” Lusaka, Zambia, [http://www.refugees.org/warehousing/docs/Lusaka\\_Refugee\\_Coordination\\_Speech.pdf](http://www.refugees.org/warehousing/docs/Lusaka_Refugee_Coordination_Speech.pdf).

We start with the basic principal that, while our proposals must be practical, we are talking about *rights*. By this we mean that, should a given approach fail, we cannot simply wash our hands of the matter. We have to try again. The challenge is essentially a political one—how do we create a policy environment conducive to refugees’ exercise of their rights? The answers may be fluid and multifarious but we must begin to generate them now.

### Donor Country Reimbursement for Host Country Expenses

Host countries often observe that while the donor community funds assistance to refugee camps, it generally does not offer similar funds for self-settled refugees outside the camps. This serves as a major structural disincentive to ending warehousing. Host government representatives have called for more sustained commitments from donors to address the impact of refugees on their countries. The High Commissioner is also committed to the principle that refugee protection is an international responsibility, not one that falls arbitrarily upon countries bordering the refugees’ source. A minimal first step toward realizing this principle would be for UNHCR, through its Executive Committee and with the approval of its donors, to commit to reimbursing host countries as necessary for expenses they incur pursuant to granting refugees in their territories their rights under the 1951 Convention.<sup>8</sup>

This begs many detailed questions as to how such a fund would be organized and administered. At this stage, however, we hope to set forth the basic idea of what such a commitment would entail. It should not make *per capita* payments for all refugees hosted in the country but a *pro rata* compensation for services actually delivered to refugees in an integrated manner and related expenses. It should enhance the host countries’ capacity to provide not only refugees but also their own populations with essential opportunities and services rather than to segregate refugees with parallel aid streams that breed resentment. UNHCR would play the key role in the reimbursement process of verifying that the refugees actually enjoy their rights and receive the services. This would mean UNHCR shifting its activities from care and maintenance in such countries to protection consonant with its original mandate. The tie to reimbursement would create a strong incentive for host countries to welcome such a role.

Direct reimbursement, however, would constitute only the *minimum* commitment from the donor community and may not be sufficient to compensate for indirect costs on local labor and other markets. Supplemental incentives, such as general capacity-building grants, targeted development assistance, vocational training, or other support may also be necessary and would have to be individually tailored to the circumstances of particular host countries. Negative economic impacts of refugees exercising their rights, however, should not simply be *assumed*; rather, they should be empirically verified, assessed, and balanced against indirect contributions of their energy and innovations and offsetting factors of market adjustment. This is important not merely to avoid

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<sup>8</sup> USCR 2004, “Refugee Rights and Host Country Interests,” pp. 53-54.

misidentifying refugees as “burdens;” it is essential to devising appropriate, responsive, and effective programs.

Reimbursement and compensation are not magic bullets to end warehousing but, rather, essential down payments on the principles that refugee rights are universal and that refugee protection is an international responsibility. Not all problems can be solved with money and we don’t pretend otherwise. Even identifying those that can, does not generate the funds. And how long must such compensation continue? Different situations will call for different answers, but two things must be borne in mind. One is the vastly greater expense of keeping people dependent on assistance for decades or generations in artificial encampments. The other is warehousing’s cost in squandered human potential. Any principled argument for the status quo must defend *those* expenses.

### Security

Even before the events of September 11, 2001, security concerns frequently trumped human rights. Refugee outflows often result from ongoing military conflicts that can easily overflow national boundaries. But is keeping refugees idle in camps or segregated settlements really the safe thing to do? Would allowing them to move about and support themselves be riskier? There is much evidence to the contrary, but problems remain for which we must find solutions.

As Barbara Harrell-Bond has noted “it is very nearly impossible to maintain the civilian character of a camp.”<sup>9</sup> Rebel leaders often dominate refugee camps and use them as bases from which to replenish supplies, recruit soldiers, provide rest and relaxation to their forces, generate political support and a sense of legitimacy, and launch incursions back into the source country. They often manipulate refugees to keep them near dangerous borders, virtually inviting retaliation from source countries. The enforced idleness of camp life, in turn, allows resentment and extremist ideology to fester. By spatially concentrating refugees of particularly vulnerable ethnic groups or religious minorities while their armed adversaries remain at large, encampment may exacerbate their vulnerability.<sup>10</sup>

Can releasing them be safer? One step essential for both refugee protection and assistance and host country security is for the host government to properly identify and register refugees and issue them secure identity documents. The importance of registration is evident in the context of maintaining the integrity of ration-distribution systems and potential resettlement programs, but particularly rigorous identification and registration programs, perhaps including biometric identifiers, may be called for where

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<sup>9</sup> Barbara Harrell-Bond, “Towards the Economic and Social ‘Integration’ of Refugee Populations in Host Countries in Africa,” Stanley Foundation Conference “Refugee Protection in Africa: How to Ensure Security and Development for Refugees and Hosts,” Entebbe, Uganda, November 10-14, 2002, p. 19.

<sup>10</sup> Veronika Martin, “Myanmarese Refugees in Thailand: No Freedom, No Choices,” *WRS 2004*, pp. 82-89, <http://www.refugees.org/wrs04/pdf/82-89.pdf> (see esp., “Paw Paw’s Story,” sidebar p. 87).

the liberty of the refugees and the security of all concerned are at stake. UNHCR has already taken steps to improve registration systems. With funding and technical assistance, donors could help host governments further enhance their capacity to monitor refugee flows and to screen dangerous elements.

Not all security risks involve foreign or political actors. The government of Tanzania, citing ordinary criminal activity, has shut down a number of refugee markets. According to a World Food Programme-sponsored study, this and restrictions on movement “led to a deteriorating food security situation.”<sup>11</sup> Donors may ameliorate many genuine security problems with programs that build local police and judicial capacity rather than measures that require the wholesale denial of refugees’ rights. Such programs would also be more compatible with host country sovereignty than the international administration of refugee camps on their territory.<sup>12</sup>

As Dr. Khoti Kamanga has noted in the case of Tanzania,

We recommend that as with the police, assistance to local administration, judiciary and the prisons particularly that which is intended to address the impact caused by the presence of refugees should be extended on formalized and entitlement basis as par of the international legal, obligation to share the entire refugee burden. There is no reason why the host county should be made to shoulder a disproportionate share.<sup>13</sup>

### “Pull” Factors

According to UNHCR, some governments “will not want to give full rights because they fear that if the first 10,000 refugees are allowed in then another 30,000 will arrive.”<sup>14</sup> The availability of minimally humane refuge under the terms of the Convention may indeed induce people in fear of persecution to seek it, but this is minor compared to the push factors of persecution and war. A more rights-conducive approach might not so much increase inflows as increase the host government’s ability to monitor and screen a population with identity documents.

In any event, however, the denial of basic human rights in an effort to discourage people from fleeing persecution is, in effect, a denial of first asylum. Again, we have no easy answers but the question is fundamental and goes beyond warehousing.

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<sup>11</sup> Greg Collins, “The Coping Strategies Index (CSI) Baseline Survey: World Food Programme (WFP) Assisted Refugees in Western Tanzania,” June-July, 2004.

<sup>12</sup> Ralph Wilde, “*Quis Custodet Ipsos Custodiet?*: Why and How UNHCR Governance of ‘Development’ Refugee Camps should be Subject to International Human Rights Law,” *Yale Human Rights and Development Law Journal*, 1998, Vol. 1, p. 107.

<sup>13</sup> Dr. Khoti Kamanga, “Impact of Refugee Presence on International and Regional Security: Spotlight on North-western Tanzania,” *The African*, July 12, 2004.

<sup>14</sup> Ushani Agalawatta, “Burundi: Massacre Highlights Lack of Rights – Group,” *InterPress Service*, August 23, 2004.

## Communal Tensions

Many of the more favorable examples of refugee reception have occurred where the refugees share the religion and/or ethnic make-up of host populations. Where they do not, the parallel aid streams essential to warehousing create additional distinctions between refugees and locals and can artificially exacerbate animosity.<sup>15</sup> Policy makers may also exaggerate the strength of local hostility as a convenient (and self-flattering) pretext for failing to honor refugee rights.

But has anyone actually *asked* the local population? Accurate polling on sensitive policy issues often finds public opinion to be far more broad-minded than policy-makers assume or are inclined to admit. And where polling finds animosity, focus groups can help pinpoint substantive problems to be addressed and/or areas where public relations efforts accentuating potential refugee contributions may be most fruitful. Culturally appropriate rights advocacy may well take the form of appeal to indigenous concepts of compassion, piety, mercy, solidarity, kinship, reciprocity, or pride.

Local hostility, however, whether imagined or real, does not excuse depriving refugees' of their rights. Instead, it confirms the importance of practical solutions and *political will* as the essential ingredients to realize public policies compatible with those rights. Where these come from the grassroots of the local hosting communities, so much the better, but human rights are not contingent upon accidents of birth or contingencies of faith. Where ethnic or religious bonds do not exist between peoples thrust together by forced migration, political leadership and international support are imperative to ensuring rights.

## Monitoring Protection

Lastly, if refugees are dispersed, how will their protection be monitored? General human rights monitoring as practiced by the UN, governments, and NGOs typically does not require encampment. UNHCR and NGOs involved in refugee protection can adopt such methods and mechanisms. But protection must mean more than daily rations in a camp.

## Conclusion

All constructive answers begin with recognition of the problem and commitment to find solutions. We particularly invite and welcome the input of those with greater operational experience in relief and development and human rights protection. Mostly, we need the input of refugees and of host and donor governments. Sharing ideas and working together, we will map the road forward to where refugees enjoy the basic rights envisioned for them in the 1951 Convention and other fundamental human rights instruments and host and donor governments assume their respective responsibilities.

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<sup>15</sup> USCR 2004, pp. 39-42.