

# Warehousing Refugees:

## A Denial of Rights, a Waste of Humanity

by Merrill Smith, Editor

### Introduction

Of the world's nearly 12 million refugees, more than 7 million have languished in refugee camps or segregated settlements in situations lasting ten years or more, some for generations (see Table 3, p. 3). Advocates traditionally envision three durable solutions to refugee outflows: voluntary repatriation when conditions in the source country change, permanent local integration in the country of first asylum, or resettlement to another country. Refugee warehousing, however, has emerged as a *de facto* fourth and all-too-durable solution. This article attempts to define it, describe its failings, explain its continuance, and explore alternatives. Briefly put, condemning people who fled persecution to stagnate in confinement for much of the remainder of their lives is unnecessary, wasteful, hypocritical, counterproductive, unlawful, and morally unacceptable.

Warehousing is the practice of keeping refugees in protracted situations of restricted mobility, enforced idleness, and dependency—their lives on indefinite hold—in violation of their basic rights under the 1951 UN Refugee Convention. Egregious cases are characterized by indefinite physical confinement in camps. Encamped or not, refugees are warehoused when they are deprived of the freedom necessary to pursue normal lives.

There are various standards for what constitutes a “protracted” situation for refugees. Some authorities use more than five years in exile with no end in sight as a bench-

mark.<sup>1</sup> The Convention's Article 17(2)(a) requires States Parties to grant refugees the same treatment as nationals regarding employment if they have spent three years in a country of first asylum (see Rights sidebar). Article 7(2) also puts a three-year limit on legislative reciprocity restrictions. Otherwise the Convention specifies no delays in the enjoyment of its rights.

Indeed, the key feature of warehousing is not so much the passage of time as the denial of rights. The UN High Commissioner for Refugees' (UNHCR) Global Consultations on International Protection provide that:

*A protracted refugee situation is one where, over time, there have been considerable changes in refugees' needs, which neither UNHCR nor the host country have been able to address in a meaningful manner, thus leaving refugees in a state of material dependency and often without adequate access to basic rights (e.g. employment, freedom of movement and education) even after many years spent in the host country.<sup>2</sup>*

### What Is Wrong with It?

Refugee warehousing typically occurs in the most desolate and dangerous settings in harsh, peripheral, insecure border areas, typically for political and military, rather than humanitarian, reasons (see, e.g., maps, pp.79, 85).<sup>3</sup> Referring to the 1994 deaths from cholera and dehydration of some 50,000 Rwandan refugees in only two weeks in overcrowded camps near Goma, then-Zaire, a UNHCR officer acknowledged “there is no doubt that refugees are better off living outside camps.”<sup>4</sup>

*Top photo: Kinkole camp near Kinshasa in Congo-Kinshasa houses refugees from Congo-Brazzaville, 1997.*

*Photo: UNHCR/B. Neeleman*

### Letter from the Editor

At one point in the preparation of this special edition of the *World Refugee Survey* on warehousing refugees, someone asked me if the UN Refugee Convention didn't prohibit putting camps too close to borders. I wasn't sure where this was specified but I was fairly sure it was not in the Convention. Double-checking, however, I was intrigued to note that, even as we have become inured to refugee camps, not only does the Convention not regulate their placement, *the word "camp" does not appear once in the entire 46-article document.*

But this should not be so surprising. The Convention was drawn up by predominantly European powers with post-World War II European refugees in mind. Imagine going back in time and suggesting to the plenipotentiaries then gathered in Geneva, "Why don't we just put these people in camps...say, *indefinitely?*" They likely would have thought we were from Mars. Hitler and Stalin may have put innocent civilians in camps indefinitely, but *civilized* powers shouldn't.

Advocates have long noted the European character of the Convention, usually to suggest that its criteria for refugee status are too individualistic. Few, however, have held its European context out as support for the proposition that the rights it provides refugees are too generous—indeed they are minimal. Nevertheless, compared to what most refugees actually enjoy, the gap is striking.

In this respect, the history of the Convention is much like that of the U.S. Declaration of Independence or the Magna Carta: relatively privileged people set forth both with their equals in mind. As a practical matter, vast sectors of humanity did not soon enjoy the rights in either. Nevertheless, all humanity can still be grateful to their authors—they set forth indelible standards of how human beings *ought* to treat one another, *if* they view one another as equals. That of course is only the first step. This issue of the *Survey* invites consideration of what it may mean to take the further step of treating *all* refugees as our equals—deserving of *all* the rights enshrined in the 1951 Convention.

Warehousing is not just a miserable, but all-too-convenient, means of disposing of refugees while the international community attempts to find durable solutions—it threatens refugee protection in and of itself. In its Global Consultations, UNHCR recognized that restrictions on refugee economic activity might become "a means to promote early repatriation."<sup>5</sup> This amounts to constructive *refoulement*—a violation of international law.<sup>6</sup> More generally, as Guglielmo Verdirame notes, "human rights cannot be respected in refugee camps."<sup>7</sup> UNHCR's Standing Committee notes "the high incidence of violence, exploitation and other criminal activities are disturbing manifestations" of refugees remaining "passive recipients of humanitarian assistance and continu[ing] to live in idleness and despair."<sup>8</sup>

UNHCR's *Agenda for Protection* recognizes that "serious protection problems, including gender-based violence...can result from over-dependency and idleness."<sup>9</sup> Domestic violence in the camps in Kakuma, Kenya, for example, is notably worse than in southern Sudan where most of the refugees originate. Camp life often upends traditional gender dynamics by depriving men of functions that gave them authority and status, whereas women not only retain traditional roles, but also may even receive enhanced status from refugee agencies. Somali refugees in Dadaab, Kenya, complained that men, bored and frustrated by extended periods of inactivity and confinement, chew psychoactive *khat* leaves and become aggressive against women

and girls as the effects wear off.<sup>10</sup>

Sudanese women in the Achol-Pii refugee settlement in Uganda report that rape at the hands of other refugees, locals, rebels and Ugandan soldiers is common.<sup>11</sup> Refugee women, girls, and even young men in warehoused situations often fall into various forms of sexual *concubinage*, including sexual abuse by aid agency employees that has come to be known as "assistance-related sexual exploitation."<sup>12</sup>

Camp administrators often operate outside the host country judicial system with no checks on powers or legal remedies against abuses and violate refugees' rights. In Kakuma, in particular, in 1994 and 1996, camp authorities subjected the entire population to collective punishment by withholding food distributions for two or three weeks at a time in retaliation for unidentified persons vandalizing enclosures used for counting refugees and distributing rations.<sup>13</sup> The camp's international administrators also forcibly relocated an Ethiopian refugee from Kakuma to Dadaab for organizing "human rights lectures" *after* the 1994 incident, which allegedly caused disruption of public order.<sup>14</sup>

Warehousing can also inhibit voluntary return when refugees fall under the control of authoritarian military leaders in camps.<sup>15</sup> The misery of warehousing also contributes to illegal secondary migration.<sup>16</sup>

Warehousing not only wastes the economic and





creative energies of refugees, but the “relief economy” that supports it also distorts local economies. Parallel relief programs assisting refugees separately from local populations are the most expensive ways of responding to their needs with the cost per refugee typically well over the per capita GNP of the host nation.<sup>17</sup> Less confining, but still segregated, refugee settlements are also very much aid-oriented and dependent on outside assistance. Aid agencies serving

refugee settlements in Uganda are the largest employers, manage most of the activities, and make all major investments in the areas.<sup>18</sup> This exacerbates the refugees’ seclusion and aggravates tensions between them and local populations. “Ugandan nationals often perceive refugees as being better off than they are,” note Sarah Dryden-Peterson and Lucy Hovil, “as they witness World Food Programme (WFP) trucks moving into the settlements.”<sup>19</sup> In 1996, the

## Anti-Warehousing Rights

As set forth in the  
1951 Convention Relating to  
the Status of Refugees

### THE RIGHT TO EARN A LIVELIHOOD

#### Article 17 Wage-earning employment

1. The Contracting State shall accord to refugees lawfully staying in their territory the most favourable 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 States concerned, or who fulfils one of the following conditions:

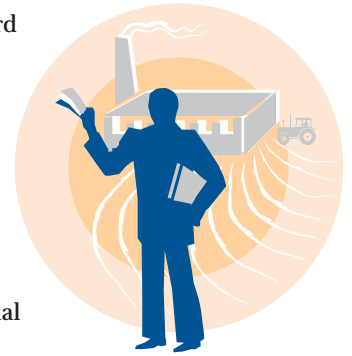
- a. He has completed three years’ residence in the country;
- b. He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse;
- c. He has one or more children possessing the nationality of the country 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.



#### Article 18 Self-Employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.



#### Article 19 Liberal Professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practicing a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.



#### Article 13 Moveable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances as regards the acquisition of moveable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to moveable and immovable property.



Lord's Resistance Army, a Ugandan rebel group believed to have ties to the Sudanese government, massacred more than 100 Sudanese refugees in Kitgum, allegedly because they found UNHCR ration cards on captured Sudan People's Liberation Army fighters, and attacked the settlements in Adjumani. Rebels also looted food and medicine immediately after distributions in the settlements.<sup>20</sup> Furthermore, Ugandan locals, resenting international aid given to refu-

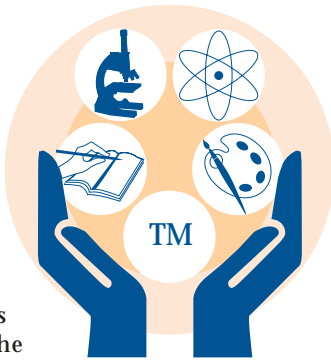
gees isolated in the Kyaka I settlement, also took back land previously allocated to the refugees.<sup>21</sup>

Separate and unequal assistance combined with restrictions on work is a particularly self-defeating mixture. Kenya initially gave businesses run by Somali refugees who arrived in Mombasa in 1991 tax-free status within the camps, although there is no basis for such a privilege in the Convention. This skewed much of the local market in their

### Article 14

#### Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic, and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has habitual residence.



### FREEDOM OF MOVEMENT

#### Article 26

#### Freedom of Movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.



#### Article 28

#### Travel Documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require...



### DUE PROCESS

#### Article 3

#### Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

#### Article 16

#### Access to courts

1. A refugee shall have free access to courts of law on the territory of all Contracting States.

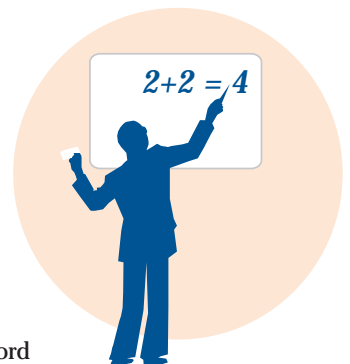


### EDUCATION AND RELIEF

#### Article 22

#### Public Education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.



#### Article 23

#### Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Illustrations by Tatiana Shelbourne



favor. At the same time, the government did not allow the refugees work permits, rendering their activities in the informal sector illegal. As a result, sectors of the local business community pressured the government to close the camp and move the refugees to the desert camps of Kakuma and Dadaab.<sup>22</sup>

Most of all, warehousing refugees aggravates their near total disempowerment. Many warehoused refugees become spectators to their own lives rather than active participants in decision-making. Authoritarian military conditions, camp confinement, and almost complete reliance on international assistance can generate pathological dependency, low self-esteem, and lack of initiative.<sup>23</sup> Over time, warehousing can engender fatalistic paralysis, evident in the following observations by various encamped refugees in Uganda:

*I like it here. The Camp Commander is bringing me food. There is no other place I could go to. I am just like a child now. I don't know where I am, I don't know where to go.*

*I am like a blind person who doesn't know what will happen in the future.*

*We refugees are like small children, we only follow what the Camp Commander says and orders.*

*As I am under the umbrella of UNHCR it is impossible for me to move of my own accord. It is up to them. They choose our life.*

*We don't have any suggestions as refugees, it is UNHCR who have all the suggestions.*

*I know nothing, unless people like you take me. I am like a monkey of the bush. I know nothing that I can do.<sup>24</sup>*

The disempowerment of camp life in Uganda also created an atmosphere of intimidation where refugees were reluctant to speak to researchers for fear they would be transferred abruptly to another camp.<sup>25</sup>

### Why It Goes On

**History** Policymakers rarely defend prolonged encampment as a general principle; typically they cite exceptional circumstances to justify particular applications. Nevertheless, encampment's history sheds light on its entrenchment as a response to refugee outflows.

The UN Refugee Convention defined the term *refugee* and enshrined the most important refugee right, that of *nonrefoulement*—the right not to be forcibly returned to a country where one would be persecuted (Article 33). *Refoulement*, an outrage wherever it occurs (see Table 9, p. 13), fortunately has become relatively rare in the 53 years

since the Convention's drafting. Unfortunately, advocates have had less success in promoting durable solutions. Voluntary repatriation, by far the most common solution, requires fundamental and lasting change in the human rights regime of the source country, which can take decades or—in recent years—invasion and foreign occupation. Before

**“Refugees languishing year after year in inhospitable, dangerous, desolate no-man's lands near remote and often contested borders are no one's favored assignment or story. As a result, warehoused refugees tend to fall off the radar screen of international attention and into the Orwellian memory hole.”**

the attacks of September 11, 2001, resettlement was unavailable to even one percent of the world's refugees per year and declined drastically thereafter.

That voluntary repatriation is the preferred solution to refugee outflows has become a truism, but the Convention has virtually nothing to say about it. Nor does the expression *durable solutions* appear in the document; the only provision recommending anything like it is Article 34, which calls on States Parties to facilitate the naturalization of refugees. Although Article 33 makes clear that refugees should never be forced back, no provisions deal with repatriation except Article 1C(3), which lists it as a condition of the cessation of refugee status. Instead, the Convention's framers envisioned permanent local integration in countries of first asylum as the most desirable outcome of refugee situations. According to a 1950 report of the UN secretary general,

*The refugees will lead an independent life in the countries which have given them shelter. With the exception of “hard core” cases, the refugees will no longer be maintained by an international organization as they are at present. They will be integrated in the economic system of the countries of asylum and will themselves provide for their own needs and those of their families. This will be a phase of the settlement and assimilation of the refugees. Unless the refugee consents to repatriation, the final result of that phase*





## Lessons from Cote d'Ivoire: Support Positive Examples Early

The Ivorian example stands out in Africa. At the time of the influx of Liberian refugees in 1989, President Félix Houphouët-Boigny declared them “brothers in distress,” refused to put them in camps, and encouraged his people—many of them members of the same ethnic groups as the refugees—to accept them. Spontaneous settlement became the norm. This coincided with market-friendly economic policies and a positive view overall of immigration and foreign investment that for refugees included access to land and freedom to move, work, and operate businesses without permits. Some settled in a specially designated zone, but as many as 50,000—nearly one in four—did not. After Houphouët-Boigny's death in 1993, however, new leaders resorted to ethnic division and corruption to maintain their hold on power. In 1998, a new law forbade foreign ownership of land. Since 1999, refugees who were previously accepted on a *prima facie* basis have been required to apply individually for refugee identity cards. The new status included neither the previous economic rights and freedom of movement, nor even the rights to obtain a driver's license or open a bank account. In order to receive assistance, new refugees had to report to the country's only camp.

Although donors did some things right, they missed opportunities to reinforce constructive alternatives. The international agencies failed to see the exodus as protracted although signs of state collapse in Liberia were evident. Local

authorities pleaded with the agencies to integrate the refugees into local schools and services. Instead, the agencies established and overemphasized parallel “care and maintenance” systems and maintained them too long. Vocational education and agricultural inputs, such as fertilizer, rubber boots, and irrigation, were useful as they reinforced activities in which refugees and locals were already engaged and compensated for more intensive land use. The microenterprise income-generating projects, on the other hand, drained scarce communal management skills and were geared more toward promoting cooperative behavior than making money. Segregated development schemes and parallel aid programs are typically steeped in the judgmental assumption that refugee populations ought to have a greater sense of community. But communities by definition consist of people who have *chosen* to live together and whose relationships are based on voluntary exchange and mutual support; displacement breaks such networks down.<sup>1</sup>

Photo: Liberian refugees in Nikla camp, Côte d'Ivoire. Since 1999 all new refugees were required to report here. In 2003 fighting reached within three miles but the government refused to allow UNHCR to move the refugees elsewhere. Credit: USCR/J. Frushone.

(Drawn largely from Tom Kuhlman, “Responding to protracted refugee situations: A case study of Liberian refugees in Côte d'Ivoire,” UNHCR EPAU, July 2002.)

<sup>1</sup> CASA 2003, pp. 43-46, 65-66 (¶¶123, 126, 133, 197); Lomo 1999, p. 8 (For full citations see endnotes).



*will be his integration in the national community which has given him shelter.*<sup>26</sup>

In the postcolonial era, however, the international community shifted from viewing refugees as agents of democracy to seeing them as passive aid recipients. Placing refugees in camps was actually consonant with, indeed borrowed from, economic development models then in vogue. The World Bank and other donors were determined to *modernize* Africa and other underdeveloped parts of the

**“[The] ill-fated International Conferences on Refugees in Africa in the early 1980s... focused on the relief-to-development gap but ignored the relief-to-freedom gap.”**

world through capital-intensive “integrated rural development land settlement schemes.”<sup>27</sup> As a report for the International Bank for Reconstruction and Development (forerunner of the World Bank) put it at the time:

*When people move to new areas, they are likely to be more prepared for and receptive to change than when they remain in their familiar surroundings. And where people are under pressure to move or see the advantage of doing so, they can be required to abide by rules and to adopt new practices as a condition of receiving new land.*<sup>28</sup>

African governments also bought into the idea and deliberately uprooted millions to force them into “*ujamaa* villages” in Tanzania, “regrouped” cooperatives in Ethiopia, “socialist villages” in Mozambique and Algeria, and the like.<sup>29</sup> In retrospect, experts consider much of this aid, including that for refugees, to have been counterproductive, even disastrous.<sup>30</sup> In general, countries that moved from underdeveloped to developed economies, e.g., in Asia, did so without such assistance; countries that received the most, e.g., in Africa, did not improve or even regressed.<sup>31</sup>

The international community also shifted its durable solution preference from local integration to repatriation and many protracted refugee situations in Africa today are linked to this shift. The assumption that repa-

triation—voluntary or otherwise—is the only viable solution to refugee problems in Africa and other low-income regions dates to the mid-1980s.<sup>32</sup> In the 1960s and 1970s, anticolonial struggles in Africa temporarily displaced refugees to neighboring countries but, after independence was won, they generally returned. The corresponding relief model envisioned a short period of “refugee-centered” aid in camps followed by transfer to an agricultural settlement somewhat integrated with the local economy.<sup>33</sup> In 1979, however, after the independence of Angola and Mozambique from Portugal, civil wars erupted in Ethiopia, Somalia, Uganda, and elsewhere causing the number of refugees in Africa to rise from less than two million in 1970 to over four million in 1980.<sup>34</sup> According to Shelley Pitterman, up until 1978 UNHCR devoted more than 75 percent of its general program money in Africa to local integration. After 1979 this dropped to 25 percent.<sup>35</sup>

As these situations dragged on, it became clear that economic integration was not taking place: local people resented the refugee-centered aid, host governments feared the refugees’ competition with their own populations and obstructed their integration, and the refugees became impoverished by dependency on relief. Development agencies such as the World Bank, UN Development Programme (UNDP), and others collaborated in the segregation of the refugee settlements to avoid the opposition of host governments as, without rights to earn a livelihood, refugees would burden host country public services and the environment as they struggled to survive.<sup>36</sup>

Donors put forward a new state-centric approach, grounded in the refugees-as-burdens view, that emphasized large-scale turnkey projects to benefit host governments, including roads, irrigation, drainage, and buildings in segregated settlement areas.<sup>37</sup> The idea was further developed in two ill-fated International Conferences on Refugees in Africa (ICARA) in the early 1980s.<sup>38</sup> While donor countries saw the purpose of the programs to be the permanent settlement of refugees in countries of first asylum, they did not condition aid on the enjoyment of rights. The host countries, on the other hand, saw the conferences as ways to get more development money—Sudan requested \$7 million for a stalled hydroelectric dam—and to keep refugees segregated.<sup>39</sup> The international refugee and development agencies, UNHCR and UNDP, and nongovernmental organizations (NGOs) were also bitterly divided over who would get the funding and administer the programs.<sup>40</sup> According to Mary Louise Weighill, the conferences did not include refugee input and “evaded the central issues of refugee employment, security of status and ability to operate as an economic actor in the country of asylum” and the extent to which governments were responsible.<sup>41</sup> In short, ICARA focused on the relief-to-development gap but ignored the relief-to-freedom gap. These contradictions led ICARA “to a quiet and unmourned death.”<sup>42</sup>

Since then, the international community has come





Border camp for ethnic Shan from Myanmar on Thai border, 2001.  
Photo: USCR/Hiram A. Ruiz

to see long-term displacement and dependency in the third world as acceptable and unremarkable. The media typically limits their already meager refugee coverage to dramatic, large-scale outflows and repatriations and only the more accessible of those. Refugees languishing year after year in inhospitable, dangerous, desolate no-man's lands near remote and often contested borders are no one's favored assignment or story. As a result, warehoused refugees tend to fall off the radar screen of international attention and into the Orwellian memory hole. According to Tom Kuhlman, even "[m]embers of the humanitarian community have a natural tendency to concentrate their attention on...new refugee emergencies and large-scale repatriation programmes."<sup>43</sup>

**Security: Imperative or Pretext?** A common rationale for warehousing refugees is that allowing them to settle freely would threaten security. Foreign nationals living at large in disputed border areas may indeed pose risks, but camps can become hotbeds of political agitation as well.<sup>44</sup> As Barbara Harrell-Bond notes, "it is very nearly impossible to maintain the civilian character of a camp."<sup>45</sup> Source gov-

ernments often target them for cross-border incursions and hold host governments responsible.<sup>46</sup> Ironically, if border tensions militate for any restriction on the movement of unarmed refugees, it would make more sense to let them live freely anywhere *but* in the border area.<sup>47</sup>

The Rwandan refugee camps in Tanzania and then-Zaire in 1994–96 became notorious safe havens, not for refugees, but for genocide perpetrators who diverted aid to military and paramilitary personnel and intimidated residents.<sup>48</sup> The Sudan People's Liberation Army (SPLA) uses the Kakuma refugee camps in Kenya. According to Jeff Crisp:

*The SPLA plays an important role in the selection of community leaders and hence the administration of the camp. Kakuma provides recruits (and possibly conscripts) for the rebel forces. It acts as a safe refuge for the wives and children of men who are fighting in southern Sudan. It is visited on a regular basis by SPLA commanders.*<sup>49</sup>

SPLA fighters also reportedly use the Mirieyi reception center in Uganda, where the government is widely believed to support them and their war against the govern-





ment of Sudan, for rest-and-recreation. The guerrillas march to and from the center openly armed and intimidate and forcibly recruit refugee men and boys.<sup>50</sup>

Not only do camps often not solve security problems, they can aggravate existing problems and create new ones. According to Jacobsen:

*In addition to the military problems like raids or direct attacks experienced by camps, their culture and organization make for a climate of violence and intimidation. ...The presence of weapons increases the combustibility of the situation in and around the camps, as does the problem of bored and frustrated young men. These are ingredients for crime and violence, the rise of political and ethnic factions, and the increased likelihood of recruitment into militias or organized crime.<sup>51</sup>*

Jacobsen also cites specific examples of drug smuggling, human trafficking, illegal logging, and gunrunning flourishing in refugee camps in West Africa and on the Thai-Myanmar border and notes the camps' tendency to fall under the control of political or military elements, undermining local law enforcement authorities.

Dismantling camps can actually enhance security. Where the state has limited capacity, local traditional authorities often exercise control more effectively than international organizations with little experience of the area. According to Richard Black, "the difference is striking between frequent noncompliance with agency generated rules, which are seen by refugees as lacking legitimacy, and general compliance with rules established by local custom, tradition, or edict."<sup>52</sup> Thus, it may be more effective to strengthen local law enforcement capacity than to impose a foreign, military-style camp regime, but instead of using such aid as an incentive to *non*warehousing alternatives, donors have directed assistance to increased police enforcement of the camps themselves.<sup>53</sup>

**"Economic Burden"** Another rationale for warehousing is that refugees, if released, would burden the host society. Gaim Kibreab defends encampment and segregated settlements by noting that African host countries' cash economies are typically dependent on primary commodity exports, principally agricultural and mineral, and suffer from



Rwandan refugee cholera victims at Médecins Sans Frontières clinic in Katala camp north of Goma, then-Zaire, 1994. The disease raged through the overcrowded camps and, combined with dehydration, wiped out an estimated 50,000 in only two weeks. Photo: UNHCR/L. Taylor

declining terms of trade vis-à-vis manufactured imports.

*Given the large numbers of those who need to be integrated, the very low or negative economic growth rates, the high population growth rates, the drastically declining commodity prices and agricultural output and the debt crisis, it is imperative that African host governments [keep refugees] in spatially segregated sites so that the cost of their subsistence would be met by international refugee support sys-*

tems... All other talk about integration is wishful thinking based on inadequate understanding of the economic, social and political realities of the present day Africa.<sup>54</sup>

Other experts disagree. According to Harrell-Bond, “By failing to recognize the resources which refugees themselves bring to the situation, the relief model inhibits the mobilization of these resources and networks for the benefit of both the refugees and the local economy.”<sup>55</sup> Self-settled and locally integrated refugees may compete with local people in labor markets, but their enterprise can also have a catalytic or multiplier effect on the local economy, especially where it is underdeveloped and underpopulated. This can expand the local economy’s capacity and productivity as refugees bring new goods and services with them for sale or barter and locals respond to the market growth caused by new population inflows by importing or producing more goods.<sup>56</sup> Tibetan refugees, for example, made carpet-making the largest foreign exchange earner in Nepal, even exceeding tourism.<sup>57</sup> In the 1980s Kenya largely ameliorated its doctor and teacher shortages by granting refugees, mostly Ugandans, the right to work.<sup>58</sup> Angolan refugees in Zambia “turned the bush into villages,” according to locals, and led in the production of sweet potatoes, providing commercial opportunities for Zambian businesses as well (see “Providing for Ourselves: Angolan Refugees in Zambia,” p. 74).<sup>59</sup> In 1989 Guinea decided not to put the nearly 500,000 arriving Sierra Leonean and Liberian refugees in camps, but instead directed assistance to the villages that welcomed them.<sup>60</sup> The refugees introduced rice production techniques—previously unknown in Guinea—in lower swamp areas.<sup>61</sup> Among the key determinants whether refugees make a positive contribution are growth-oriented economic policies on the part of the host country (see Côte d’Ivoire sidebar, p. 43).<sup>62</sup> Countries that warehouse refugees tend to rank poorly on international indices of corruption and economic freedom.<sup>63</sup>

UNHCR’s Standing Committee recognizes that,

*Refugees bring human and material assets and resources. ... When given the opportunity refugees become progressively less reliant on State aid or humanitarian assistance, attaining a growing degree of self-reliance and becoming able to pursue sustainable livelihoods, equally contributing to the economic development of the host country.*

*Confining refugees, however, to humanitarian assistance for years on end, often deprived of the right to freedom of movement and without access to education, skills training and income-generating opportunities prevents them from developing their human potential and limits their ability to systematically make a positive contribution to the economy and society of the asylum country.<sup>64</sup>*

“Kuhlman concludes we should reverse the present default assumptions regarding refugee needs: ‘[I]t is better to plan for a protracted refugee situation than for a short-lived crisis.’”

Long-term refugee populations comprise different groups of people with various needs, abilities, and aspirations. But even where some particularly vulnerable refugees may not be capable of self-reliance, many may benefit from a segmented and targeted approach.

Protracted warehousing, on the other hand, can become very expensive. Take, for example, the Palestinians—the largest and longest-warehoused refugee population in the world. Since its inception in 1949, the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) alone has spent a total of \$16.5 billion (in constant 2004 dollars) on care and maintenance for a population that was initially 670,000<sup>65</sup>—or \$25,000 per refugee. At the time, few thought the situation would last so long, but that’s typically the case at the beginning of protracted refugee situations. Kuhlman concludes we should reverse the present default assumptions regarding refugee needs:

*[I]t is better to plan for a protracted refugee situation than for a short-lived crisis. Only if during the first year it already appears abundantly evident that the refugees will soon be able to return home can programmes aimed at local integration be abandoned. In most cases they will not yet have begun implementation during that time.<sup>6</sup>*

Put another way, we should restore the basic orientation adopted in the treatment of European refugees and extend it to others.

**Follow the Money** Aside from the dubious proposition that free working refugees are economically more burdensome than idle, encamped ones, the real economic argument for encampment may have more to do with the benefits of aid flows associated with encampment. Conversely, although allowing refugees freedom may cost little or nothing, that may be its own political liability—there is no constituency for it besides the voiceless refugees.



The relief model, long discredited in development contexts, still dominates refugee assistance, according to Harrell-Bond, because humanitarian organizations depend on funds that donor governments strictly earmark for emergencies. Accessing funding from relief budgets is also much easier and faster than getting funds from development budgets and scores of NGOs organize themselves around its requirements. Host governments also have interests in keeping refugees on relief. They typically develop separate offices for refugee affairs—large bureaucracies isolated from other ministries but replicating their services—that depend on international agencies. “The maintenance of these offices—like the humanitarian NGOs—depends on the continued existence of people who attract funds earmarked for refugees. The result has been the perpetuation of a population labeled refugees, left living in limbo and dependent for their survival on relief.”<sup>67</sup> According to Mark Malloch-Brown:

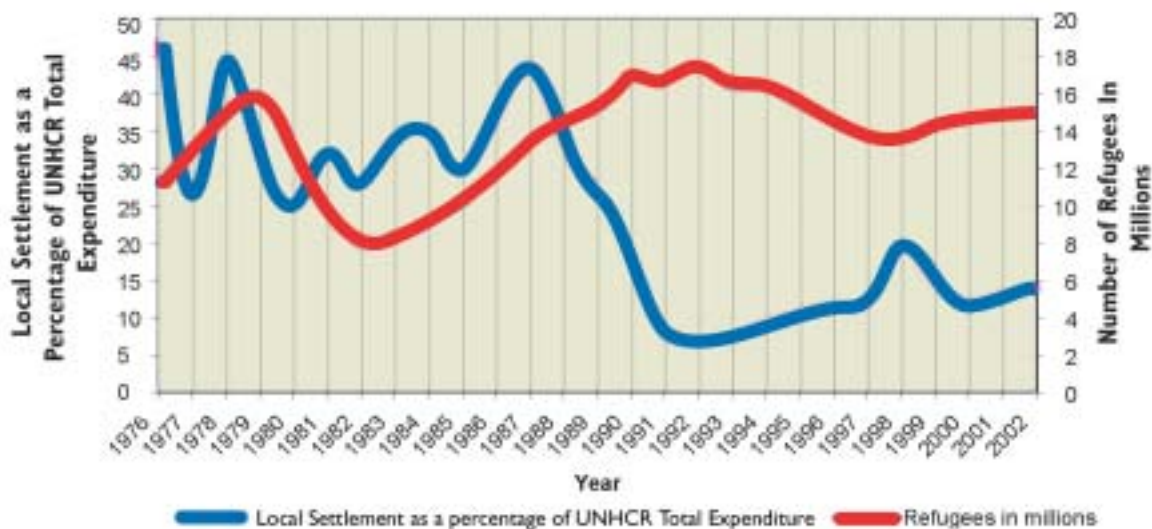
*When a tight-fisted international community says to a very poor country it will provide help for refugees in camps... this evidently encourages that poor country to root out refugees who are integrated and plonk them into camps. It is probably no exaggeration to claim that without any new refugee outflows, the old donor approach might actually lead to growing refugee camp populations in many countries.*<sup>68</sup>

Donor countries’ assistance for local integration in poor host countries, on the other hand, is minuscule. In 2003, the United States spent \$147 million on long-term

care and maintenance projects, but only \$480,000 on local integration—a single project in Europe (see pie chart).<sup>69</sup> A major portion of UNHCR spending—23 percent of its total budget from 1976-2002—is labeled “Local Settlement.”<sup>70</sup> UNHCR distinguishes this from emergency and “Care and Maintenance” spending, specifying that it is “to integrate [refugees] into the economic and social life of the new community” where they “enjoy civil and economic rights comparable to the local population.”<sup>71</sup> Spending in this category declined dramatically—from 44 to less than 7 percent of total UNHCR spending—from 1987 to 1992, even as the number of refugees in the world soared from nearly 8 million in 1982 to nearly 18 million in 1992, many cumulating in protracted situations (see graph).<sup>72</sup> In 2002, most of this money was spent in Europe and the Americas, where recognized refugees typically enjoy such rights. Much of the \$62 million spent on Local Settlement in Africa, Asia, and the Middle East, however, supported warehousing instead.<sup>73</sup>

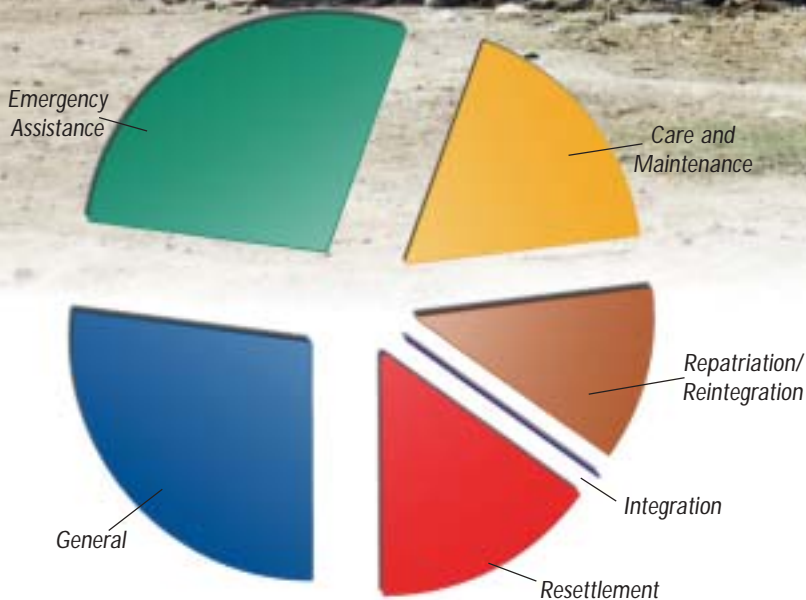
In fact, there have been policies in the humanitarian aid community *against* refugees making money in the private sector. In 1961, the International Committee of the Red Cross (ICRC) attempted to shut down one of the most successful refugee self-sufficiency projects of the time, that of Tibetan carpet-making in Nepal. ICRC officials at the time told the project’s organizer, Toni Hagen, that schooling, training, production, and sales were “against the rules of the ICRC. The job of the ICRC, according to its statutes, is a purely humanitarian one, not development and activities of a commercial nature.” NGOs as well refused to co-

Local Settlement as a Percentage of UNHCR Total Expenditure and Number of Refugees Worldwide—1976-2002



Sources: UN General Assembly Reports of the UNHCR, 1976-2002; USCR, WRS, 1977-2003





## 2003 U.S. State Department Spending on Refugee Assistance by Category

General	\$230 million
Emergency Assistance	\$238 million
Care and Maintenance	\$147 million
Repatriation/ Reintegration	\$101 million
Integration	\$0.48 million
Resettlement	\$126 million

Source: U.S. Department of State, Bureau of Population, Refugees, and Migration, "Funding Actions Finalized with Organizations;" USCR analysis.

Photo: Afghan refugees in an urban squatter settlement outside Quetta, Pakistan, 2001. Credit: E. Olavarria

operate with the venture if, as they put it, "private business makes money out of the poor refugees." Hagen responded by expanding the Tibetan center and its production so much that donors lacked the nerve to close the center during their following visit.<sup>74</sup>

When UNHCR and the Ugandan government introduced a self-sufficiency program for Sudanese refugees in 1999—to eliminate parallel health and education services, integrate refugees in the local economy, and bring them to a level of self-sufficiency—NGOs providing the parallel relief services resisted.<sup>75</sup> Jozef Merckx, who was closely involved with the program, noted individual reluctance:

*Many officials (UNHCR, government, NGOs) have become dependent on the "aid industry" in northern Uganda. UNHCR has become the single largest employer in the ar-*

*reas with a high concentration of refugees. Some aid agency staff will fear the integration of refugee services because it means the loss of well-paid jobs.*<sup>76</sup>

Finally, host governments and refugee leaders also have political interests in keeping refugees geographically concentrated, dependent, and visible to press the international community to resolve the situation in the source country in their favor. As Michael Van Bruaene notes with reference to Sahrawi refugees warehoused in desert camps in Algeria,

*In some protracted situations...elderly charismatic and historical leaderships tend to embody rigid political agenda[s], needlessly detrimental to the well-being of their own vulnerable refugee population. ...A good example is that although Tindouf is totally unsuitable for supporting a refu-*



gee population of 165,000, any idea of temporary scattering to more fertile areas is unmentionable.<sup>77</sup>

The Algerian government shares this perspective out of opposition to Morocco's territorial claims.<sup>78</sup> The Sahrawi government-in-exile reserves resources for the war

**“The international community must at a minimum shift its incentives from policies that treat refugees like cattle to ones that honor them as human beings.”**

effort and NGOs contracted to serve the camps over the past 25 years have become engaged in favor of its political cause. In another example, rebels from the National Union for the Total Independence of Angola (UNITA) dominated the Nangweshi camp in Zambia where they controlled and repressed the population.<sup>79</sup>

Arafat Jamal sums up the arguments for encampment:

*With refugees sequestered, concentrated, visible and presumably out of harm's way, camps represent a convergence of interests among host governments, international agencies and the refugees themselves. They are not ideal for anyone but they help focus attention and provide a safety net. Host governments in Africa...see camps as a means of isolating potential troublemakers and forcing the international community to assume responsibility. ...Refugees understand that camps make them visible, and keep their plight, and the politics that underpin it, in the world's consciousness. ...To insist that poor African nations should not only accept thousands of refugees but also let them spread throughout the country is unreasonable.<sup>80</sup>*

### **Between Nonrefoulement and Durable Solutions: Refugees Have Rights**

While finding durable solutions is the ultimate goal of refugee protection, in the meantime refugees have basic rights beyond *nonrefoulement* (see Rights sidebar, pp.40-41). Essentially these amount to freedom to live as normal a life as possible under the protection of the host government. Thus, the Convention requires countries to allow refugees

to be self-employed, to practice professions, and to own property, on terms “as favourable as possible” (Articles 18, 19, and 13, respectively). Refugees are also entitled to the same treatment as nationals of the host country with regard to wage-earning employment and intellectual property (Articles 17 and 14, respectively). Hosts must also allow refugees freedom of movement and residence at least equal to what they permit foreign nationals generally (Article 26), and issue them international travel documents (Article 28). Other important rights, including those to nondiscrimination, access to courts, and identity documents (Articles 3, 16, and 27, respectively), are unconditional; and the Convention permits no reservations on Articles 3 and 16(1).

Unfortunately, a number of countries have yet to become parties to the Convention (see Table 15, p. 16) and, among those who have, many have declared reservations limiting their agreement to abide by some of the key antiwarehousing provisions. Some 30 States Parties, for example, seek to limit their obligations under Article 17, which allows wage-earning employment. These include

- requiring permits (Malawi, Sweden) and extended residence (Chile, Cyprus, Jamaica, United Kingdom),
- subjecting refugees to alien employment quotas (France, Honduras, Madagascar),
- privileging members of certain other nationalities above refugees (Angola, Brazil, Denmark, Guatemala, Luxembourg, Norway, Portugal, Spain, Sweden, Uganda), and
- categorically denying Article 17's rights or treating them merely as “recommendations” (Angola, Botswana, Burundi, Ethiopia, Iran, Latvia, Liechtenstein, Mexico, Moldova, Papua New Guinea, Sierra Leone, Zambia, Zimbabwe).<sup>81</sup>

But several countries that once expressed such reservations have since withdrawn them, including Greece, Italy, Malta, and Switzerland. Such positive steps encourage refugee rights advocates that other States Parties may also be persuaded to drop theirs. In its Conclusions, UNHCR's Executive Committee has encouraged *all* states hosting refugees,

*to consider ways in which refugee employment in their countries might be facilitated and to examine their laws and practices, with a view to identifying and to removing, to the extent possible, existing obstacles to refugee employment<sup>82</sup> [and] to avoid unnecessary and severe curtailment of their freedom of movement.<sup>83</sup>*





## Lessons from Uganda: Separate Is Not Equal

Segregated refugee self-reliance projects are widely used in Africa, especially in Uganda, Tanzania, and Sudan. Despite inordinate amounts of international aid, these programs, often called settlements rather than camps, generally have failed—and refugees vigorously resist being placed in them.<sup>1</sup> For example, the Ugandan Self-Reliance Strategy, developed with international assistance in the late 1990s, delivers refugee services on “community” basis, separating refugees into settlements. It does not integrate them within the nationwide, growth-oriented Poverty Elimination Action Plan, which focuses on expanding access to markets.<sup>2</sup>

Officially, any refugee is free to leave the settlement for a specific destination and a limited period, as long as he or she first obtains a permit from the settlement commandant, a time-consuming and uncertain process. Just to get permission to see the commandant, the refugee first must get a letter from the chairman of the Refugee Welfare Committee. Then the commandant, whose office is often miles away, may be unavailable or disinclined to exercise his discretion favorably. Failure to comply with permit requirements can result in imprisonment for up to three months.<sup>3</sup>

The refugees are free to work and engage in trade, but in order to do so they first must go to the capital, Kampala, and obtain a permit for that as well. The costs of transportation, waiting and searching in Kampala, and forgoing agricultural labor in the settlement can exceed \$28—more than a typical farming refugee's profit from selling a

season's worth of produce. This does not include the cost of the permit itself, about \$168, or guarantee that a permit will be granted.<sup>4</sup> In general, getting a work permit in the refugee-hosting countries of Africa even where legal, “is as demeaning and as bureaucratic and lengthy a process as obtaining refugee status.”<sup>5</sup>

These restrictions on movement and trade constrain and isolate the market for refugee goods and services and deprive the refugees of market information. This in turn gives price-setting market power to the produce wholesalers to whom the refugees sell their products and to the merchants from whom the refugees buy goods; undermining the refugees' terms of trade.<sup>6</sup>

*Photo: Sudanese refugees arrive at Kiryandongo settlement in Uganda having fled Achol-Pii camp in the north of the country, where the rebel Lord's Resistance Army had massacred more than 60 in August 2002. Credit: UNHCR: S. Mann*

<sup>1</sup> Jacobsen 2001, pp. 7-8; Kibreab 1989, pp. 476-78, 483-85, 488.

<sup>2</sup> Dryden-Peterson and Hovil 2003, pp. 18-20.

<sup>3</sup> Dryden-Peterson and Hovil 2003, pp. 7, 9-10; Lomo 1999, pp. 6-7; Tania Kaiser, “UNHCR's withdrawal from Kiryandongo: anatomy of a handover,” UNHCR, *NIRR*, Working Paper No. 32, October 2000, p. 18; Parker 2002, pp. 157-58.

<sup>4</sup> Werker 2002, p. 9.

<sup>5</sup> Ebenezer Q. Blavo, *The Problems of Refugees in Africa: Boundaries and borders*, 1999, p. 37.

<sup>6</sup> Werker 2002, pp. 9, 11-12, 14; see also Merckx 2000, pp. 21-22, 24, 26. (For full citations see endnotes)





According to UNHCR's Global Consultations,

*Host States should allow refugees to exercise effectively the rights granted to them by the 1951 Convention, particularly those rights which make it possible for refugees to engage in income-generating activities, such as farming, trading or paid labour;*<sup>84</sup>

Also, as part of its Development Assistance for Refugees program, UNHCR suggests that it will "facilitate efforts to obtain permits for refugees to move freely and be engaged in self-reliance activities."<sup>85</sup>

### Rights Matter

Incredibly, much of the talk of refugees becoming self-reliant ignores whether they have the right to do so. A 1995 internal UNHCR policy discussion highlighted the importance of "strenuous and continuing interventions" with host countries—*whether or not they are parties to the Convention*—"to accord refugees access to the labor market," and experienced colleagues recognized the right to work as an "essential issue" of protection.<sup>86</sup> Nevertheless, a global evaluation commissioned by UNHCR to survey its community services function eight years later found many of its concepts, terminology and articulation to be

*singularly unhelpful because they repeatedly "problematize" the refugee, rather than focusing on the role that UNHCR's own management and operating procedures play in creating "dependency" and narrowing the scope of refugee self-sufficiency and "self-reliance." Clearly refugee dependency is also the product of host governmental regulations limiting freedom of movement and the right to work or engage in economic activity.*

*In the field we heard numerous references to the need to get refugees to stop being so "dependent," as opposed to a focus on creating appropriate conditions for refugee self-sufficiency...*

*While there may exist cases where refugee social, economic and human rights are respected and protected and refugees remain "dependent," we are unaware of these. The vast majority [of] refugee situations are characterised by the inability of UNHCR to negotiate appropriate conditions by which refugees can effectively and legally exercise a reasonable degree of "self-reliance."<sup>87</sup>*

Sometimes refugees manage to work even when it is not legal but the lack of rights limits their earnings. Economists studying the effect of the United States legalizing some 1.7 million undocumented workers in 1986 estimated that the prior lack of legal status had

held these workers' wages back by 14-24 percent by preventing them from switching jobs and deterring them from acquiring skills.<sup>88</sup>

According to Kuhlman, "in fostering self-reliance, guaranteeing people's rights is more important than providing them with material aid."<sup>89</sup> UNHCR's Africa Bureau concurs:

*The most important elements in facilitating the attainment of self-reliance are the full enjoyment of civil and socio-economic rights (particularly crucial are the rights to freedom of movement, access to employment markets, self-employment and education). The right to freedom of movement is fundamental for both urban-based as well as rural caseloads.<sup>90</sup>*

### De Facto Integration/Prima Facie Legal Status

Jacobsen describes "de facto integration" as a fairly widespread phenomenon where self-settled refugees become unofficially integrated after they have lived in and been accepted by the community for some time and have attained self-sufficiency. This is not especially burdensome to the host government, as it is largely a matter of simply leaving refugees alone. It does not mean that governments must allocate land to refugees or give them special privileges. With freedom of movement, refugees negotiate with local landowners and employers, trade, and otherwise pursue livelihoods contributing to the local economy's growth.<sup>91</sup>

In many emergencies, initial refugee assistance comes not from UNHCR or WFP but from local populations and authorities. Refugees themselves often lead the way in demonstrating practical alternatives to warehousing. In Uganda, for example, in addition to the refugees who are officially recognized by the government and UNHCR and living in settlements (see sidebar, p. 51), tens of thousands are not, opting out of the assistance structures and self-settling among the population. While officially recognized refugees fall under the control of the national Directorate of Refugees, self-settled refugees operate within local government structures, both rural and urban—integrated into their host community and paying taxes.<sup>92</sup>

The chief drawback of de facto integration is that the refugees lack status confirming the lawfulness of their presence. Host governments may see even *prima facie* refugees as illegal immigrants with no right to be in the country, placing them in danger of roundups and relocations to camps or even *refoulement*. Some legal adjustment is necessary.

Refugee status, while not guaranteeing permanent residence, legally insures against *refoulement* but poor countries may not be able to afford formal refugee status determinations. Refugee status, however, precedes its formal rec-

ognition. The first general principle of UNHCR's authoritative *Handbook* on status determination provides that,

*A person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee.*<sup>93</sup>

An alternative to individualized determinations has been to declare certain groups fleeing “events seriously disturbing public order” to be *prima facie* refugees and, as such, “fully protected” as outlined by UNHCR.<sup>94</sup> This should cover “urban refugees” (see “Just Enough for the City,” p. 57) and include not only *nonrefoulement* but the other basic Convention rights as well.

### Refugee Rights and Host Country Interests

Strictly rights-based refugee advocacy might risk backlash among host countries, possibly even including *refoulement*.<sup>95</sup> According to Jacobsen, without the host country's cooperation it is difficult to help refugees: “local integration can and should be revitalized—with modifications that will make it more acceptable to host governments.”<sup>96</sup>

Much host country resistance is attributable to fear that granting refugees freedom will lead to the permanent settlement of a large body of foreigners without their consent. According to Merx, speaking of a project in Uganda, UNHCR “prefers not to talk about integration, since this might have connotations of assimilation and permanency.”<sup>97</sup> But this stems from an unnecessary confusion between integration as an *interim* measure for enjoying Convention rights, on the one hand, and integration as a *permanent* durable solution, on the other. The two are distinct: interim integration can be linked with other durable solutions outside the country of first asylum, including eventual return or resettlement. Thus Merx recommends area-wide assistance programs “aiming at integration, not necessarily assimilation, and not excluding return.”<sup>98</sup> Jacobsen concurs:

*Repatriation must become a component of assisted local integration. Not all integrated refugees will want to repatriate permanently, but various forms of movement between the sending and host country are a significant characteristic of protracted situations, and these cyclical and periodic return movements should be incorporated into local integration policy. Incorporating return migration into a policy of local integration will make it more acceptable to both refugees and host countries.*<sup>99</sup>

As Kuhlman observes of Eritrean refugees in Sudan, “if some of the disadvantages of being a refugee are removed, there will be less of a tendency among refugees to seek Sudanese citizenship, and less evasion of the law.”<sup>100</sup> UNHCR has also proposed a Development through Local Integration initiative that would solicit additional development assistance for countries accepting the goal of local integration of long-staying refugee populations “as an option and not an obligation.”<sup>101</sup>

“UNHCR could play a unique monitoring role by ensuring that refugees enjoy their Convention rights, quantifying any resulting fiscal burden to the host country, and presenting the bill to donors.”

Eventual durable solutions elsewhere need not be the only way to assuage host country fears of permanent settlement. Article 28 of the Convention entitles refugees to travel documents that permit them to go to other countries. Were the international community to realize Convention rights universally, or even regionally, refugees could leave camps for better opportunities not only within the country of first asylum but in other nations as well. There is no logical reason why their protection should be limited to countries that happen to border their own. Indeed, with the ability to travel and engage in business, refugees could be unique agents of regional economic integration.

Another serious concern of host countries is that, as noted above, donor countries tend to fund relief in camps, but not public services, such as education and assistance, that even integrated refugees still might require. This could be remedied were donors to agree, at a minimum, to compensate hosts on a *pro rata* basis for all such expenses if they allow refugees their Convention rights. Donors could go further and offer other incentives such as more funding for vocational education, microenterprise credit, and other assistance enhancing the productivity of refugees and locals. UNHCR could play a unique monitoring role by ensuring that refugees enjoy their Convention rights, quantifying any resulting fiscal burden to the host country, and presenting the bill to donors.



Allowing refugees freedom *pending* durable solutions in no way concedes defeat in the pursuit of such solutions. According to UNHCR's Global Consultations on International Protection, self-reliance is not a substitute for durable solutions, but part of a "comprehensive durable solutions strategy" that includes strategies to "foster productive activities and protect relevant civil, social and economic rights (related, for example, to land, employment, education, freedom of movement, identity documents, access to the judicial system)." This does not presuppose a durable solution in the country of first asylum; it is, rather, a "precursor to any of the three durable solutions."<sup>102</sup> The *Agenda for Protection* also notes that, "as an interim response, the promotion of self-reliance of refugees is an important means to avoid dependency, take advantage of the initiative and potential contribution of refugees, and *prepare them for durable solutions.*"<sup>103</sup>

Skills acquired by nonwarehoused refugees can facilitate voluntary repatriation, especially in postconflict situations. If refugees were free to engage in productive activities, according to UNHCR, they

*would be in a much stronger position to participate in national reconstruction and reconciliation when they eventually return to their country of origin. Sustainable reintegration upon return will be facilitated if refugees take back with them new and transferable skills and resources to restart their lives. They should also be less likely to become dependent on national welfare and international aid.*<sup>104</sup>

Indeed, if refugees are allowed to live normal lives, one durable solution may even lead to another as illustrated by Vietnamese, Cambodian, East Timorese, and Afghan refugees who returned to rebuild their societies after acquiring skills.<sup>105</sup>

Oliver Bakewell's research undermined the assumption that self-settled, integrated Angolan refugees in Zambia would be less inclined to repatriate than their camp-bound counterparts when home country conditions change.<sup>106</sup> Over time, encamped refugees become more impoverished and *less* able to re-integrate. Self-settled refugees, on the other hand, are among the first to voluntarily repatriate, according to Harrell-Bond: "Once the [rebels] took over the government in Rwanda, repatriation of the self-settled Tutsi refugees from Ngara district in Tanzania—without notice—was dramatic."<sup>107</sup> As UNHCR's Standing Committee recognizes, "self-reliant refugees are better equipped to restart their lives and the first ones to go home on their own to contribute to the development, reconstruction, and peace building processes in their own country."<sup>108</sup> Granting refugees freedom *pending* durable solutions may also enable them to persuade host countries of their *desirability* as candidates for citizenship.

## Conclusion

Worse fates befall refugees than warehousing—*refoulement*, in particular. And there are better solutions to refugee situations than mere enjoyment of Convention rights in exile, namely, voluntary repatriation, resettlement, or permanent integration in countries of first asylum—in other words, ceasing to *be* a refugee. Most of the world's refugees, however, find themselves somewhere in between and have remained there for ten years or more (Table 3, p. 3). If the Convention rights to freedom of movement and earning a livelihood do not apply to such refugees, then to whom do they apply?

It's easy enough to condemn encampment and to declare that we should treat refugees as equals and allow them to enjoy their rights under international law. Most of those rights are, after all, the fairly minimal, but nonetheless vital, "negative rights" of basic liberty and noninterference. They do not give refugees preferential treatment in the pursuit of jobs, any special claim on public assistance, or the power to make others speak their language. They do not include the right to vote. A refugee remains a refugee—an outsider—until conditions change back home or some country decides to naturalize him or her. It's hard to imagine that such rights would still be controversial more than 50 years after the drafting of the UN Refugee Convention.

Would host countries forcibly return refugees to their tormenters if donors shifted funding from practices that violate refugees' rights to those that honor them? It's hard to tell. According to Jacobsen, "There are no documented instances where inflows of foreign aid or humanitarian assistance were affected by a host state's policies toward refugees on its territory."<sup>109</sup>

Positive examples abound of refugees contributing to host countries that allow them to live and work freely in exile. But neither human rights nor economic interest trump political will. The greatest successes in refugee reception are where the refugees are ethnically related to members of the host country population, are allies in a political struggle transcending ethnic allegiance, and/or where the host country has inclusive, growth-oriented economic policies.

Absent such contingencies, to properly uphold the Convention as a universal standard, the international community must get creative. Donors should facilitate interim economic integration and compensate host countries for costs that may be associated with granting refugees Convention rights. Countries individually and collectively should more widely accept refugee travel documents and honor the bearers' Convention rights. The international community must at a minimum shift its incentives from policies that treat refugees like cattle to ones that honor them as human beings.



### Endnotes

- 1 Jeff Crisp, "No solutions in sight: the problem of protracted refugee situations in Africa," UNHCR Evaluation and Policy Analysis Unit (EPAU), Working Paper No. 75, January 2003 (Crisp 2003), p. 1; Nathaniel H. Goetz, "Lessons from a Protracted Refugee Situation," Center for Comparative Immigration Studies, Working Paper No. 74, April 2003, p. 2.
- 2 UNHCR Global Consultations on International Protection, 4<sup>th</sup> Meeting, "Local Integration," EC/GC/02/6, April 25, 2002 (Global Consultations 2002), p. 1, fn. 2.
- 3 Michael Van Bruaene, "Tindouf as a protracted refugee situation," UNHCR EPAU, 2001 (Van Bruaene 2001, cited in Crisp 2003, p. 5).
- 4 Wim van Damme, "Do refugees belong in camps? Experiences from Goma and Guinea," *The Lancet*, August 5, 1995, Vol. 346, pp. 360-62 (van Damme 1995); Mohamed W. Dualeh, Letter to the Editor, *The Lancet*, November 18, 1995, Vol. 346, p. 1369-70.
- 5 Global Consultations 2002, p. 1 (¶3).
- 6 Elizabeth Ferris, "Voluntary repatriation: NGO statement," UNHCR Global Consultations, May 22-24, 2002 (Ferris 2002), p. 5; International Institute of Humanitarian Law, "San Remo Declaration on the Principle of Non-Refoulement," September 2001.
- 7 Guglielmo Verdirame, "Human rights and refugees: the case of Kenya," *Journal of Refugee Studies (JRS)*, Vol. 12, No. 1, 1999 (Verdirame 1999), p. 55.
- 8 UNHCR Standing Committee, "Framework for durable solutions for refugees and persons of concern," September 16, 2003, EC/53/SC/INF.3 (Standing Committee Framework 2003), p. 10.
- 9 UNHCR, *Agenda for Protection*, Executive Committee of the High Commissioner's Programme (ExCom), 53<sup>rd</sup> Session, A/AC.96/965/Add.1, June 26, 2002 (*Agenda for Protection*) Goal 7.
- 10 Jeff Crisp, "A state of insecurity: the political economy of violence in refugee-populated areas of Kenya," UNHCR New Issues in Refugee Research (NIRR), Working Paper No. 16, December 1999 (Crisp 1999), pp. 25-26, 29.
- 11 Women's Commission on Refugee Women and Children, *Against All Odds: Surviving the War on Adolescents*, October 2001 (Women's Commission 2001), pp. 19-20.
- 12 UNHCR Standing Committee, "Update on implementation of the Agenda for Protection," EC/53/SC/CRP.10, June 3, 2003, p. 10 (¶32). See e.g., Human Rights Watch, *Bhutan/Nepal: Trapped by Inequality: Bhutanese Refugee Women in Nepal*, September 2003, pp. 38-39; and Save the Children, "Note for Implementing and Operation Partners by UNHCR and Save the Children-UK on Sexual Violence & Exploitation of Refugee Children in Guinea, Liberia and Sierra Leone based on Initial Findings and Recommendations from Assessment Mission 22 October - 30 November 2001," February 2002; Crisp 2003, p. 19; Shelly Dick, "Liberians in Ghana: living without humanitarian assistance," UNHCR EPAU, Working Paper No. 57, 2002, p. 21 (¶188).
- 13 Verdirame 1999, p. 64.
- 14 UNHCR Senior Protection Officer, Letter of July 19, 1994, quoted in Verdirame 1999, pp. 64-65.
- 15 Crisp 2003, p. 12.
- 16 Ferris 2002, p. 1; ExCom Conclusion No. 58 (XL), 1989.
- 17 Barbara Harrell-Bond, "Are refugee camps good for children?" UNHCR NIRR, Working Paper No. 29, August 2000 (Harrell-Bond 2000), p. 5.
- 18 Jozef Merx, "Refugee identities and relief in an African borderland: a study of northern Uganda and southern Sudan," UNHCR EPAU, Working Paper No. 19, June 2000 (Merx 2000), p. 21.
- 19 Sarah Dryden-Peterson and Lucy Hovil, "Local integration as a durable solution: refugees, host populations and education in Uganda," UNCHR EPAU, Working Paper No. 93, September 2003 (Dryden-Peterson and Hovil 2003), p. 7.
- 20 Merx 2000, p. 18; see also U.S. Committee for Refugees (USCR), *World Refugee Survey (WRS)* 1997, pp. 101-02.
- 21 Zachary A. Lomo, "The role of legislation in promoting 'recovery': a critical analysis of refugee law and policy in Uganda," International Conference "Refugees and the Transformation of Society: Loss and Recovery," InDRA, University of Amsterdam, April 21-24, 1999 (Lomo 1999), p. 10.
- 22 Verdirame 1999, pp. 68-69.
- 23 Richard Mollica, "Southeast Asian Refugees: Migration History and Mental Health Issues," in A.J. Marsella, et al. (eds.), *Amidst Peril and Pain: The Mental Health and Well-being of the World's Refugees*, 1994, p. 94.
- 24 Lucy Hovil, "Free to Stay, Free to Go? Movement, Seclusion and Integration of Refugees in Moyo District," Refugee Law Project (RLP) Working Paper No. 4, May 2002 (Hovil 2002), pp. 11, 22, 23.
- 25 Eric Werker, "Refugees in Kyangwali Settlement: Constraints on Economic Freedom," RLP Working Paper No. 7, November 2002 (Werker 2002), p. 13.
- 26 Memorandum by the Secretary-General to the Ad Hoc Committee on Statelessness and Related Problems," UN Doc. E/AC, January 3, 1950, pp. 6-7 (cited in Karen Jacobsen, "The forgotten solution: local integration for refugees in developing countries," UNHCR EPAU, Working Paper No. 45, July 2001 (Jacobsen 2001), p. 1). See also Christine Mougne, "UNHCR's Policy and Practice Regarding Urban Refugees, A Discussion Paper," UNHCR, October 1, 1995 (Mougne 1995), ¶56.
- 27 Barbara Harrell-Bond, "Towards the Economic and Social 'Integration' of Refugee Populations in Host Countries in Africa," presented at the Stanley Foundation Conference "Refugee Protection in Africa: How to Ensure Security and Development for Refugees and Hosts," Entebbe, Uganda, November 10-14, 2002 (Harrell-Bond 2002), p. 15.
- 28 International Bank for Reconstruction and Development, *The Economic Development of Tanganyika*, 1961, p. 131.
- 29 Harrell-Bond 2000, p. 3.
- 30 James W. McGuire, "Development Policy and Its Determinants in East Asia and Latin America," *Journal of Public Policy*, 1994, Vol. 14, No. 2, pp. 205-42; Peter T. Bauer, *From Subsistence to Exchange and Other Essays*, 2000, pp. 41-52; Tomi Ovaska, "The Failure of Development Aid," *Cato Journal*, Vol. 23, No. 2, Fall 2003, p. 86; Mary Louise Weighill, "ICARA II—Refugee Aid and Development," Refugee Studies Centre unpublished manuscript, 1997 (Weighill 1997), pp. 17-18.
- 31 David L. Lindaur and Michael Roemer, *Asia and Africa*, International Center for Economic Growth and Harvard Institute for International Development, 1994.
- 32 Crisp 2003, p. 3.
- 33 Weighill 1997, pp. 9, 11, 15, 18-19.
- 34 Kenneth F. Hackett, "Refugee Review Africa: Refugee Crises Worsen," *WRS* 1981, pp. 6-9; Weighill 1997, pp. 7-8, 10; *WRS* 1971, p. 4; *WRS* 1980, p. 33.
- 35 Shelley Pitterman, *Determinants of Policy in a Functional International Agency: A Comparative Study of United Nations High Commissioner for Refugees (UNHCR) Assistance in Africa 1963-1981*, Northwestern University Ph.D. thesis, 1984, pp. 77-78, 159-75.
- 36 Weighill 1997, pp. 10-12, 19, 20-21, 23, 33.
- 37 Weighill 1997, preface, pp. 2, 20-21.
- 38 Poul Hartling, "Refugee Aid and Development: Genesis and Testing of a Strategy," *WRS* 1984, pp. 17-19; Weighill 1997, pp. 16-17.
- 39 Weighill 1997, pp. 3, 23, 31-32, 39, 42.
- 40 Mark Malloch-Brown, "The rise and rise of the Volag," *Economist Development Issue*, 1984, pp. 1-2; Weighill 1997, pp. 21-22, 27, 36-38; Harrell-Bond 2000, p. 4.
- 41 Weighill 1997, pp. 3, 23-24; see also UNHCR Africa Bureau, "Discussion paper on protracted refugee situations in the African region," October 2001, prepared for the Panel Discussion of October



- 3, 2002, during ExCom's 52<sup>nd</sup> Session (UNHCR Africa 2001), p. 4 (¶16).
- <sup>42</sup> Weighill 1997, p. 22.
- <sup>43</sup> Tom Kuhlman, "Responding to protracted refugee situations: A case study of Liberian refugees in Côte d'Ivoire," UNHCR EPAU, July 2002 (Kuhlman 2002), p. 1.
- <sup>44</sup> Lisa H. Malkki, *Purity and Exile: Violence, Memory and National Cosmology among Hutu Refugees in Tanzania*, 1995, pp. 2-4, 137, 221-24, 272-74; Weighill 1997, p. 11.
- <sup>45</sup> Harrell-Bond 2002, p. 19; see also Karen Jacobsen, "Can refugees benefit the state? Refugee resources and African statebuilding," *Journal of Modern African Studies*, Vol. 40, No. 4, 2002 (Jacobsen 2002), pp. 586-88, 592; Alison Parker, *Hidden in Plain View: Refugees Living without Protection in Kampala and Nairobi*, Human Rights Watch, 2002 (Parker 2002), pp. 128-29, 137-41, 154.
- <sup>46</sup> Jacobsen 2001, p. 30 (Table B "Types of Security Threats and Likely Causes").
- <sup>47</sup> Richard Black, "Putting refugees in camps," *Forced Migration Review*, Refugee Studies Centre, No. 2, August 1998 (Black 1998), p. 6.
- <sup>48</sup> Black 1998, p. 5; See also William Cyrus Reed, "Refugees and Rebels: The Former Government of Rwanda and the ADFL Movement in Eastern Zaire," USCR, April 1997, pp. 12-18.
- <sup>49</sup> Crisp 1999, pp. 5, 23.
- <sup>50</sup> Lomo 1999, p. 13; Women's Commission 2001, pp. 18-19.
- <sup>51</sup> Jacobsen 2001, p. 13.
- <sup>52</sup> Black 1998, p. 7.
- <sup>53</sup> Jacobsen 2002, p. 591.
- <sup>54</sup> Gaim Kibreab, "Local Settlements in Africa: A Misconceived Option?" *JRS*, Vol. 2, No. 4, 1989 (Kibreab 1989), pp. 473-74.
- <sup>55</sup> Harrell-Bond 2002, p. 9.
- <sup>56</sup> Oliver Bakewell, "Repatriation and Self-Settled Refugees in Zambia: Bringing Solutions to the Wrong Problems," *JRS*, Vol. 13, No. 4, 2000 (Bakewell 2000), pp. 362-63; Roger Zetter, *Shelter Provision and Settlement Policies for Refugees: state of the art review*, Studies on Emergencies and Disaster Relief, No. 2, Nordiska Afrikainstitutet, 1995 (Zetter 1995), pp. 51, 71-82, 85, 89.
- <sup>57</sup> Toni Hagen, *Building bridges to the Third World: memories of Nepal 1950-1992*, 1994 (Hagen 1994), p. 296.
- <sup>58</sup> Harrell-Bond 2002, p. 10.
- <sup>59</sup> Oliver Bakewell, "Refugee aid and protection in rural Africa: working in parallel or cross-purposes?" UNHCR NIRR, 1999, p. 362; Harrell-Bond 2002, p. 10.
- <sup>60</sup> Harrell-Bond 2000, p. 10.
- <sup>61</sup> van Damme 1995.
- <sup>62</sup> Zetter 1995, p. 77, 80-81; Weighill 1997, p. 20.
- <sup>63</sup> Transparency International, *Corruption Perceptions Index 2003*, October 7, 2003; Marc A. Miles, et al., *2004 Index of Economic Freedom*, October 2003.
- <sup>64</sup> Standing Committee Framework 2003, p. 7.
- <sup>65</sup> Howard Adelman, "Palestinian Refugees: Defining the Humanitarian Problem," USCR WRS 1983, p. 21; UN General Assembly, Annual Reports of the Director/Commissioner of UNRWA, 1950-2004.
- <sup>66</sup> Kuhlman 2002, p. 40 (¶130).
- <sup>67</sup> Harrell-Bond 2002, p. 14.
- <sup>68</sup> Weighill 1997, p. 28; Malloch-Brown email correspondence, March 12, 2004 (on file).
- <sup>69</sup> U.S. Department of State, Bureau of Population, Refugees, and Migration, "Funding Actions Finalized with Organizations" (2003 monthly fact sheets), various dates, <http://www.state.gov/g/prm/fund/c8416.htm>.
- <sup>70</sup> UN General Assembly, "Report of the United Nations High Commissioner for Refugees," editions ranging from 1976-2002.
- <sup>71</sup> UNHCR, *Partnership: An Operations Management Handbook for UNHCR's Partners*, February 2003, p. 39.
- <sup>72</sup> UN General Assembly, "Report of the United Nations High Commissioner for Refugees," editions ranging from 1982-92; USCR WRS from 1987-92.
- <sup>73</sup> UN General Assembly, "Report of the United Nations High Commissioner for Refugees, 2002," Official Records 58<sup>th</sup> Session, Supplement No. 12 (A/58/12), 2003, pp. 18-24; UNHCR, *Global Report 2002*, June 2003; USCR, WRS 2003, *passim*.
- <sup>74</sup> Hagen 1994, pp. 267-69 and Toni Hagen, *Nepal: The Kingdom in the Himalayas*, 1972, p. 174.
- <sup>75</sup> Harrell-Bond 2002, p. 13.
- <sup>76</sup> Merckx 2000, p. 25.
- <sup>77</sup> Crisp 2003, pp. 5-6 (citing Van Bruaene 2001).
- <sup>78</sup> Kibreab 1989, pp. 474-75.
- <sup>79</sup> CASA Consulting, "The community services function in UNHCR: An independent evaluation," UNHCR EPAU, March 2003 (CASA 2003), p. 48 (¶139).
- <sup>80</sup> Arafat Jamal, "Camps and freedoms: long-term refugee situations in Africa," *Forced Migration Review*, No. 16, January 2003, p. 4.
- <sup>81</sup> UNHCR, Declarations under section B of article 1 of the Convention (as of 1 October 2003), available at [www.unhcr.ch](http://www.unhcr.ch).
- <sup>82</sup> UNHCR ExCom, General Conclusion on International Protection No. 50 (XXXIX), 1988(k).
- <sup>83</sup> UNHCR ExCom, General Conclusion on International Protection No. 65, 1991(c).
- <sup>84</sup> Global Consultations 2002, p. 5 (¶26).
- <sup>85</sup> Standing Committee Framework 2003, p. 12.
- <sup>86</sup> Mougne 1995, ¶¶22(d), 40.
- <sup>87</sup> CASA 2003, pp. 63-67 (¶¶188-89, 195, 198-99, 201).
- <sup>88</sup> Sherrie A. Kossoudji and Deborah A. Cobb-Clark, "Coming Out of the Shadows: Learning about Legal Status and Wages from the Legalized Population," Institute for the Study of Labor, October 1, 1998; Shirley J. Smith, Roger G. Kramer, and Audrey Singer, *Characteristics and Labor Market Behavior of the Legalized Population Five Years Following Legalization*, U.S. Department of Labor, May 1996, pp. 43, 79-80, 82, 102.
- <sup>89</sup> Kuhlman 2002, pp. 39 (¶129) and 40 (¶133).
- <sup>90</sup> UNHCR Africa 2001, p. 3 (¶4).
- <sup>91</sup> Jacobsen 2001, pp. 3, 9, 23.
- <sup>92</sup> Dryden-Peterson and Hovil 2003, p. 6. See also Merckx 2000, pp. 13-14, 25; Hovil 2002, p. 6; and Lomo 1999, p. 5.
- <sup>93</sup> UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status*, 1992, ¶28, p. 9.
- <sup>94</sup> UNHCR ExCom, "Protection of Asylum-Seekers in Situations of Large-Scale Influx," General Conclusion on International Protection No. 22, 1981.
- <sup>95</sup> Crisp 2003, p. 24.
- <sup>96</sup> Jacobsen 2001, p. 3; Jacobsen 2002, *passim*.
- <sup>97</sup> Merckx 2000, p. 28; see also Crisp 2003, p. 26.
- <sup>98</sup> Merckx 2000, p. 28.
- <sup>99</sup> Jacobsen 2001, p. 5.
- <sup>100</sup> Tom Kuhlman, *Burden or boon: A Study of Eritrean Refugees in the Sudan*, 1990, p. 191.
- <sup>101</sup> Standing Committee Framework 2003, pp. 9, 19.
- <sup>102</sup> Global Consultations 2002, pp. 1, 3.
- <sup>103</sup> *Agenda for Protection*, Goal 5 (emphasis added).
- <sup>104</sup> UNHCR Africa Bureau, "New approaches and partnerships for protection and solutions in Africa," Informal Consultations, December 14, 2001, p. 4 (¶ 11).
- <sup>105</sup> Ferris 2002, pp. 5-6.
- <sup>106</sup> Bakewell 2000, pp. 364-67, 371-72.
- <sup>107</sup> Harrell-Bond 2002.
- <sup>108</sup> Standing Committee Framework 2003, p. 13.
- <sup>109</sup> Jacobsen 2002, pp. 592-93.