World Refugee Survey 2004
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 benchmark. 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.”

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).

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.”
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-WWII 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.” This amounts to constructive refoulement—a violation of international law. More generally, as Guglielmo Verdirame notes, “human rights cannot be respected in refugee camps.” 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 continuing to live in idleness and despair.”

UNHCR’s Agenda for Protection recognizes that “serious protection problems, including gender-based violence... can result from over-dependency and idleness.” 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.

Sudanese women in the Ahol-Pii refugee settlement in Uganda report that rape at the hands of other refugees, locals, rebels and Ugandan soldiers is common. 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.”

Camp administrators often operate outside the host country legal system with no checks on powers or 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. 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.

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

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.17 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.18 This exacerbates the refugees’ seduction 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.”19 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 movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable 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. Furthermore, Ugandan locals, resenting international aid given to refugees isolated in the Kyaka I settlement, also took back land previously allocated to the refugees.

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 vicinity.

---

**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.

---

**Article 16**

**Access to courts**

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

---

**Article 22**

**Public Education**

1. The Contracting States shall accord to refugees lawfully staying in their territory 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.22

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.23 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.24

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.25

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). Nonrefoulement, 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 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,

“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 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.1

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.)

1 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.26

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 world through capital-intensive “integrated rural development land settlement schemes.”27 As a report for the International Bank for Reconstruction and Development (fore-runner 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.”28

African governments also bought into the idea and deliberately uprooted millions to force them into “uamama villages” in Tanzania, “regrouped” cooperatives in Ethiopia, “socialist villages” in Mozambique and Algeria, and the like.29 In retrospect, experts consider much of this aid, including that for refugees, to have been counterproductive, even disastrous.30 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.31

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 repatriation—voluntary or otherwise—is the only viable solution to refugee problems in Africa and other low-income regions dates to the mid-1980s.32 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.33 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 1980.34 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.35

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.36

Donors put forward a new state-centric approach, grounded in the refugees-as-burden view, that emphasized large-scale turnkey projects to benefit host governments, including roads, irrigation, drainage, and buildings in segregated settlement areas.37 The idea was further developed in two ill-fated International Conferences on Refugees in Africa (ICARA) in the early 1980s.38 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.39 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.40 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.41 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.”42 Since then, the international community has come
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.”

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. As Barbara Harrell-Bond notes, “it is very nearly impossible to maintain the civilian character of a camp.”

Source governments often target them for cross-border incursions and hold host governments responsible. 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.

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. 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.

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.\textsuperscript{50}

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.\textsuperscript{51}

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.”\textsuperscript{52} 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 nonwarehousing alternatives, donors have directed assistance to increased police enforcement of the camps themselves.\textsuperscript{53}

\textbf{“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 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-
Warehousing Refugees: A Denial of Rights, a Waste of Humanity

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

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.”⁵⁵ 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.⁵⁶ Tibetan refugees, for example, made carpet-making the largest foreign exchange earner in Nepal, even exceeding tourism.⁵⁷ In the 1980s Kenya largely ameliorated its doctor and teacher shortages by granting refugees, mostly Ugandans, the right to work.⁵⁸ 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).⁵⁹ 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.⁶⁰ The refugees introduced rice production techniques—previously unknown in Guinea—in lower swamp areas.⁶¹ 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).⁶² Countries that warehouse refugees tend to rank poorly on international indices of corruption and economic freedom.⁶³

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.⁶⁴

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 670,000⁶⁵—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.’”

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.”

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.

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). A major portion of UNHCR spending—23 percent of its total budget from 1976-2002—is labeled “Local Settlement.” 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.” 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). 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.

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-
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.74

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.75 Jozef Merkx, 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 areas 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.76

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-
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.”

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.

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).

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 and to avoid unnecessary and severe curtailment of their freedom of movement.
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. 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.

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.

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. 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.”

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.

Photo: Sudanese refugees arrive at Kiryandongo settlement in Uganda having fled Acol-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

2 Dryden-Peterson and Hovil 2003, pp. 18-20.
6 Werker 2002, pp. 9, 11-12, 14; see also Merkx 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;84

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.”85

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.86 Nevertheless, a global evaluation commissioned by UNHCR to survey its community services function eight years later found many of its concepts, terminology and articulations 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.”87

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.88 According to Kuhlman, “in fostering self-reliance, guaranteeing people’s rights is more important than providing them with material aid.”89 UNHCR’s Africa Bureau concurs:

The most important elements in facilitating the attainment of self-reliance are the full enjoyment of civil and socioeconomic 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.90

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.96

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.92

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-
Warehousing Refugees: A Denial of Rights, a Waste of Humanity

Ocognition. 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 fulfills 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.93

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. 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.95 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.”96

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 Merkx, speaking of a project in Uganda, UNHCR “prefers not to talk about integration, since this might have connotations of assimilation and permanency.”97 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 Merkx recommends area-wide assistance programs “aiming at integration, not necessarily assimilation, and not excluding return.”98 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.99

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.”100 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.”103

“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.”

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.”

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.

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.

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. 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.”

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.”

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.”

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


9 UNHCR, Agenda for Protection, Executive Committee of the High Commissioner’s Programme (ExCom), 53rd Session, A/AC.96/965/Add.1, June 26, 2002 (Agenda for Protection) Goal 7.


13 Verdirame 1999, p. 64.


15 Crisp 2003, p. 12.


20 Merck 2000, p. 18; see also U.S. Committee for Refugees (USCR), World Refugee Survey (WRS) 1997, pp. 101-02.


29 Harrell-Bond 2000, p. 3.


32 Crisp 2003, p. 3.


28 Weighill 1997, p. 22.
31 UNHCR ExCom, General Conclusion on International Protection No. 50 (XXXIX), 1988(k).
32 Weighill 1997, p. 22.
34 UNHCR ExCom, General Conclusion on International Protection No. 65, 1991(c).
35 UNHCR ExCom, General Conclusion on International Protection No. 50 (XXXIX), 1988(k).
37 Jacobsen 2002, pp. 39 (¶129) and 40 (¶133).
38 Jacobsen 2001, p. 3 (¶4).
44 UNHCR, “Protection of Asylum-Seekers in Situations of Large-Scale Influx,” General Conclusion on International Protection No. 22, 1991(c).
47 Merkx 2000, p. 28; see also Crisp 2003, p. 26.
48 Merkx 2000, p. 28.
49 Jacobsen 2001, p. 5.
51 Standing Committee Framework 2003, pp. 9, 19.
52 Global Consultations 2002, pp. 1, 3.
53 Agenda for Protection, Goal 5 (emphasis added).
55 Ferris 2002, pp. 5-6.
57 Harrell-Bond 2002.