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Apology: Conflict Trends Issue 2/2005 cover credit should have read REUTERS / THE BIGGER PICTURE

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VASU GOUNDEN



EBRIMA CAMARA

EDITORIAL

# Special Focus on **Refugees** and **Conflict** in Africa

## A Partnership between ACCORD and the UNHCR Regional Office in Pretoria, South Africa

**T**he involuntary mass displacement of people and the attendant problems of social dislocation is a phenomenon that could occur anywhere in the world for natural or man-made reasons. In most recent memory, scenes from the aftermath of Hurricane Katrina in New Orleans could be superimposed on Sudan, Liberia or Zimbabwe with little striking difference in the suffering of the displaced and homeless. In the African region, nevertheless, the involuntary mass movement of people within their countries or outside their borders is due mostly to armed conflict, civil strife and political instability.

The total population of concern to the United Nations High Commissioner for Refugees (UNHCR) in Africa, as of 1st January 2005, is approximately 4.8 million. This figure includes approximately 3 million refugees, 208 000 asylum seekers, 330 000 returned refugees and over 1 million Internally Displaced Persons (IDPs). While these large numbers highlight the serious state of displacement in Africa, perhaps the more worrisome development is that there has been a marked increase in this population

of concern in Africa between 2004 and 2005.

Conflicts and political instability in Sudan, Burundi, the Democratic Republic of the Congo, Somalia and Liberia have generated the most refugees in Africa in recent years. Major IDP generating countries are Sudan, Liberia and Côte d'Ivoire. Africa has also seen some of the largest repatriation movements since 2004 to Burundi, Angola and Sierra Leone.

These mass movements of people that crisscross the continent either as hopeful returnees to places of origin or as desperate flights from violence and persecution are replete with social and economic challenges: homes and schools must be found or built; doctors and medicines must be made available; and people must be able to earn a living and live normal lives. It is fundamentally a challenge of development and governance.

This issue of *Conflict Trends* highlights the plight of displaced persons in Africa, at the present time. It therefore covers refugees, IDPs and the communities that are affected by displacement. We examine the complex



AP7 / TOUCHLINEPHOTO

body of legislation, rules and regulations that govern assistance and protection for persons in these categories and expose the special challenges that confront women, children and other vulnerable people. Our faith in humanity is renewed through the efforts and examples of those who reach out to help refugees and IDPs. Most importantly, we seek to add to the body of knowledge and lessons learned that will no doubt assist the world in dealing with the tragedies in places like Darfur, Niger, and South East Asia.

Two consistent themes emerge in this issue of *Conflict Trends*: first, there is a need for immediate and ongoing assistance and services for refugees and IDPs in their current circumstances, and second, the underlying causes of such mass displacements of people in Africa need to be addressed. It is therefore crucial that we not only look at

addressing the plight of refugees and IDPs in their present circumstances but that we ideally seek to reduce and eliminate the phenomena of displacement by dealing with the root causes of conflicts, and by addressing the global environmental challenges that are spurring increased natural disasters the world over. It is for this reason that partnerships between organizations like UNHCR, that provide assistance and services to displaced persons, and agencies like the African Centre for the Constructive Resolution of Disputes (ACCORD), that analyze and intervene in the underlying causes of conflict, is crucial, and what we must strive for. This issue of *Conflict Trends* represents and symbolizes the working partnerships and holistic interventions that must occur if we are to make a significant and genuine impact in the challenges faced by refugees and IDPs in Africa – and the world over. ▀

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FEATURE

JEAN PIERRE MISAGO &amp; LOREN LANDAU

# Responses to **Displacement** in Africa: The Irrelevance of Best Practice

Over the past fifteen years, new dimensions have been added to long-standing patterns of displacement and humanitarianism in Africa. With immigration and asylum policies at the root of socio-political conflicts in countries as diverse as South Africa, the Democratic Republic of the Congo (DRC), Kenya, and Côte d'Ivoire, Africa has joined other world regions in struggling to address this increasingly significant phenomenon.<sup>1</sup> Unfortunately, international and domestic efforts to protect displaced people have largely failed to keep pace with the scale and scope of Africa's need. Although resource constraints and lack of political will within the international community go far in explaining these shortcomings, there are other, critical factors that limit the effectiveness of current responses and hinder new approaches to protecting forced migrants: refugees, asylum seekers, and the internally displaced. In this paper

we draw attention to two of these factors, assumptions that, while flawed, continue to shape humanitarian advocacy and analysis. The first is that internationally (or even domestically) agreed upon standards are an effective means of ensuring protection in environments where principles of law and human rights are only weakly enforced. The second, even more fundamental, assumption is that the most significant responses to the protection of forced migrants take place through officially organised domestic and international mechanisms.

Recognising humanitarian law's frailty in protecting refugees and the critical significance of informal responses to displacement demands that we reconsider how we analyse human displacement and the meaning of humanitarian action. In this paper, we argue that even progressive legislation for refugee protection is a poor guide for states who are often unable to respond or choose

to disregard or actively subvert humanitarian principles. In the absence of an effective legal regime supported by administrative capacity and political will, extra-legal – although not necessarily illegal – responses have become the norm as local or host populations incorporate and exclude refugees while local government officials act independently to promote integration, exploitation, or exclusion. While refugees are often victims of persecution and marginalisation, we must recognise that they too are important actors whose responses to displacement and humanitarian action are generating new economic, political, and social formations.

### **Forced migration and displacement: Definitions and dimensions**

Few scholars agree on the meaning of displacement or forced migration. For our purposes, displaced persons are those who are compelled to leave their communities of origin or residence due to politics (e.g. persecution, human rights violations, conflicts or generalised violence), disaster (e.g. flood, earthquake, drought), state development policy (e.g. dam building), or endemic poverty that makes it impossible for people to achieve a sustainable livelihood. Such displacement must involve movement, whether across national boundaries or within a person's country of citizenship.

This is an expansive definition that includes many who are not direct victims of political persecution or have not been formally recognised as refugees or asylum seekers. While narrower definitions have their place, an exclusive focus on legally recognised refugees is particularly limiting in the African context. For one thing, legal definitions are often more 'an artefact of policy concerns rather than of empirical observation and scientific enquiry'. Indeed, most migrants make their decision to migrate in response to a complex set of external constraints and predisposing events. The salience and impact of these constraints and events may vary, but there are always elements of both compulsion and choice in the decision-making process of most migrants.<sup>2</sup>

The distinction between forms of migration becomes even more problematic in Africa where political and economic reasons for movement are often indistinguishable. Political crises, as in Zimbabwe, often manifest themselves in generalised scarcities and hardship from which people are forced to run. Moreover, an exclusive focus on refugees draws attention away from those who experience refugee-like situations, particularly internally displaced persons (i.e. those not crossing international

borders). The term 'refugees' is, consequently, used here in its more inclusive sense to refer to all individuals or groups of people who have been compelled to cross international borders to seek protection or livelihoods. This more expansive definition draws attention to a broader range of responses taking place within and outside of formal structures. As the remainder of this article suggests, it is the latter that are ultimately more significant.

### **Humanitarian responses in practice**

Official responses to displacement, by both the international humanitarian community (donors and United Nations agencies) and national governments, have long been informed by a combination of political priorities and rights-based principles. The right to asylum and protection and the prohibition on *refoulement* or the forced return of people to countries where they face continued danger are the most important of these principles. Where the two are mutually reinforcing, official responses to displacement can be rapid, well-resourced, and effective. When rights and political priorities conflict, humanitarian principles are often compromised. A brief review of the two primary phases in African refugee assistance illustrates these dynamics.

The 'golden age' of African refugee assistance extended from the early 1960s to the late 1980s, a period roughly coinciding with the Cold War.<sup>3</sup> This era was characterised by what some term 'open-door' or 'liberal' policies informed not only by the 1951 UN Refugee Convention Relating to the Status of Refugees, but also by the more expansive 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. As Crisp notes:

***While refugees are often victims of persecution and marginalisation, we must recognise that they too are important actors whose responses to displacement and humanitarian action are generating new economic, political, and social formations***

In general, governments allowed large numbers of refugees to enter and remain on their territory. Many refugees enjoyed reasonably secure living conditions and were able to benefit from a range of legal, social and economic rights. Considerable numbers of refugees were provided with land and encouraged to become self-sufficient. In some states, refugees were

MICHAEL DALDER / REUTERS / THE BIGGER PICTURE



Liberian refugees enter a truck before their repatriation to Liberia, from a refugee camp in Sierra Leone

allowed to settle permanently and to become naturalized citizens. While the deportation and expulsion of refugees was not unknown (Crisp 1986), the principle of voluntary repatriation was broadly respected.<sup>4</sup>

Examples of such policies appear throughout the continent<sup>5</sup> and, not surprisingly, there was widespread and justified praise for Africa's 'tradition of hospitality'.

In addition to strong domestic support for these efforts – often justified through pan-Africanism and anti-colonial solidarity – the international community provided considerable assistance through the offices of the United Nations High Commissioner for Refugees (UNHCR) and international non-governmental organisations. These same bodies were also actively involved in finding durable solutions to displacement with a particular emphasis on the local integration of refugee populations. It is important to note, however, that during this period, hundreds of thousands of people were internally displaced by large-scale development projects (e.g. Tanzania; Zambia) or civil war (e.g. Uganda).

Neither of these groups received much direct assistance from either international or domestic sources.

With the end of the Cold War and decolonisation, African refugee policy and practice was characterised by states' retreat from the fundamental principles of asylum and international refugee law and the abrogation of their responsibilities for protection. Rather than welcoming comrades, states increasingly introduced restrictive measures to stem the flow of immigrants and refugees and to remove refugee populations from their territories. These have included closing borders to refugees,<sup>6</sup> forcing undignified and unsafe repatriations,<sup>7</sup> and isolating refugees in camps for extended periods of up to a decade or more (e.g. Angolans in Zambia; Burundians in Tanzania). There has also been a general effort to place the rights or interests of states and host populations (justified by notions of sovereignty) over refugee rights outlined in relevant international conventions and domestic legislation.<sup>8</sup>

It is beyond this article's scope to fully explain trends in humanitarian assistance programmes. It is worth

noting, however, that the contours of Africa's assistance policies are shaped less by the changing nature of conflict or the needs of the displaced than by (perceived) state interests, capacities, and global politics. The death of pan-Africanism, declining state resources, and a relative decline in international support (especially after the end of Cold War largesse) are all critical factors in this regard. Ever more restrictive policies in relatively wealthy countries provided further justification for restrictions in Africa. These declines in material and ideological support have, unfortunately, taken place precisely as the continent's humanitarian crises become increasing complex. It is only regarding the protection of internally displaced people (IDPs) where protection mechanisms have been enhanced through the Bern initiative and other campaigns. Although efforts to protect IDPs have resulted in new global protection standards, the number of people displaced within countries continues to grow (now estimated at 13.2 million in Africa alone)<sup>9</sup> while little has been done to ensure their welfare.

The heightening gap between the displaced persons' needs and official responses has been accompanied by an increase in the relative importance of informal humanitarian responses by refugees and host populations. As official capacity to provide emergency or sustained emergency assistance in remote areas declines, local populations are called on to provide assistance. Even where purpose-built settlements exist, many refugees choose to live outside the restrictive world of internationally or domestically managed camps. For the internally displaced, there is often no option but to live in what amount to concentration camps (termed *regroupment* camps in Burundi) or to find succour among local populations.

There are instances when host populations continue to show solidarity and provide assistance even when governments and international actors are absent. These are often, as in the case of Mozambicans living along South Africa's Eastern Frontier, when there are well-established trade or ethnic connections between hosts and the displaced. In other instances – as in parts of Zambia – local populations may welcome refugees who provide additional sources of needed labour or expanded opportunities for trade.<sup>10</sup>

Long-standing connections or net economic benefits, however, do not guarantee host populations' willingness or ability to provide the necessary assistance (or allow refugees to provide for themselves). Even when official aid mechanisms and protections exist, host populations may organise to exclude foreigners from livelihoods,

social services, and even territory. Indeed, a tendency towards exclusionary, often xenophobic, practices has become one of the hallmarks of contemporary responses to displacement. In places as diverse as Western Tanzania and Johannesburg, refugees and migrants have become political scapegoats and suffered from denial of human rights, inability to access social services, police abuse, and xenophobic violence.<sup>11</sup>

Without popular or political champions, few are in a position to protest such treatment. Where government capacity is weak and human rights rarely respected, the likelihood of achieving protection is even less. Ironically, efforts to democratise Africa's public institutions mean that widespread anti-immigrant/refugee sentiments are all the more likely to result in official mandate for exclusionary practices. Even UNHCR has often proved unwilling to protect displaced persons living in urban areas or outside of officially mandated assistance zones or camps. Part of this is linked to the UNHCR's mandate demanding its actions gain host government approval while curtailing its role in protecting IDPs. There are, however, other reasons for their reluctance. One is the UNHCR's generalised – if yet largely unsupported – assumption that many urban refugees are 'irregular movers' who have forgone asylum in one country to seek better lives. This is seen as limiting UNHCR responsibilities to provide assistance. Similarly, the UNHCR has often sided with governments who insist that all refugees must live in purpose-built camps. Those outside camps are, therefore, interpreted as having voluntarily forgone protection.

Displaced persons have responded to ineffective humanitarianism and hostility with a series of innovative, if occasionally illegal, strategies. The inability to return to countries or communities of origin, to access assistance, or to integrate with local populations leaves many displaced persons in a state of permanent transit. Knowing their position is insecure, even those remaining in communities for extended periods may resist economic or social integration in preparation for onward movement. For almost all refugees (even those in camps), the imperative to survive results in livelihood strategies that at least partially exist outside of or in contravention to laws and regulation. This may mean subverting existing regulatory regimes in efforts to secure citizenship status or other

**There are instances when host populations continue to show solidarity and provide assistance even when governments and international actors are absent**

identity documents. Marriages of convenience are the most obvious strategy in this regard, although corruption and fraud are perhaps more common. Other strategies may involve everything from unlicensed street trading to elaborate networks of remittances and, of course, transnational trade in both legal and illegal commodities.

**The inability to return to countries or communities of origin, to access assistance, or to integrate with local populations leaves many displaced persons in a state of permanent transit**

Continued conflict in countries such as Somalia and the Democratic Republic of the Congo is resulting in ever-expanding diasporic communities. As these communities grow, so does the reach of refugee trading networks and the ease with which refugees can subvert or circumvent official regulation. Indeed, many of these networks are now so well entrenched that they have become the primary means through which many displaced persons seek assistance and protection. Their flexibility and, in some cases, profitability mean that even a return to the generous humanitarian policies of the past is unlikely to lead to their dissolution. We have yet to understand what these new configurations mean for the nature of community, economic exchange, and political power in 'refugee-affected' areas.

### Conclusions

The displacement of people as a result of war, insecurity, and persecution continues to be one of the hallmarks of Africa's social reality. While official responses to such involuntary movements remain significant, changing policy priorities and declining state capacity mean a growing number of people seek assistance and protection outside official mechanisms. As the primary responses to displacement shift from the official to the social sphere, the actions and attitudes of host populations and refugees have become increasingly important while the significance of internationally enshrined rights and humanitarian principles has declined. Defining rights, having them translated into domestic law, and promoting international protection standards (e.g. Sphere) remain important benchmarks and ideals, but relying on them alone is an ever less effective means of ensuring protection. Understanding best practice, therefore, not only means analysing the effectiveness of formal responses, but understanding under what conditions governments accept responsibility for refugee protection, when they are actually able to provide such protection, and when

and how refugees are assisted (or assist themselves) outside of formal mechanisms. This means complementing existing research on policy implementation with studies of policy formation and localised, ethnographic inquiry into informal economies and inter-group relations. It is unclear whether these inquiries will reveal practices that can be replicated elsewhere. An exclusive focus on national and international policy, however, will almost certainly produce guidelines and standards which will do little to address the needs of the displaced. ■

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### Endnotes

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NYARADZO MACHINGAMBI

FEATURE

# In Search of Solutions: Advancing **Refugee Protection** in Twenty-first Century Africa

**T**he institution of asylum and the system of refugee protection are currently under tremendous stress in Africa. The large numbers of refugees seeking asylum in countries already experiencing tremendous social and economic hardship has brought into question the capacity of these nations to cope with refugees in this century. African refugee policies and practices are increasingly being characterised by states' retreat from the fundamental principles of asylum and international refugee law and the abrogation of their responsibilities for protection.<sup>1</sup> Refugees are receiving an increasingly hostile reception from host governments and communities.

This is the result of a combination of political, security, social and economic constraints whereby states are able to abide by their international legal obligations only under the most difficult and burdensome circumstances.<sup>2</sup>

This has been exacerbated by a shift in global geo-politics, changed priorities and the increased number of persons seeking asylum and humanitarian assistance world-wide, and diminished international financial aid and material support to lighten the burden on African host countries.

Thus continued assistance and generous hospitality to refugees has resource, security, political and environmental implications for African states and is fraught with easily identifiable challenges that have to somehow be addressed and overcome. The question of how African states can continue to give generous assistance to refugees in this century with all its presenting difficulties is the subject of this article. A range of examples will be identified, which are illustrative of the problems that are prevalent throughout sub-Saharan Africa. The purpose of this paper is to highlight and discuss a number of key

opportunities and resources that exist for continued support, which can be useful in addressing the contemporary challenges posed by refugee protection in this era.

### **Historical overview**

Historically, Africa has been at the forefront of the struggle to uphold refugee protection. Refugee protection in Africa has been marked by the tradition of hospitality and brotherhood, whereby people were not even classified as refugees and were allowed to assimilate and obtain citizenship in their host countries.<sup>3</sup> This tradition translated into the generous practice of accepting large numbers of refugees into countries. In fact the period between 1960 and 1990 has been termed the golden era of refugee protection in Africa. This generosity has to be understood in the context of the period under reflection, more specifically, the wars of independence in Africa, where refugee protection was an expression of solidarity with the struggle for independence and refugees were accepted as fellow comrades.

The period of the 1960s right up to the 1980s also saw the ratification of the UN Convention by a number of African states and the ownership of the African refugee problem through the drafting and ratification of the OAU refugee convention, which has become a model of progressive refugee protection throughout the world. This convention was an explicit recognition by African states of the nature and scope of modern refugee movements in Africa.<sup>4</sup> The OAU Convention expanded the definition of 'refugees' to persons who were not only fleeing individualised persecution as contained in the UN Convention, but also to persons forced to flee their countries because of 'external aggression, occupation, foreign domination and events seriously disturbing public order in either part or the whole of their countries of origin or nationality'. It indicated the willingness of the independent African states to take responsibility for the protection of persons forcibly displaced under these circumstances. This response was fuelled by the ideological role that refugee protection played at the time. It catered for mass influx situations and also addressed durable solutions, such as voluntary repatriation, quite extensively, which was an expression of the belief that refugees would soon be returning home to their independent countries.

### **Current status of refugee protection in Africa**

More recently, however, as a result of protracted refugee situations, and in contrast to the liberal policies of the

1960s, African states which are themselves fragile emerging democracies, with continuing insecurity following decolonisation, are now experiencing what some have termed 'hospitality fatigue'. This is seriously compromising the level and standard of refugee protection in Africa. Over the past decade host countries in Africa have increasingly retreated from applying the basic principles of asylum.

They have closed borders to refugees, and forced undignified and unsafe repatriations as in the case of the forced repatriations of Burundian and Rwandan refugees from Tanzania in the late nineties. They are also increasingly insisting on short-term asylum regardless of the conditions in the countries of origin and they have sometimes failed to provide security in refugee camps. This has been accompanied by a general diminishing of the rights guaranteed to refugees under the various relevant international conventions. This retreat has been most marked in the Great Lakes region where governments have been faced with huge refugee movements, a lack of international or inter-regional support and the added problem of armed combatants mixing with civilian refugee populations.<sup>5</sup>

Refugees have also been arrested and detained without charge whilst others have been returned against their will to places where their lives may be in danger,<sup>6</sup> in direct violation of the cardinal principle of non-refoulement. Yet others have been restricted to refugee camps or to remote, inaccessible locations where they are sometimes exposed to banditry, rape and other forms of criminality and many have not been able to enjoy their social, economic and civil rights.<sup>7</sup>

### **Reasons for the erosion of liberal and committed refugee protection in Africa**

The reasons for the restrictiveness of African refugee policies are as diverse as the complex situations and politics that fuel them, which are situated in the African and global context. The first and most obvious is the sheer numbers of refugees on the continent now as compared to the 1960s. Six of the world's major refugee-producing countries are in Africa and four million Africans live as refugees in a foreign land.<sup>8</sup> According to UN statistics, Africa, the poorest continent in the world, hosts at least a third of all the refugees in the world.

Large numbers and poverty speak to resource constraints, which result in limited commitment to refugee protection and in very low standards of assistance. This dearth of resources impacts on the capacity of host states in Africa to absorb these increased refugee populations.



REUTERS / THE BIGGER PICTURE

Zairean refugees walking from a refugee camp towards the Rwanda border

Economic misfortunes and the crisis of democracy across many parts of the continent have increased the pressures on host states to use their limited resources for their own nationals.

Moreover, changed and complex mixed migration flows, which are linked with illegal migration, contribute to the restrictionism. There are estimated to be between 20 and 50 million migrants in Africa, including refugees who are being forced to move due to a lack of opportunities, conflicts, persecution, environmental degradation, and extreme poverty in many countries in the region.<sup>9</sup> The most significant destinations for immigration are Côte d'Ivoire and South Africa, whilst Somalia, Ethiopia, Ghana, Senegal, Cape Verde, Liberia, Sierra Leone, Mali, Gambia, DRC, Burundi and Rwanda are all significant sources of emigration.<sup>10</sup>

Many African governments have learned that conflicts in neighbouring countries can drag on for many years and that a commitment to refugees can be a long-term commitment. This is in contrast to the refugee flows caused by anti-colonial wars, which most African countries expected to be temporary.<sup>11</sup>

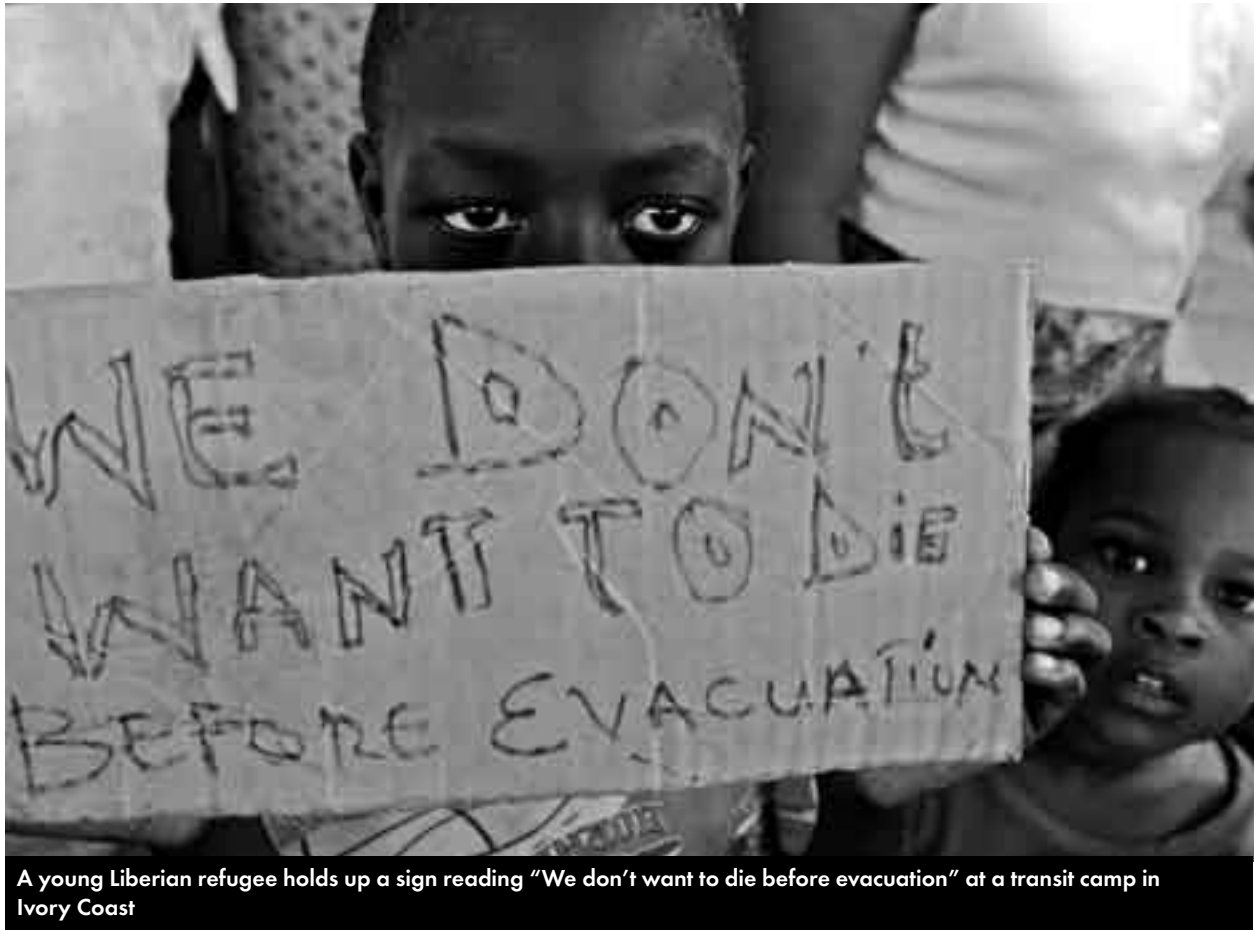
The fact that refugees are no longer fleeing

colonialism but brutal civil wars and wide-spread human rights violations by rebel and state agencies has dealt a blow to the ideological support that underlined protection in pre-independent Africa. The sense of solidarity that was present during earlier conflicts is no longer evident, since hosting populations as well as governments no longer view refugees as the product of colonial or racially motivated conflicts only.

Furthermore, these civil wars and brutal violations of human rights continue in spite of efforts at a regional level to introduce mechanisms that promote good governance and observance of human rights, such as NEPAD and the AU, and to development assistance and debt cancellation that is contingent on democratic governance.

There are also a number of domestic concerns for countries that host refugees. The first of these is internal security. Many refugees come from situations of civil war and bring their weapons with them. These are then used by some for criminal activity, which includes armed robbery and poaching.<sup>12</sup> Large influxes have also placed serious strains on the environment and social infrastructure. These problems become more severe where burden sharing through international assistance is

AFP/TOUCHLINE PHOTO



A young Liberian refugee holds up a sign reading "We don't want to die before evacuation" at a transit camp in Ivory Coast

(or becomes) limited.

Many states in Africa are also finding it increasingly difficult to rise above sub-par economic performance, weak state structures, and poor governance. Another significant factor in this retreat has been increasing xenophobia within host countries. Xenophobia has, over the last decade, increasingly become a factor constraining many governments in their development and implementation of refugee policies.<sup>13</sup> The xenophobic reaction to the arrival of refugees can in part be explained by the changing nature of regional conflicts. In addition, economic decline and measures imposed by the International Monetary Fund (IMF) and the World Bank have resulted in severely restricted access to social services for the populations of many countries.<sup>14</sup> Under such conditions local populations are increasingly challenging the added burden of hosting refugees.

Another important factor in the changing attitudes of host countries in Africa has been the ripple effect created by the emerging policies of refusing entry to refugees in Western and Northern states. The abdication

of their responsibility and commitment to international burden sharing has led Southern states, who have far fewer resources at their disposal, to question their own commitments.<sup>15</sup> For example, it was the lack of sustained co-operation from the international community that contributed in large part to Tanzania's drastic decision to close its borders at a point during the Great Lakes crisis.

This has been intensified by a global shift in the thinking and practice of states with regard to refugee protection. Some have argued that refugee protection has always been tied to national priorities and indeed that when it originated it served the interests of the host states. But now, with the post-Cold War politics having changed priorities such as increased security concerns and globalisation where refugee protection doesn't serve the same interests, it has started to be marginalised with restrictive protection policies being put in place.

This of course has a bearing on African refugee protection as African states invariably follow the lead of the Western nations in restrictive application policies and the consequent donor fatigue. These declines in material

and ideological support have, unfortunately, taken place precisely as the continent's humanitarian crises have become increasingly complex, and thus the reticence of African states to take primary responsibility for refugee management and protection becomes regrettable.

### **Existing opportunities and the need for continued assistance**

Whilst asylum is a humane way of assisting victims of persecution and social disorder, appeals based solely upon compassion, solidarity and rights are only occasionally successful. There is an awareness that governments will be moved only on their own terms, primarily in the discourse of national interest.<sup>16</sup> Part of the perennial enterprise of refugee protection is to therefore demonstrate to governments that assisting refugees is not only a virtue in itself but also a means of advancing their domestic and regional interests.<sup>17</sup> The conventions on refugee protection are still very relevant for the African continent, as there remains a real need for African countries to continue giving the best protection possible to refugees. The displacement of people as a result of war, insecurity, and persecution continues to be one of Africa's social and political realities and the restrictive application of protection principles is a threat to stability in the region as a whole.

Refugees are endowed with the same rights and responsibilities as all other human beings. Their welfare and lives, whilst in host countries, should be in line with international human rights instruments and standards, which have helped shape best practices for refugee protection programmes. This is important in the African context of fledgling democracies trying to build a human rights culture in their societies and the consequent platform for African states to espouse the politics of inclusion and the principle of human rights for all. The last century has seen a broad articulation of human rights and created a consciousness that human rights are fundamental to all. Policies will have to be developed to protect refugees based on the principle of the matter despite existing constraints.

The South African government has acceded to many of the international instruments that imposed onerous administrative and financial obligations on it to protect refugees, since the end of apartheid. This occurred despite an awareness of the historical backlog of unfulfilled social and economic claims, the expectations of its own people and the vastly uneven distribution of wealth and opportunities created by apartheid, but was based on

the principle of the matter.<sup>18</sup> The South African government assumed the obligation to grant status and equal protection to those who fled their countries for fear of persecution. This was in spite of the varied and intense expectations and critical needs, such as health, housing, education and welfare, of their own people.<sup>19</sup> Certain West African states have also made notable moves to avoid encamping refugees, despite the large numbers, preferring to allow them to integrate.<sup>20</sup>

### **Opportunities**

While there are many problems and challenges to the continued ability of African states to protect refugees, there exist a number of opportunities that can be utilised to improve their capacity and their readiness to continue offering protection to refugees. The enactment of the Constitutive Act of the African Union, for example, has created an opportunity for more robust and effective action to protect refugees and ensure security on the continent, including potential for the development of new monitoring and intervention mechanisms.<sup>21</sup>

This is a key opportunity given the prominence of forced migration across the continent. There is a need for regional and sub-regional fora to be identified where all relevant actors can discuss and assign coordinated responsibilities during complex emergencies<sup>22</sup> and which can establish and develop mechanisms for addressing the root causes of refugee flows. Regional networks that can assist with the standardisation of protection and promote burden-sharing mechanisms should be created, or strengthened if they already exist, in light of diminishing international contributions.

The changed nature of the refugee, who is now more skilled and educated and who can be viewed as an agent of development, not as the commonly perceived "burden", could also be seen as a resource that can be utilised in the articulation of protection policies. This is critical in light of the new phenomenon of skilled urban refugees who are shunning encampment and are rather seeking asylum in urban cities where they can create livelihoods and use their skills and education.

Much evidence can be cited of cases where refugees contributed positively and dramatically to growth in the

***Part of the perennial enterprise of refugee protection is to therefore demonstrate to governments that assisting refugees is not only a virtue in itself but also a means of advancing their domestic and regional interests***

local economy. For instance, refugees in Kenya have created businesses, including a textile business employing other Kenyans, and during the 1980s the country solved its problem of a shortage of teachers and doctors by employing refugees, mainly Ugandans. In Zambia, Maheba refugee camp is famous for the production of sweet potatoes, which provides earnings for Zambian businessmen as well who buy and transport the vegetables to Lusaka.<sup>23</sup> Furthermore, increased populations can be viewed as potential consumers and consequently economy boosters.

The drafting of national legislation to put in place legal frameworks for the protection of refugees is essential. It is not only necessary for African states to draft legislation, which most have done, but they also need to establish concrete implementation mechanisms, in order to adequately guarantee protection. This will assist with readiness and will ensure that proper structures are in place within which the state's resources can be channelled to properly respond to refugee flows. Creating clear legal policies contributes to a country's preparedness in the event of a humanitarian crisis or mass influx and aids the ability to respond in a way that is refugee-rights oriented and that does not destabilise the host country unduly.

This has been a particular challenge in East Africa where a lack of security and policy frameworks within which refugee issues can be addressed has compounded refugee problems.<sup>24</sup>

Although it is trite to say that the primary responsibility for protecting and assisting refugees lies with host countries, cognisance has to be taken of the fact that human and refugee rights instruments place a shared onus of responsibility on all actors involved in refugee issues – host governments, donor governments, international organisations, local communities and refugees themselves.<sup>25</sup> Burden

sharing should thus continue to be utilised extensively and bolstered in its application. Africa is host to more refugees than any other continent and so the concept of burden sharing is a very important one in the African context.

Insufficient burden sharing in situations of massive refugee caseloads compromises the quality and accessibility of protection in Africa, places severe stress on refugee protection in Africa, and in turn contributes to 'hospitality fatigue'. Donor countries and relevant

intergovernmental and non-governmental organisations should provide financial, material and technical assistance to the African asylum countries hosting refugee populations. UNHCR has a critical role to play in this context and it should continue advocating the strengthening of refugee protection on a global scale and increased burden sharing.

African states need to build on their response-based protection regimes in order to make them more solution-oriented protection regimes, and consequently more rights-based. For example, in the context of protection, socio-economic rights, which were designed to facilitate integration, can constitute the bridge connecting response and solution.<sup>26</sup> Thus, if refugees' socio-economic rights are respected they are then able to successfully access local integration as a solution. Refugees who enjoy social and economic rights are in fact better placed to make an informed and voluntary decision to return to their countries of origin when conditions are conducive for return. We have observed this in practice in South Africa, where most Angolan voluntary repatriation cases are of refugees who have managed to educate themselves and gained skills, while the less skilled and unemployed are unwilling to return.<sup>27</sup>

Most African states are experiencing the political tension created by the growing number of economic migrants and asylum seekers. Threats to employment, crime, and diseases brought in by foreigners are fears high on the agenda of many African electorates who are seeking public order, and domestic and job security. With the increasing democratisation of countries, host governments are also more sensitive to negative public reactions to the presence of foreigners, including refugees, and the pressure from local populations to implement domestic programmes in their favour rather than giving assistance to 'foreigners'.

Public information, awareness campaigns and education to sensitise refugees and host communities about the rights of refugees and the contributions that refugees can make towards the development of their host communities should therefore be high on the agenda of policy makers. It is critically important to get the buy-in of local host communities, in light of the fact that local citizens themselves, in the African context, face formidable difficulties of poverty and underdevelopment. These are realities that must be addressed in programmes for refugees and should be structured in ways that incorporate the needs and interests of host communities.

Crucial civil society partners and key stakeholders such as the judiciary, legislators and local government

**Refugees who enjoy social and economic rights are in fact better placed to make an informed and voluntary decision to return to their countries of origin when conditions are conducive for return**



AP / TOUCHLINEPHOTO

Liberian refugees travel from Ivory Coast across the Cavalla River back to Liberia

should be included in the search for solutions and best practices. This is because partnerships are essential in the promotion of local solutions. The objective of the collective effort of all these actors would be to ensure sustainability, self-reliant livelihoods for refugees through strategies, including national planning, that also support the long-term development needs of the local areas in which refugees live.<sup>28</sup>

Political leaders and actors also have an important role to play in this regard. Political leadership on sensitive issues such as refugee protection in poor Third World countries is a key factor in getting local populations' buy-in. Political leaders as opinion leaders and decision makers must promote refugee protection using language that promotes inclusivity, empathy, and diversity. This could be promoted in the greater context of the African Renaissance and NEPAD discourse to enable their national populations to view the refugee problem within the greater vision of the holistic development and stability of the African continent.

This is especially important in light of the instability that could occur in the region if the mass movements of refugees are not properly managed. The political leadership of Africa should rise up to the challenges of practising politics of inclusion and popular participation in national affairs, creating a firm foundation for responsible and

accountable governance, and promoting social progress, economic development, and a just and fair society.<sup>29</sup> It has been suggested that the adoption of a Protocol to the 1969 OAU Convention, which would expand its scope to cover issues not adequately addressed therein, might be useful<sup>30</sup> in responding to contemporary challenges.

### Conclusion

A discussion on advancing refugee protection in Africa would be incomplete if it did not highlight the importance of addressing the root causes of refugee flows and the need to prioritise durable solutions. Conflicts are the major cause of displacement in Africa today, and there is a need for African states to take energetic measures to prevent conflicts or to resolve them expeditiously.

A comprehensive plan of action for tackling these root causes of refugee flows and other displacements should be put in place and it should deal with, among other factors, the issues of ethnic strife and conflict; the role of the arms trade in causing or exacerbating conflicts in Africa; the establishment of a firm foundation for democratic institutions and governance; respect for human rights; the promotion of economic development and social progress, the obstacles to providing protection and humanitarian assistance to displaced persons; and the inter-relationship

between humanitarian, political and military actions at an international level.<sup>31</sup>

Lastly, the situation of refugees in Africa should not be viewed as insurmountable or hopeless as there are many success stories. Many conflicts have been resolved through the cessation of hostilities and signing of peace agreements, evidenced by successful large-scale repatriations, which have enabled thousands of refugees to return home, for example to Mozambique, Namibia, and South Africa, and more recently Sierra Leone, Angola and Burundi.

African states should therefore try to abide by the letter and spirit of the 1969 OAU Convention and

continue to uphold their traditional hospitality and liberal asylum policies for refugees. They should courageously resist temptations to whittle down, through national policies, laws or practices, the obligations and standards contained in the convention.<sup>32</sup> ▀

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HARRIETTE WILLIAMS

FEATURE

## Protecting the Vulnerable: The Case of **Displaced Women** in Africa

The conflict landscape in Africa today shows marked improvement when compared to that of six years ago when eleven major armed conflicts<sup>1</sup> were reported. Sierra Leone is now in the post-conflict rebuilding phase and the main actors responsible for human rights violations have been indicted by the Special Court for Sierra Leone. In Liberia, 57 000<sup>2</sup> refugees have returned and, along with many internally displaced persons, continue to make the journey home in time for elections in October. In Burundi, Hutu rebels and the Tutsi-dominated army declared an end to hostilities and elections were successfully conducted in July. Following the end of a 27-year civil war, Angolans are gearing up for elections in September 2006.

As Africa, along with the rest of the world, strives to achieve the Millennium Development Goals,<sup>3</sup> the cessation of significant armed conflicts bodes well for the continent's development. However, Africa continues to face serious challenges, with a majority of these challenges

directly related or linked to armed conflict, differences in social and religious norms and practices, human rights violations, economic instability, preventable diseases and natural disasters. These challenges have together exacerbated an underreported challenge – that of refugees and internally displaced persons (IDPs). At the end of 2004, the United Nations High Commissioner for Refugees (UNHCR) estimates placed the number of refugees in Africa<sup>4</sup> at 2 748 400 – 30% of the global refugee population. Of the world's estimated 25 million IDPs, Africa was home to over half – 13 million IDPs. A daunting challenge for African nations when one takes into account that a majority of countries on the continent lag behind on most global development indicators.

Women and children make up between 75% and 80%<sup>5</sup> of refugees and IDPs. Recent reports of sexual atrocities committed by UN peacekeepers against refugees and IDPs, and the humanitarian crisis in western Sudan, have brought the plight of refugee and internally displaced

AFP/TOUCHLINE PHOTO



A Togolese refugee woman carrying her belongings on her head, in Benin

women in Africa to the forefront. This focus should be welcomed because it presents a key opportunity for the adoption and implementation of long overdue reforms specifically targeting women and girls in refugee and IDP camps. This article seeks to highlight the case of refugee and internally displaced women in Africa and argues that their protection is not only a rights issue, but given the role women can play in state reform and peace processes, the protection of women is essential to Africa's development and on a broader scale, global security. For the purposes of this article, the term displaced refers to both refugees and internally displaced persons.

### Reasons for displacement

The United Nations 1951 Convention relating to the Status of Refugees and its 1967 Protocol identifies five main characteristics that should be used to determine individual refugee status: a refugee is a person who leaves her/his country of residence to escape persecution on account of race, religion, nationality, or membership of a

particular group, or political opinion. In Africa, the 1951 Convention is complemented by the 1969 Organisation of African Unity (OAU) Convention that recognises a refugee as "every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality". However, due to a lack of capacity for individual status determination and the generosity of African nations to open their borders to large groups of people fleeing persecution, refugee eligibility in Africa is for the most part determined on a group or *prima facie* basis.

The above definitions preclude millions of people who leave their homes for the reasons cited above and for economic reasons, but seek refuge *within* their home countries. These are IDPs and unlike refugees, IDPs do not have a specific body of international law governing their protection.

Over the past years, armed conflict has been the

leading cause of displacement. Africa has experienced many protracted intra-state wars where violence against women has been used as a weapon of war. Sexual violence against women has not only been used for ethnic cleansing, but given the stigma associated with such violence, to cause the deliberate erosion of a people and their culture. Women not only flee war zones in search of food and to escape being killed, they flee to prevent abduction, rape and enforced pregnancy, sexual trafficking, and infection with sexually transmitted diseases and AIDS. They leave with their children and the elderly, and some are pregnant, disabled and victims/survivors<sup>6</sup> of sexual and gender-based violence. War does not necessarily discriminate. Displaced women come from all social backgrounds and in times of crises, their concerns are the same – that their lives and the lives of family members are protected.

### **Women as refugees and internally displaced persons**

By the end of 2004, UNHCR reported the arrival of thousands of *prima facie* refugees in Chad, Burundi, Uganda, Rwanda and Liberia. Guinea, Kenya, Tanzania and the DRC also continued to host high numbers of refugees. In Darfur, Sudan, the number of internally displaced persons as a result of genocide is estimated at 2.5 million<sup>7</sup> and in Zimbabwe, 569 685<sup>8</sup> have been affected as a result of government-sanctioned displacement.

The vast majority of displaced persons live in camps, and the quality of camps varies. For example, in a Liberian refugee camp in Buduburam, Ghana, a combination of refugee initiative and assistance from donor and humanitarian agencies has advanced the creation of necessary infrastructure to provide basic services for camp residents. However, much more needs to be done in Buduburam and in Darfur, where food supplies are limited and tree branches covered with plastic or fabric offer little protection from harsh weather conditions. Despite the structural differences in refugee and IDP camps, in situations where women are marginalised, the general nature of camp life for women tends to be the same.

Women leave their homes in search of security, only to arrive in camps and find themselves vulnerable to serious atrocities and gender-based violence. Even though they make up the majority of camp residents, women are for the most part excluded from decision-making processes; they have little say on how the camp should be set up or run, which leads to the entrenchment of camp policies that fail to address their needs and concerns. In effect,

women are not only faced with the general challenges common to refugees and IDPs such as xenophobia, limited food supply, overcrowding, boredom, limited security and a high risk of disease, they also have to deal with the gender-specific implications of these challenges.

The marginalisation of women in camps is a manifestation of cultural and social beliefs of displaced persons and humanitarian workers that perceive women as unequal to men. In some cases, local camp staff and national and foreign workers, through their operations, policies and behaviour, help to create and sustain conditions that are responsible for women's increased vulnerability. The distribution of food and supplies largely through male networks is an example of a policy premised on a misguided belief that women through their male heads of households will be provided for adequately. In many cases, women and children do not receive their fair share of supplies.

The effects of such policies are dire. A high level of poverty coupled with a need for survival makes displaced women vulnerable to exploitation. In camps across the continent, there have been reports of women and girls as young as twelve being propositioned for sex in exchange for food and necessary supplies. In Sierra Leone, Guinea, Liberia and Burundi, sexual exploitation of women and girls by peacekeepers, local and foreign humanitarian workers and other refugees, is documented as rife and a recent report by the United Nations lends credence to allegations of sexual exploitation of women and girls by UN peacekeeping troops in the DRC.

Due to a lack of security, women and girls are also vulnerable to gender-based violence as they go about their daily activities. Women are vulnerable to attacks in sleeping areas, communal latrines and washing facilities. In addition, the incidence of rape is high when women leave camps in search of water, food and firewood. Several such incidents have been reported in Chad and in Darfur where Sudanese women have been raped by Janjaweed militia and state soldiers on their way to fetch firewood. In some circumstances, refugees face detention if they leave the confines of camp for any reason; thus women in search of food or without identification documents have been placed in detention facilities where they risk being assaulted.

Such blatant violations of human rights not only leave victims with long-lasting trauma that impedes their ability

**Africa has experienced many protracted intra-state wars where violence against women has been used as a weapon of war**

to function properly, it also increases their vulnerability to sexually transmitted diseases and HIV/AIDS.

### **Recommendations for governments, the UNHCR and humanitarian agencies**

It is crucial in finding solutions to ensure the protection of displaced women, that women themselves are fairly represented at the decision-making table and their skills are incorporated in policy implementation. As with all situations, reforms that do not include the voices of those they affect stand little chance of being effective or sustainable. There can be no durable solutions for displaced women in the absence of an informed understanding of their experiences, before, during and after conflict and without due focus being given to the root causes of their displacement.

The responsibility to protect displaced persons lies with individual states and the international community. In the case of refugees, the UNHCR is specifically mandated to provide international protection for refugees and seek durable solutions<sup>9</sup> to their problems. Unfortunately, the UNHCR mandate does not extend to IDPs nor does that of any single organisation within the UN system. The United Nations has developed *Guiding Principles on Internal Displacement* which combines principles of Human Rights Law and International Humanitarian Law, but these principles are non-binding to states. There are, however, several international instruments whose specific

focus on sexual and gender-based violence applies to displaced women. An example is United Nations Security Council Resolution 1325 (2000), the first resolution of its kind to address the impact of war on women. The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, which has been

adopted by African Union Heads of State, also explicitly addresses violence against women and the marginalisation of women.

The recommendations below, many of which have already been alluded to or outlined in international law, seek to address the marginalisation of women in displaced camps and to protect displaced women from sexual and gender-based violence:

- Governments should enforce a zero-tolerance policy to sexual and gender-based violence perpetuated by, but not limited to, refugees, citizens, humanitarian



**Internally displaced Sudanese women lay bricks to build a shelter at a camp in Sudan's Darfur province**

BEATRICE MATEGWA / REUTERS / THE BIGGER PICTURE

workers, members of the armed forces and peace-keepers.

- Provide treatment and access to counselling for victims/survivors of sexual and gender-based violence and to those dealing with war-related trauma and the trauma of displacement. It is also important that women are made aware of the services available to them.
- Involve women from the outset in all decision-making processes.
- Issue individual identification documents to all women to ensure autonomous legal identity.
- Conduct awareness campaigns and programmes to encourage dialogue among camp residents on the marginalisation of women and sexual and gender-based violence.
- Increase security patrols in camp and on routes used by women to fetch water and firewood.
- Provide separate washing facilities and latrines for women and men.
- Humanitarian agencies should increase the number of female staff in their employ and provide adequate gender-sensitive training to existing staff.
- Governments should inform their citizens of the rights



AFP / TOUCHLINE PHOTO

Darfur, Sudanese refugee woman makes repairs to a makeshift wall around her tent home in Chad

of refugees to combat xenophobia.

- Governments should honour the right of displaced persons to freedom of movement.

The responsibility of the state to protect displaced persons, especially women, can not be overemphasised. The state is in a position to act as first respondent in situations where timely assistance from humanitarian agencies and the international community is lacking, and it is responsible for harmonising local law with international law. To a large extent, the attitude of host governments towards displaced persons determines how displaced persons are regarded and treated by peacekeepers, humanitarian workers and the general public.

### **The role of the African Union, sub-regional organisations and the international community in protecting displaced women**

The African Union, regional bodies such as the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), and the Intergovernmental Authority on Development (IGAD), and initiatives by the international community

have played and continue to play an important role in the protection of displaced women.

In Africa, displaced communities are seen as competition for resources that are already lacking for host communities. In the absence of aid, displaced communities face intense hardships, which, as outlined earlier, can be exacerbated for women. In this regard, aid from governments and donor agencies is crucial to enable the implementation of reforms that would decrease the vulnerability of women and benefit the displaced community at large.

The international community, with specific reference to nations contributing troops to peacekeeping operations, also has the responsibility to sensitise peacekeepers to sexual and gender-based violence and intervene appropriately in cases where sexual and gender-based violence has been reported. Timely response from the international community is critical in preventing further abuses.

Most controversial is the issue of the sovereignty of states when government agencies are responsible for violations of international human rights against their citizens. In cases such as western Sudan and Zimbabwe, where the forced displacement of large masses of people has apparently been sanctioned by government, African regional organisations and the international community have a

responsibility to intervene, hold governments accountable and support constructive change. The African Union already has peacekeeping troops stationed in Darfur, who provide a modicum of protection for IDPs. The African Union mission in Sudan would benefit greatly from international aid to boost its current capacity of 7 700 troops to better protect internally displaced persons.

### Protection against displacement

Tackling the root causes of displacement is essential to the protection of displaced women. The Millennium Declaration is the most recent global acknowledgment of the interdependency of states in furthering individual

**Women leave their homes in search of security, only to arrive in camps and find themselves vulnerable to serious atrocities and gender-based violence**

security and, as a consequence, global security. This interconnectedness is clearly evident in the case of armed conflict given its far-reaching effects beyond the borders of the area or the country where the conflict originated and is strong reason for a pooled effort by the international community to combat armed conflict.

Women have an important and necessary role to play in all phases of conflict resolution. They are an untapped resource when it comes to

early warning systems of conflict and are a reliable source on early signs of instability within their communities. The voices of women have also been shown to be a powerful force in the resolution of conflict, as was demonstrated by the Mano River Women's Peace Network, which successfully brought the heads of states of Guinea, Liberia and Sierra Leone to the peace table at a crucial stage during the regional conflict. The inclusion of women in decision-making processes and their equal participation in society is also essential to long-lasting peace in the post-conflict phase. Sustainable solutions to conflict require that the population be adequately prepared to tackle the challenges ahead. The trauma instilled in women through sexual and gender-based violence does little to help in this regard and should be prevented.

### Conclusion

The world of displaced women is one of challenges. However, displaced women continue to demonstrate resilience and try to live as "normal" a life as possible given the circumstances. Positive examples include the Saharawi women who have lived in Algeria as refugees

for almost 20 years. These women played an essential role in the running of the camps from the beginning and have made incredible strides in some aspects of their lives. The literacy rate is estimated at 90%, child mortality has decreased sharply, and Saharawi women look forward to playing an integral role in society on their return to Western Sahara. However, as much as such displaced women should be applauded for trying to create livable conditions in camps, the focus should not be lost: that of finding durable solutions – voluntary repatriation, resettlement, or local integration – for displaced persons.

The case of displaced women in Africa is an urgent one and requires an immediate response. There are numerous analyses of the plight of displaced women. What is now needed is a concerted effort and strong political will on the part of governments, donor agencies and the international community to respond swiftly and positively to the issues facing displaced women, issues that are clearly central to human security and the development of the global community. ■

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- 8 Report by Anna Tibaijuka, United Nations Special Envoy to Zimbabwe, 18 July 2005, Available at: [www.un.org/News/dh/infocus/zimbabwe/zimbabwe\\_rpt.pdf](http://www.un.org/News/dh/infocus/zimbabwe/zimbabwe_rpt.pdf) Accessed on: 12 August 2005.
- 9 The UNHCR aims to find 'durable solutions' for refugees either through voluntary repatriation, resettlement or local integration.



ANTHONY NJUGUNA / REUTERS / THE BIGGER PICTURE

CAROLINE KIHATO

FEATURE

# Transient Spaces: The Fluidity of **Urban Life** and its Impact on Governance in African Cities<sup>1</sup>

**A**s decentralisation continues, urban governments are increasingly responsible for mediating resource redistribution between groups and creating the conditions for the provision of physical and social infrastructure for their populations. Current discourse on urban governance also identifies the need for city leaders to include residents in policy decisions. This is important not only because it empowers communities to plan the future of their city, but also because it inculcates a sense of belonging and a shared future. Mass urbanisation and migration, consequently, presents a fundamental challenge to governments charged with managing an ever more diverse population and planning for highly mobile and transient communities. These challenges are particularly acute in Africa. Whereas cities elsewhere benefit from a long-standing urban population, few African cities can claim a true stable urban community. This paper argues that urban governments' inability to mediate between the needs of diverse popu-

lation groups undermines cities' abilities to promote the economic prosperity and social well-being of all city residents. This in turn creates fertile conditions for conflict, as diverse populations struggle to secure limited resources for their individual groups. Drawing primarily from experiences in Johannesburg (South Africa), this paper calls for city governments to reconceptualise the boundaries and content of their urban populations. In doing this, they should broaden their understanding of who belongs and has rights to the city. This means considering people of different nationalities, races, class, etc. as integral parts of the urban landscape. There is also a need to accept that urban populations in African cities are transient, with roots and investments outside of specific urban centres. Addressing this effectively means developing proactive ways of including urban communities in planning and decision making systems. These mechanisms provide the platform for creating more responsive urban policy that improves economic and human security for all residents.

## Urban challenges in Africa

Local governments in African cities face at least four key challenges that limit their ability to ensure the physical and material security of residents. The first is the lack of a significant long-standing urban population. In many ways, urban populations on the continent are new to cities. Until recently, African populations have remained primarily rural in their economic focus, identity and sense of belonging. Few communities substantially invest in the city, but retain primary loyalties to families and kin in small towns and villages. Cities are perceived as sites of extraction, which support investment in the rural periphery where most city dwellers eventually return.

Secondly, African cities are characterised by highly mobile populations. This transience makes it difficult for city governments to predict population trends and needs and create sustainable development strategies. Declining productivity in rural areas because of factors such as drought and environmental degradation, compounded by the agricultural failures spawned by structural adjustment programmes, has resulted in increasing migration from rural areas to the continent's cities for extended periods. Alongside this, has been a growth in the number of international migrants coming to regional urban nodes such as Lagos, Nairobi, Dakar, and Johannesburg.<sup>2</sup> Many of these are economic migrants searching to secure their

**If cities are unable to appropriately respond to the housing needs of vulnerable populations – including migrants – the consequence is overcrowding which eventually leads to decaying infrastructure and negative health consequences**

livelihoods, while others have been forced to flee from conflicts and persecution in their countries in search of physical security. Even within cities, people often continue to move regularly in search of work, more suitable housing, or better access to social services or social networks. These movements have enhanced the already remarkable levels of ethnic and linguistic diversity within the continent's cities and have contributed to growing disparities between a small, wealthy minority and a majority that can barely eke out a sustainable livelihood. If managed poorly, these

differences provide a fertile environment for conflict. This problem for local government is compounded by the fact that few African cities have adequate information-gathering capacity which would allow them to track and predict these population trends.

Thirdly, as cities' populations have grown, so too have

the responsibilities given to local government. In few cases have these added responsibilities been accompanied by sufficient human and fiscal resources. Even Africa's wealthiest cities, including Johannesburg, Durban and Cape Town, face the challenge of providing minimal social services to marginalised households. While a majority of urban dwellers in Africa live in squalid conditions without adequate shelter, or health or education facilities, the current discourse on urban governance and decentralisation expects city governments to meet more than these basic requirements.<sup>3</sup> Local states are to be 'developmental' and create enabling environments that enhance urban dwellers' abilities to optimise their social and economic potential. Cities are mandated to deepen democracy through strengthening state-society relations, promote local economic development, create conducive environments for creativity and innovation, enhance the participation of socially and economically marginalised groups in decision making, and build inclusive, equitable, sustainable cities. But these increased demands have not been met with the requisite capacity, and this situation undermines a city's ability to mitigate the negative consequences that result from the tensions between diverse groups as they pursue economic and social security in cities.

Fourthly, the inability of city government's to provide for their populations has resulted in urban residents seeking social services and economic opportunities outside the formal regulatory sphere of the state. The majority of the households in African cities draw a livelihood from the informal sector and informal networks – in Nairobi, more than 50% of households live in informal shelter and rely on the *jua kali*<sup>4</sup> sector to survive. While this illustrates the resilience and creativity of urban populations, it may potentially undermine the authority and legitimacy of the state, which is perceived as having failed to provide for and respond to the needs of urban populations. The existence of alternative centres of power further erodes the state's capacity to assert its authority over particularistic, illegal and extortionist networks, providing a fertile bed for conflict as different networks compete for the control of urban territories in a largely unregulated power vacuum. The growth of gangsterism, mafias, and vigilante justice in places like Johannesburg's inner city is but one example of patterns elsewhere on the continent.

### Strangers in the city

The constraints outlined above raise important questions





AP / TOUCHLINEPHOTO

Makeshift shops in urban areas are part of the informal trade occurring in African cities

around the added challenges that migrants place on city governments on the continent. Migrants are a particularly vulnerable group because many endure the physical and emotional trauma of having been uprooted from their homelands and having had their social networks and livelihoods disrupted, impacting generally on their well-being and ability to live 'normal' lives. Almost 10% (16.3 million people) of the world's global international migration occurs within Africa, with much of this movement taking place between the continent's cities.<sup>5</sup> A significant proportion of migration on the continent occurs outside state regulated frameworks, making migrants bureaucratically invisible and almost impossible to trace or capture in data.<sup>6</sup> Many cross-border migrants do not have legal status in their host countries, a fact that only increases their vulnerability. In Johannesburg, even refugees or other migrants who have rights and formal status are susceptible to exploitation by landlords, employers and corrupt police and government officials. Without access to legal documentation, migrants often have little choice but to seek their livelihoods (including access to shelter) through illegal or corrupt activities. It is well known that migrant syndicates bribe officials or forge documents which allow them to stay in the country. Furthermore, the job restrictions placed on migrants mean that they

are increasingly dependent on illegal/extralegal means of survival in the informal sector. The informal sector is difficult to regulate, and city governments cannot collect taxes that could be invested in service provision. In addition, the lack of regulation opens up a space for corruption, illicit trade and practices such as drug and human trafficking, which undermine the security of vulnerable populations and other residents in the city. In addition, many migrants face difficulties accessing adequate shelter because they lack legal status. This forces them into overcrowded shared accommodation, which increases health and security risks. For those migrants with children, obtaining access to education is difficult, as many institutions refuse to accept migrant children because they lack proper documentation. Migrants are also the targets of crime because they often lack access to banking services, and adequate shelter. In addition, they are often blamed for the ills of a society: unemployment, disease, stealing jobs, or stealing the local women. A statement made by the former South African Minister for Home Affairs illustrates this clearly: 'if South Africans are going to compete for scarce resources with the millions of aliens that are pouring into South Africa, then we can bid goodbye to our Reconstruction and Development Programme'.<sup>7</sup>

AFP/TOUCHLINE PHOTO



Verification of identity documents in Angola

### Consequences of the failure to address diversity in cities

Nowhere has the question around indigeneity – who belongs and has the right to claim local resources – had such widespread, enduring, and disastrous consequences as in Africa. Recent conflicts in Rwanda, Côte d’Ivoire, and Congo Brazzaville, among others, illustrate the chasms that result from exclusive discourses of citizenship and ethnicity. As Geschiere and Nyamnjoh show, day to day urban life struggles take place within a context of violence fuelled by ethnic divisions and growing xenophobia.<sup>8</sup>

While it is important to acknowledge that cities in Africa face structural problems that make it difficult to govern urban spaces, failing to grapple with issues of diversity and inclusivity will have perilous effects. These failures will not only manifest themselves in social fragmentation and greater inequality, but through the inability of urban areas to provide social and economic security to urban residents. Unproductive tensions and conflict thus risk becoming the defining characteristics of urban relationships. In the absence of trust amongst diverse populations, and between the state and society, the basis for building prosperity and developing a shared future slowly erodes resulting in a downward spiralling

cycle of poverty, disharmony, and conflict.

These consequences are not just abstract, but are already manifesting themselves in the everyday realities of city dwellers. The exclusion of any community from city development and economic programmes, along any lines, threatens the security of all city dwellers, not just of the excluded groups, for the future of all city dwellers is inextricably intertwined. If cities are unable to appropriately respond to the housing needs of vulnerable populations – including migrants – the consequence is overcrowding which eventually leads to decaying infrastructure and negative health consequences. Similarly, if some groups are excluded from accessing primary health care, cities become fertile grounds for epidemics that not only affect those communities that have no access to health care, but even those that do. The lack of access to education results in a poorly skilled population. It may also lead to an increase in crime as more and more children take to the streets, making them vulnerable to abuse, drugs and crime. The reverse is also true: as more youth grow up on the streets, they may get involved in street gangs and perpetrate crimes. Economically, exclusion restricts the ability of communities to provide for themselves through legal means, making them dependent on illegal or extralegal means of survival which city

governments cannot tax and re-invest in the city.

## Conclusion

There are no easy answers for cities facing the challenges associated with urbanisation and migration. Finding such answers means resolving how cities can address the specific needs of migrant populations or other marginalised populations in ways that ensure minimal conflict between diverse urban communities. Whether it is to address the issues of migrants or other vulnerable groups in cities, urban planning and governance responses must move beyond the illusory faith that the local state can manage urban populations without an empirically informed understanding of their nature and character. To implement more inclusive development programmes, local governments require basic demographic information on populations: births, deaths, age, residential address, livelihood strategies, etc. It is this information that facilitates health, education, service provision, and other development programmes. But this information is difficult to obtain because populations in urban Africa are neither geographically stable nor predictable – and local research bodies lack the capacity needed to track these complex dynamics. This implies that there is a need for greater empirical research on the nature of urban populations: their livelihood strategies, how they negotiate often hostile urban environments, their links to rural areas or other cities, their perceptions of their futures in the city or elsewhere, etc. In order to do this, greater collaboration between city governments and research institutions is required to develop a research agenda that begins to unpack urban Africa from an African (empirical) standpoint.

If they are to fulfil their mandate, city leaders and policy makers *must* also take responsibility for encouraging greater cohesion between diverse urban groupings. This in part requires city governments to rethink the way they understand populations in African cities. They need a re-conceptualisation of the notion of citizenship and to broaden it to include all residents in the city. Rather than excluding populations on the basis of race, class, citizenship or ethnicity, cities need to involve all groups in political and social processes in the city. Urban identity should not be focused on the differences between groups, but on a shared sense of responsibility for a common urban future. This is not to deny the existence of diverse groups and the rich contributions they make to urban culture, but to move beyond exclusive discourses by identifying common experiences, needs and futures. In order

to do this policy makers and leaders need to develop inclusive planning processes, and promote a civic culture that embraces difference yet creates the space for the interaction and engagement of different groups around collective issues. In Johannesburg, processes like Integrated Development Plans can be used as tools to forge commonality amongst diverse urban communities. In allowing all groups the possibility of participating in decision-making processes, a space emerges for the creation of a reciprocal relationship between the state and its population. This increases the potential for the development of stronger, more accountable and responsive local institutions, that are founded on a respect for human rights and dignity. Similarly, community organisations such as policing forums, residents' associations and even churches can play a significant role in inculcating a civic culture that transcends individual needs and focuses on the common good of all urban residents. By building relationships between different groups in the city, greater harmony is forged and the likelihood of conflict reduced. ▀

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## Endnotes

- 1 I would like to thank Dr. Loren Landau for his comments on an earlier draft. The usual disclaimer applies.
- 2 Simone, A.M. (2005) *For The City Yet To Come: Changing African Life In Four Cities*. Durham: Duke University Press.
- 3 Halfani, M. (1996) 'The challenge of urban governance in east Africa: Responding to an unrelenting crisis' in McCarney, P. (ed.) *Cities and Governance: New Directions in Latin America, Asia and Africa*. Toronto: Centre for Urban and Community Studies.
- 4 Translated from Swahili, this means 'under the hot sun' depicting the conditions under which informal businesses operate.
- 5 UNDESA (2004) Trends in Total Migrant Stock: The 2003 Revision. United Nations: New York. Available at: [www.un.org/esa/population/publications/migstock/2003TrendsMigstock.pdf](http://www.un.org/esa/population/publications/migstock/2003TrendsMigstock.pdf) Accessed on: 27 July 2005.
- 6 Zlotnik, H. (2003) 'Migrants' rights, forced migration and migration policy in Africa'. Paper presented at the Conference on African Migration in Comparative Perspective, Johannesburg, 4-7 June 2003; Adepoju, A. (1991) 'South- North migration: The African Experience', *International Migration*, 29(2); Gotz, G. & Landau, L. (2004) 'Introduction' in Landau, L. (ed.) *Forced Migrants in the New Johannesburg: Towards a Local Government Response*. Johannesburg: Forced Migration Studies Programme.
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- 8 Geschiere, P. & Nyanmjoh, F. (2001) 'Capitalism and Autochthony: The seesaw of mobility and belonging' in J. Comaroff, & J. Comaroff (eds.), *Millennial Capitalism and the Culture of Neoliberalism*, pp. 160-90. Durham: Duke University Press.

# FACT FILE ON PEOPLE OF CONCERN TO UNHCR

At the start of 2005, the number of people 'of concern' to UNHCR rose to 19.2 million from 17 million the previous year, an increase of 13%. The increase reflected differing patterns of movement among the various groups assisted by the agency, including refugees, civilians who have returned home but still need help, persons displaced internally within their own countries, asylum seekers and stateless people. Source for statistics www.unhcr.org

## REFUGEES

UNHCR's founding mandate defines refugees as persons who are outside their country and who cannot return owing to a well-founded fear of persecution because of their race, religion, nationality, political opinion or membership to a particular social group. Regional instruments such as the 1969 Organization of African Unity Refugee Convention and the 1984 Cartagena Declaration in Latin America expanded that mandate to include persons who have fled because of war or civil conflict. A total of 145 countries have signed the 1951 Geneva Refugee Convention and/or its 1967 Protocol and recognize persons as refugees based on the definitions contained in these and regional instruments.

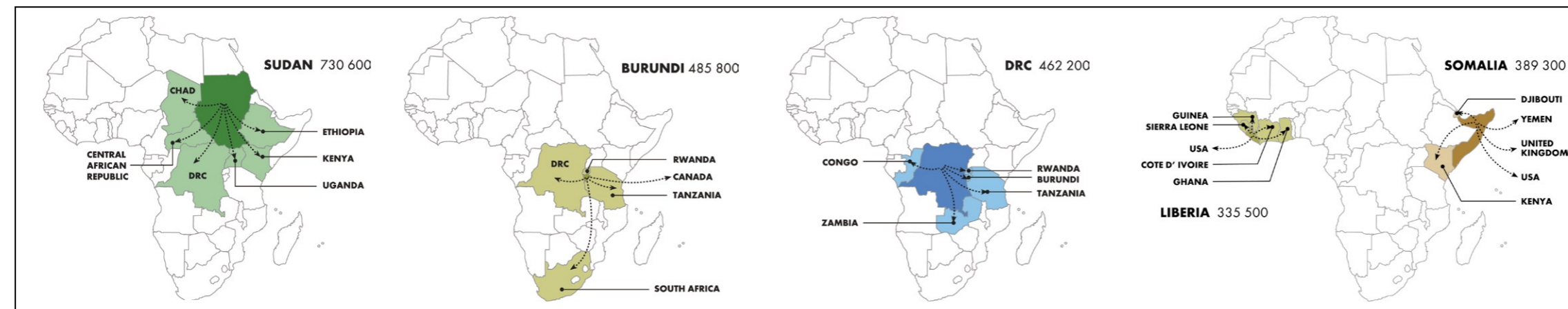
The global refugee population dropped for the fourth consecutive year during 2004, from 9.7 million to 9.2 million, the lowest in nearly a quarter century (a 4% decrease). There were other significant refugee returns to Iraq, Burundi, Angola and Liberia. New displacements totalled 232 100, the largest occurring in Sudan, where 146,900 people fled their homes. Refugees now constitute 48% of the total population 'of concern' to UNHCR.

## INTERNALLY DISPLACED PERSONS (IDPs)






IDPs are people who have been forced to flee their homes, but who have not reached a neighbouring country and therefore, unlike refugees, are not protected by international law or eligible to receive many types of aid. As the nature of war has changed in the last few decades, with more and more internal conflicts replacing inter-state wars, the number of IDPs has increased

significantly and they are now the second largest group of concern to UNHCR. There are an estimated 25 million IDPs worldwide, with major concentrations in Colombia, Sudan, Angola, Liberia, Sri Lanka, Bosnia-Herzegovina and countries of the former Soviet Union. UNHCR helps some 5.6 million of these people. UNHCR assumed responsibility for the protection of 660 000 of the 1.8 million IDPs in the war-ravaged Darfur region of Sudan.

## ORIGIN OF MAJOR REFUGEE POPULATIONS IN AFRICA IN 2004

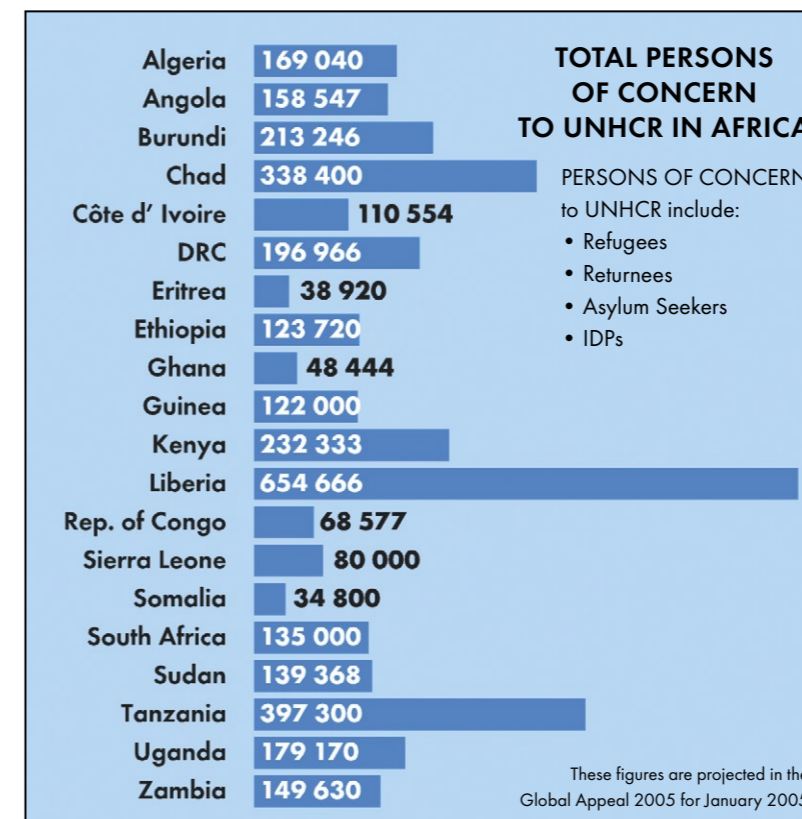


## BASIC FACTS [ as of 1 July 2005 ]

-  **263 UNHCR offices worldwide (including Headquarters) in 116 countries**
-  **6 540 UNHCR staff members (incl. short-term staff)**
-  **5 515 staff members in the field (84% of total)**
-  **1 per 2 935 = Ratio of staff members to people of concern to UNHCR**
-  **US\$ 1.35 billion = total UNHCR budget for 2005 (Total budget for 2004 was US\$ 1.23 billion)**
-  **578 NGOs working as implementing partners (605 NGOs in 2004)**

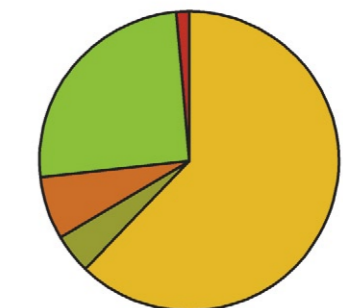
## ASYLUM SEEKERS

When people flee their own country and seek sanctuary in another state, they apply for 'asylum' – the right to be recognized as bona fide refugees and receive legal protection and material assistance. During 2004, some 676 400 people applied for asylum globally. Combined with requests still pending from previous years, the overall total awaiting a decision at the end of 2004 was 839 200. In the last five decades, several million people have been granted asylum worldwide, but in recent years the number of claims has been dropping steadily. In 38 so-called industrialized countries, for instance, the number of new asylum seekers in 2004 fell to its lowest level in 16 years.



## PERSONS OF CONCERN TO UNHCR IN AFRICA

as of January 2005



Refugees	3 022 600
Asylum Seekers	208 100
Returned Refugees	329 700
Internally Displaced	1 233 900
Stateless & Various	67 100
<b>TOTAL</b>	<b>4 861 400</b>

## RESETTLEMENT

Some refugees cannot go home or are unwilling to do so, usually because they are likely to face continued persecution. Though many nations have agreed to accept refugees on a temporary basis during the early phases of a crisis, fewer than 20 nations worldwide participate in UNHCR resettlement programmes and accept quotas of refugees on an annual basis.

Globally, the number of 'resettlement refugees' plunged precipitously following the September 11, 2001 terrorist attacks in the United States, especially in that country. But gradually, they have been rising again and in 2004 reached 83 700 – a 50% increase over the previous year. The United States and Australia, already the two largest 'receiver' countries, both recorded further significant increases. Other receiver countries include Canada, Sweden, Norway, New Zealand, Finland, Denmark, Netherlands, United Kingdom, Ireland, Chile, and Mexico.



## 'This Place is my Home'

# Mozambique Refugees

## become Citizens of South Africa

The assumption that refugees would become integrated citizens of their host countries, once unquestioned with regard to European refugees after the Second World War, has today been replaced with the assumption that they should receive only temporary protection and assistance until they can return 'home'. Many refugees do desire to return to their countries of origin as soon as possible; but what of those who cannot due to protracted conflict, or those who do not wish to, having built new lives for themselves in the host country? What makes it possible for refugees to feel at home, to become new members of a national community, to become citizens?

Understanding this process of integration is important not only for the millions of refugees around the world who are making this choice, usually far from news cameras, aid deliveries or academic researchers. It is

also important for understanding how host communities change, grow and diversify through the incorporation of new members. As stated in the 1996 Preamble of the South African Constitution, for example, this is a country which "belongs to all who live in it, united in our diversity." The case study of Mozambican refugees in South Africa presented here describes how refugees were part of South Africa's struggle to define a unified identity. It offers valuable lessons for South Africa's continued debates on refugee policy as well as for other countries.

### **From extreme marginalisation to complete integration**

In the past twenty years, Mozambican refugees in South Africa have gone from extreme marginalisation to almost complete integration. From 1984 to 1992 approximately

320 000 Mozambican refugees fled from civil war into South Africa. They were not recognised as refugees by the apartheid government of the time and were therefore denied legal protection, international aid and access to employment. Most settled in the nominally independent 'homelands' along the eastern border – KwaZulu, KaNgwane and Gazankulu – where there was some protection but where a lack of legal status meant few economic opportunities, extensive labour exploitation, and limited access to government services such as health and housing. Some braved the dangers of arrest and deportation by moving to the urban areas in search of work.<sup>1</sup>

Today, twenty years later, 200 000 former Mozambican refugees (FMR)<sup>2</sup> remain in South Africa, and an estimated 80% either have South African citizenship or permanent resident status.<sup>3</sup> Most FMR, especially those in the rural border areas, are also *de facto* integrated, meaning that their everyday experience is that of being part of the local community – without fearing physical attack or deportation, free to settle and move as they choose, able to sustain a livelihood, able to access social services such as education, health and social security, and able to socially interact and intermarry with locals.<sup>4</sup> The process has not been homogenous for all refugees: many have achieved complete assimilation to the point of becoming invisible within mainstream society, while others remain identifiable by living in isolated settlements, as well as by their lack of legal status and levels of poverty.

What has made it possible for this integration to occur over the past 20 years? Since integration is a fundamentally local process, within a broader national context, the rest of this discussion will be based on the experience of Bushbuckridge District in Mpumalanga, South Africa, on the border with Mozambique.<sup>4</sup> Part of this district was the former Shangaan-speaking 'homeland' of Gazankulu which welcomed many Shangaan-speaking refugees. Today, 30% of the current population are first- or second-generation Mozambicans.

There are four related spheres with which the refugees have been interacting in the past 20 years. First is the national political sphere, where the logic of apartheid was replaced with that of democracy. The second sphere is that of the state and its institutions, most significantly the question of legal status. Third is the community sphere in Bushbuckridge, where refugees and hosts share a history and ethnicity. Finally, there is the sphere of everyday personal interaction in the villages and towns of Bushbuckridge.

### Transition to democracy created a new political context

The integration of Mozambican refugees has been shaped by the wider political transformation of South Africa from late apartheid to the current consolidation of democracy. The apartheid state gave no recognition, protection or rights to refugees, even deporting thousands back to Mozambique during the height of the war, in contravention of international law. This made their existence in South Africa and their ability to earn a livelihood extremely precarious. On the other hand, in an ironic twist, this lack of national recognition may have inadvertently encouraged integration on three counts:

- First, it meant that no institutionalised refugee camps were established, as was increasingly the norm elsewhere in Africa in the 1980s, and that the refugees were therefore not physically separated from the general population.
- Second, it created an incentive for enterprising refugees to adopt a South African identity and documentation so as to reduce their vulnerability. This strategy was made viable by a government system which was as corrupt as it was repressive, and because the Tsonga/Shangaan language spoken by most refugees was also spoken in South Africa. While not an option for the majority of peasant refugees, many of the more educated, skilled young men, especially those with prior South African work experience in the mines or farms, used various means of becoming *de facto* citizens, although by virtue of the 'invisibility' of this process it is now virtually impossible to know how many took this route to integration.
- Third, and most significantly for the case study of Bushbuckridge, the Gazankulu government explicitly expressed its opposition to the apartheid regime by welcoming the refugees as brothers and assisting them to settle, just as the white government had welcomed white refugees from Mozambique and Rhodesia a decade earlier.

***In the past twenty years, Mozambican refugees in South Africa have gone from extreme marginalisation to almost complete integration***

The transition to democracy from the early 1990s created a completely new political context for the refugees, largely positive in the case of Bushbuckridge but with significant caveats in other parts of the country. A concrete indicator of the changing political



A Mozambican refugee woman works in a communal garden

landscape, and one often referred to by Mozambicans and South Africans in Bushbuckridge, is that the government “allowed the Mozambicans to stay” after the end of the civil war in 1992, if they so wished. Over 80% did. Mozambicans in Bushbuckridge say that the ANC’s Pan-African sentiments, expressions of solidarity with victims of a civil war escalated by the apartheid government, and especially the general spread of inclusive rights and values all contributed to making them feel welcome as members of the new nation of South Africa. Many received identity documents in advance of the 1994 elections and voted as part of that historic occasion. Specifically, former President Mandela’s statements of commitment and welcome to Africans and his later marriage to Graça Machel, herself Mozambican, are often mentioned by South Africans in Bushbuckridge – community leaders and poor residents alike – as support for why they have accepted Mozambicans as full members of their communities.

In parallel to these improvements, however, the deportation of foreigners has increased markedly since 1993, with hundreds of thousands of Mozambicans being sent across the border annually. Xenophobia in the general population is also very high. Even though deportation and xenophobic discrimination are rare in the villages of Bushbuckridge, fear severely curtails the crucial

livelihood option of labour migration to the cities for rural former Mozambican refugees even today.

### **No integration without legal status**

Legal status in the host country is one of the key conditions for successful integration. It not only represents the recognition of the host state and protection against abuse and expulsion, it also enables access to employment, services and the means to live self-sufficiently. The ambivalence of the broad political climate toward refugees and immigrants over the past 20 years, outlined above, has led to a slow and piecemeal government approach to the legal regularisation of Mozambican refugees remaining in South Africa.

After their arrival, many refugees had to wait ten years without any formal status. Formal group refugee status was

granted from 1993 to 1996 by the new South African government but this brought virtually no benefits since individuals did not receive proper documentation and could still not move or work freely. In 1995, 1996 and 1999 there were three government amnesties, for miners, SADC citizens and former Mozambican refugees respectively, which allowed over 176 500 Mozambicans to receive permanent residence status. This secured protection from deportation, access to formal employment, and rights to land, water, and electricity in formally demarcated villages. Finally, a 2004 Constitutional Court judgement extended eligibility for old age pensions and child support grants to poor permanent residents, making them distinct from citizens only in terms of political rights.

As suggested above, there are many former refugees (again the numbers are impossible to determine) who did not wait for the slow progression of government regularisation policy and who arranged documentation by other means. This included marriage to South African citizens, registration in the name of South African families, registration for documents before the 1994 elections, registration of youth through schools, and direct bribery of Home Affairs officials.

The mention of irregular acquisition of identity documents is not meant to paint the refugees as fraudsters or criminals – quite the opposite.

- First, it is very common for South African families to foster each other's children, assist each other with identity documents (which a significant number of poor South Africans also do not have) and be required to pay Home Affairs officials for services. In this sense, the actions taken by the Mozambicans are simply normal practice in Bushbuckridge.
- Secondly, most of the strategies for accessing documents have only been possible through the active assistance and acceptance of local South Africans, reflecting a reality of social integration and co-operation, rather than one of marginalisation or subversion.
- Thirdly, those who took the initiative to get documentation in the new democratic state, while first denied in the apartheid state, were to a large extent expressing their desire to become full, productive citizens of their new country, with the ability to work and settle safely.<sup>6</sup>

This is understood by the South African community leaders in Bushbuckridge, who have actively assisted former refugees to access documentation, since undocumented vulnerability is seen as pushing people towards crime. In fact, the local perception of Mozambicans as criminals has steadily decreased in parallel with the increasing ownership of documents.

Legal status is not only important in terms of economic integration and access to services. It also plays a crucial role in forming identities and expressing loyalties. My recent research on conceptions of citizenship and identity in Bushbuckridge have shown that legal documentation is consistently ranked above place of birth or parent's place of birth by both South Africans and those of Mozambican origin in determining who is a "South African".

Furthermore, all the former refugees and their grown children I have interviewed state that they want to be South African citizens, and not only permanent residents, if they do not already have citizenship. Their reasons are emotive, including wanting to raise their children here and wanting to be buried here, not based on instrumental access to services, as so often charged by government and media voices. The desire for citizenship stands in contrast to the aspirations of other immigrant groups in South Africa, such as Mozambican mine workers, among whom virtually none wish to become citizens,<sup>7</sup> emphasising the specificity of the Mozambican refugee integration experience.

Although the legal integration process for the majority of former refugees is almost complete today,

the impact of the long wait for legal status (many refugees had to wait from 1985 until 1999) can still be seen in the mostly greater poverty, lower education levels, and more limited formal employment options among former refugees. Integration is a long-term process.

### **Shangaan ethnicity bridged the gap**

The Bushbuckridge experience of national political and legal opportunities and challenges to integration has been shaped fundamentally by local social history and the construction of a shared Shangaan ethnic identity between South Africans and refugees. This identity is based on a three-hundred-year migration history spanning today's South Africa-Mozambique border, a more immediate 150 years of constant cross-border traffic, a shared language and shared cultural practices. More importantly, these connections have been consistently invoked as reasons for welcoming and integrating Mozambican refugees in Bushbuckridge, from the Gazankulu 'homeland' leadership to the village grandmother.

Furthermore, the family links which many refugees already had in Bushbuckridge were of immediate assistance in acquiring South African identity documents, accessing housing in established villages and finding employment. Social and economic participation by refugees through schools, crèches, churches, shops, traditional healing and the taxi and car repair industries has been dependent as much on social acceptance by clients and customers as on skills or capital.

Importantly, this ethnic connection has not protected the refugees from all discrimination by their hosts. Especially those without prior family connections, with no access to legal documentation, and little education were relegated to remote settlements without services. Higher under-five mortality, less infrastructure, fewer assets and lower incomes still characterise these settlements today.<sup>8</sup> While Mozambicans are rarely accused of being foreign or culturally different in Bushbuckridge, they are regularly said to be backward and dirty, thieves or witches.

These discriminatory perceptions, however, have also been fading over time, primarily because of the extensive everyday social interaction between the groups. Schools, churches, gardening collectives, community development forums and sports teams are mixed, and intermarriage

**200 000 former Mozambican refugees remain in South Africa, and an estimated 80% either have South African citizenship or permanent resident status**



is common. This interaction has clearly been facilitated by the ethnic and language connections, as well as the increased documentation, decreased vulnerability and greater economic independence of the former refugees.

**Legal status in the host country is one of the key conditions for successful integration**

Children of refugees born in South Africa, many now in their late teens, are completely socially integrated.

Also significant has been the example of specific role models, such as the headmaster of the secondary school in Xirumberumbe village who forbade all students from using

the derogatory term 'mapoti' in relation to children of Mozambican origin.

**Making citizens out of refugees**

This case study reveals that many factors are required for refugees to overcome vulnerability and marginality and become accepted and productive members of a society.

- First, Bushbuckridge illustrates that common arguments against refugee integration, such as the need to protect scarce resources, do not always hold. Land, jobs, and services are scarce in Bushbuckridge, but competition over them has not been as significant a local debate as it has been nationally. While some lament that Mozambicans are taking South African jobs on the commercial farms, more note that few South Africans would accept these jobs and that the Mozambicans have contributed greatly to the local economy overall. Similar arguments could be made for many of the jobs which refugees and immigrants carry out around the country.
- Second, Bushbuckridge shows that refugees should not be isolated from society, physically or through negative stereotyping. South Africa is already progressive in this regard with its policy of self-settlement rather than camps, although wide-spread xenophobia remains a serious barrier to integration.
- Third, legal status and documentation are fundamental to enabling self-sufficiency for refugees, reducing their vulnerability to exploitation, and signalling to the host population that they have rights. In addition, a lack of legal means to acquire documentation creates incentives to use illegal means, which is in neither the refugee's nor the state's long-term interest. In spite of greatly improved refugee rights legislation, refugees arriving in South Africa today still suffer because of the slow provision of appropriate documentation,

which continues to drive a corrupt parallel system.

- Fourth, ethnic, language and historical linkages can play an important role in facilitating integration, but they are not self-evident and require leadership to define the boundaries and values of inclusion. Thus xenophobic political rhetoric and policies currently mean that Ndebele- and Shangaan-speaking South Africans are arbitrarily harassed, arrested and sometimes deported, in contravention of their basic rights, rather than developing policies which are inclusive of refugees and migrants from neighbouring Zimbabwe or Mozambique.

This brings us to the final lesson, which is that a culture of democracy, respect for human rights and tolerance is the most important ingredient for successfully integrating refugees and citizens into a mutually beneficial society; a society which is a welcoming home for all who live in it. ▲

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**Endnotes**

- 1 Due to the lack of formal registration and the need to remain invisible to the state at the time, estimates of the total number of refugees are tentative at best and there are no reliable numbers for those who moved to the cities.
- 2 Refugee status was formally conferred by the government in 1993 and rescinded in 1996.
- 3 This estimate is based on the number of Mozambicans who received permanent resident status through a series of government amnesties in the 1990s, as well as the case work experience of the Wits Acornhoek Advice Centre in Bushbuckridge district.
- 4 See Jacobsen, K. (2001) *The Forgotten Solution: Local Integration for Refugees in Developing Countries*. Working Paper 45, New Issues in Refugee Research.
- 5 This is based on the author's ongoing research on the integration of Mozambican refugees in Bushbuckridge.
- 6 I am not suggesting that there have been no criminals among the Mozambican refugees or that there are no syndicates selling fraudulent IDs for purposes of evading the law, for instance, but this is not the profile of the vast majority of former refugees who today have citizenship papers.
- 7 See de Vletter, F.D. (1998) *Sons of Mozambique: Mozambican Miners and Post-Apartheid South Africa*. in Southern African Migration Project Migration Policy Series No. 8.
- 8 See Hargreaves, J. and Collinson, M. et al. (2004) 'Childhood mortality among former Mozambican refugees and their hosts in rural South Africa' in *International Journal of Epidemiology*, Vol. 33, pp. 1-8.



GETTY IMAGES / TOUCHLINE PHOTO

# Zambia Initiative

## Refugees are not a Burden but an Asset

*Many developing countries host refugees and many developing countries have poverty alleviation schemes. Usually these are two unrelated issues. The government of Zambia, together with the United Nations High Commissioner for Refugees (UNHCR), has generated an innovative approach to development, by connecting the refugee and poverty issues in the Zambia Initiative (ZI). Following two years of preparation ZI was launched in 2003. Today, 150 000 Angolan refugees in the Western Province are benefiting from ZI projects. Instead of constituting a burden to the country, these refugees contribute to the economic development of their host communities.*

The Zambia Initiative (ZI) is based on the concept of development of local communities alongside refugees living in the area. The ZI's approach to durable solutions for refugees is through local integration. It promotes a holistic strategy to address the immediate needs of refugee-hosting areas in the Western Province, in order to alleviate the combined effects of a food deficit, poor

infrastructure, and limited access to public services and other economic opportunities.

UNHCR has been actively assisting the government of Zambia to conceive and implement this project. It is a long-term process with the involvement of various partners and donors to create an environment conducive for refugees to become productive members of the host community, thus leading to social integration, peace, security and stability in the region.

Currently, the Zambia Initiative is being implemented in the Western Province, around the refugee settlement areas, in three districts, Kaoma, Senenga and Shang'ombo. Some 150 000 Angolan refugees<sup>1</sup> living in refugee camps and settlements in Nangweshe and Mayukwayukwa, including the spontaneously settled refugees along the border areas and in local villages surrounding the refugee camps and settlements of the Western Province, are benefiting from the Zambia Initiative.

The Zambia Initiative is incorporated in the Zambian National Development Plan, the government's Poverty Reduction Strategy and hence into the framework of the

SHIMO / UNHCR



SALIM HENRY / REUTERS / THE BIGGER PICTURE

The construction of new classrooms has been supported by the Zambia Initiative

United Nations Development Assistance Fund and its Common Country Assessment (CCA) for Zambia.

The ZI scheme is addressing one of the greatest challenges facing Zambia, as reflected by the CCA, that is, to bring about sustainable improvement in the livelihoods of the majority of the population living in absolute poverty. The ZI targets its development resources to the poor, remote and neglected areas and vulnerable groups. One of the main objectives of the ZI, which is in line with the goal of UN assistance to Zambia, is to pursue a rights-based approach to development with a special focus on poverty reduction including the reduction of gender disparities.

The ZI is an innovative and efficient development scheme where the beneficiaries themselves identify priority sectors which need to be funded. Due to this approach, the ZI has enjoyed considerable donor support. The major donors amongst others include Denmark, Japan, USA, Sweden, ECHO, UNHCR and JICA.

In spite of the above, one of the most important constraints and challenges facing the ZI is that of resource mobilisation to

fund planned activities. Also, arrangements are being finalised to expand the Zambia Initiative to the North Western Province of Zambia covering three chiefdoms, that is, Mumena with a population of 32 644, Matebo with a population of 23 742 and Mukumbi, with a population of 7 233. A total of about 20 000 refugees in Meheba

Refugee Settlement are also expected to benefit from the Zambia Initiative once it spreads out to North-West Province.

### **Food aid recipients become suppliers**

A large variety of activities have been implemented during the past two years. In the agricultural sector, 120 000 farmers (refugees and nationals) benefited from credit loans (2003/2004 season), which led to the increase of cultivated land area from 2 hectares to 2.5 hectares per farmer's household. Crop production also increased from 1.5 Mt/ha to 3.5 Mt/ha; adequate food was produced for domestic consumption and surplus sold, which earned the farmers approximately US\$32.67 per month compared to approximately US\$10.27 per month before the ZI.

For the first time, the recipients of food aid and assistance became the suppliers of food when approximately 564 Mt of the recovery maize from the farmers and local development committees (LDCs) was sold to the World Food Programme.

In addition, a total of 450 000 animals were vaccinated against Contagious Bovine Pleuropneumonia (CBPP). Prior to the interventions, farmers were losing several hundred cattle per annum. The vaccinations have slowed down the progression of CBPP. About 36 veterinary camps received solar and gas refrigerators for the preservation and storage of the necessary vaccines.

Also, about 1 200 women cattle owners were trained in food processing and were able to produce butter, cheese, peanut butter and cassava by-products for domestic consumption and commercial use.

***Instead of constituting a burden to the country, these Angolan refugees contribute to the economic development of their host communities***

## Health, education and skills for rural areas

In the health sector, the establishment of health posts in remote areas under the ZI has shortened travel distances for patients and saved a number of lives. The provision of 36 motorcycles to health centres and two ambulances to referral hospitals in Kaoma and Senanga has enabled health personnel to reach outlying villages. Furthermore, the establishment of two mother and child health (MCH) facilities, six TB laboratories and a reproductive health facility in Senanga and Shangombo districts have benefited about 13 740 persons, including refugees and their host communities.

In the education sector, 11 classrooms were constructed in remote areas of Zambia benefiting about 1 500 pupils. A total of approximately US\$71.54 was injected into the community through the purchase of bricks and labour wages for the construction of a number of schools and health posts.

In the area of capacity building, about 132 LDCs and farmers have been trained in the management of credit schemes, loans and co-operative developments.

Refugees and their host communities have been provided with adequate land for agricultural activities and a number of refugees have also been enrolled in vocational training institutions and given access to markets. Furthermore, skilled refugees such as doctors, teachers, nurses, etc. have been given work permits and free access to the government's public labour market and can gain employment like any Zambian national.

In all, the successful implementation of the ZI has allowed refugees and their host communities to become progressively less reliant on state aid or humanitarian assistance, attaining a growing degree of self-reliance and becoming able to pursue sustainable livelihoods.

## Development facilitates refugee integration

The Zambia Initiative projects result in peaceful co-existence and prevent conflicts among refugees and their host communities, leading to greater regional stability,



**Fishermen on the Zambezi – The Zambia Initiative encourages self-sustenance and economic integration**

GETTY IMAGES / TOUCHLINE PHOTO

self-reliance and ultimately local integration, as refugees are being enabled to interact with the local population economically and socially.

Economically integrated refugees contribute to the economic development of the host country (Zambia) rather than merely constituting a “burden”. Hence, the interactions between refugees and local communities make it possible for refugees to live among or alongside the host population, without discrimination or exploitation and as contributors to the development of their host communities.

In its larger scope, successful ZI projects have also been assisting UNHCR efforts in advocating improved refugee legislation, and allowing the local integration of remaining Angolan refugees and the possible inclusion of refugees in the national, provincial and district development plans and programmes. ▀

*Tamba Amara is the UNHCR Senior Durable Solutions Officer, based in Lusaka, Zambia. He is the UNHCR link between the Zambia Initiative and the Government, including other stakeholders.*

**Refugees are being enabled to interact with the local population economically and socially**

## Endnotes

<sup>1</sup> This is an approximate number due to the ongoing repatriation.



CASE STUDY

MELITA SUNJIC

# Etsha Basket Weavers Fully Integrated: **Angolan** Refugees in **Botswana**

*Botswana's prime crafts item is material proof of the integration of two cultures.*

**T**ourists visiting Botswana invariably buy some of the colourful baskets on offer in crafts shops to take home as souvenirs. Little do they know that these baskets are the material proof of one of the most successful refugee integration stories in Southern Africa. The baskets are made by women whose parents and grandparents came to the country as refugees from Angola. The women brought with them their traditional basket weaving skills and picked up the dying techniques and integrated them with the colourful patterns from Botswana's culture.

The history of the Etsha settlement in north-west Botswana dates back to 1967 when 3 300 refugees from the Hambukushu tribe in southern Angola crossed into Botswana, fleeing brutal Portuguese attacks during Angola's war of independence.

In those days Portuguese forces used to attack villages, burn the houses and take away the cattle, the goats and

even the chicken. These tactics of "scorched earth" left the Hambukushu without the means of subsistence and finally forced them to leave their territories.

Currently, the last 377 inhabitants of Etsha are receiving their Botswana identity documents. But this is only an act of paperwork that remains to be completed. The villagers have regarded themselves as Botswana citizens for a long time already, and so have the authorities.

The first arrivals in Botswana were recorded in December 1967. Reverend Wynne, a priest who worked with the refugees for many years, describes how they came in a terrible state: "They were naked except for a rough cloth covering their middle: the women had simple traditional ornaments and carried a plaited screen mat, a bundle with a few things and a water pot on their heads."

The refugees had nothing to eat but wild fruits from the bush. Emaciated and weakened by war and famine, many people died of sleeping sickness. To be able to



MELITA SUNJIC / UNHCR

**Left: Each basket sold in Etsha is unique and carries the name of the women who manufactured it .  
Centre: Etsha woman explains the patterns: 'clay pot' on the large container, 'zebra's forehead' on the small plate.  
Right: The women brought their basket weaving skills from Angola while they learned about patterns and dying in Botswana.**

survive, they were looking for work among the Bayeye people who were traditionally farming the Etsha region.

Today, the younger generation of Hambukushu in Etsha are blissfully unaware of the sufferings of their grandparents and parents. They have nice brick houses, a church and a school. Some of the men work in the mines, others are farmers, while between three and four hundred make a living with basket weaving. They belong to the area and never feel like foreigners although they know that their families immigrated from Angola.

When the Hambukushu first arrived in Botswana, they were met with a wave of overwhelming hospitality and support. In order to give the newly arrived refugees a status in Botswana, the Paramount Chief of the Batawana, Letsholathebe, adopted them as members of his tribe and allocated them land. The refugees were settled in 13 villages.

The UN launched an emergency feeding programme, providing agricultural tools and seed, while the national Red Cross helped with medicine. The Botswana Government sent an agricultural expert to train the Hambukushu on how to farm on soil and in a climate foreign to them. The District Council financed the building of a school. Literacy training for children and adults was organised.

Joint efforts assisted a desperate group of uprooted people to become the thriving community they are today. It also helped that the Hambukushu are resourceful people. They grow maize, pumpkins and watermelons and occupy themselves with brick-making, bee-keeping, and reed trading. But above all, they are known for their basket-making skills.

The elaborate baskets are made of palm fibre that is dyed with roots or bark to achieve different shades of brown, orange and cream. They sell their baskets to the Botswana Council of Churches (BCC) which in turn sells them to craft traders in Botswana and abroad. The baskets are of high quality and beautiful designs and are regarded as some of the finest pieces of craft produced in Africa. Each basket is a unique piece of art and therefore carries a tag with the name of the woman who made it. Katutu explains that the patterns have colourful names such as “running ostrich”, “zebra’s forehead”, “shield” and “clay pot”.

The integration of these former refugees in Botswana is so thorough, that the young women in the shop are not at all interested in answering questions about the past. Rather, they like to talk about the baskets that put them on the world map. They are particularly proud of the fact that one of the Etsha women represented them at an international Black Arts Festival held in 1994 in Atlanta, USA, during the Olympic Games. And while the women of Etsha are proudly showing off their famous products, the plight of the former Angolan refugees remains only a distant story of the past. ▀

**Joint efforts assisted a desperate group of uprooted people to become the thriving community they are today**

*Melita Sunjic is a Senior Public Information Officer with UNHCR. She was in charge of the UN Refugee Agency's media relations & communications in Southern Africa from 2003-2005, and has now moved on to Central Europe.*



# War and Peace in the **Sudan**

## UNHCR's Role

**S**udan's recent history has been marked by tragedy and hope – tragedy over the humanitarian crisis that has been unfolding in the western states of Darfur and hope that peace will hold in the south. A restive east, where political tensions including that between Sudan and Eritrea threaten to ignite the next Darfur, further complicates the situation.

Sudan, the largest and most diverse country in Africa, through which the life-sustaining waters of the Nile flow, is a bridge linking Saharan and sub-Saharan peoples and cultures. Endowed with largely untapped oil resources but also at odds with most members of the UN Security Council over its policy in Darfur, Sudan is likely to remain at the centre of international attention for some time to come. How the Sudan manages the volatile situation, where war and peace co-exist, will have lasting internal and regional repercussions. It is in this charged environment that the United Nations High Commissioner for Refugees (UNHCR) and other agencies and non-governmental organisations (NGOs) operate.

### **Darfur**

The raging conflict in Darfur, amply documented and now under the purview of the International Criminal

Court, had its beginning on 25 April 2003. It was then that rebels from the Sudan Liberation Movement (SLM) and Justice and Equality Movement (JEM) attacked the airport in El Fasher, North Darfur, killing military personnel and destroying government planes and helicopters. The attack, carried out in retaliation for having been excluded by the authorities in the then emerging peace deal for south Sudan with the Sudan People's Liberation Movement (SPLM), provoked a fierce response. The ensuing conflict is believed by some observers to have caused the deaths of an estimated 190 000 African Muslims and the displacement of more than 1.8 million persons, including over 200 000 refugees who fled into eastern Chad.

Arab nomad Janjaweed<sup>1</sup> militias, which sided with the government offensive, proved particularly effective not only in countering the SLM and JEM in harsh desert conditions but also in driving their presumed support base, Muslim farming communities, from their lands. In the states of North, South and West Darfur, the conflict led to the proliferation of internally displaced persons' (IDP) camps and settlements, the occupation or burning of abandoned villages and rape as a weapon to instil and perpetuate fear. The population, traumatised, became dependent on international protection, food and

material assistance. While large-scale attacks were curtailed, human rights violations continued, with little hope of a political solution despite efforts by governments, the African Union (AU) and the UN to bring the conflict to an end.

Most of the 200 000 Sudanese refugees in eastern Chad are from West Darfur. They took refuge with tribal kin and, with the co-operation of the Chadian government, are in twelve camps where they are protected and assisted by UNHCR and partner agencies and organisations. Although most refugee camps have been established or relocated inland, away from border areas to increase security, the longer-than-expected stay in an area known to be more barren than the states of Darfur has brought other challenges. The lack of water, firewood and grazing land is increasingly pitting refugees against host communities in a struggle for resources. UNHCR is making every effort to alleviate the situation by trucking in water, introducing fuel-efficient stoves and attempting conflict resolution initiatives.

Yet, given the remoteness of eastern Chad, UNHCR expenditures to protect and assist refugees are among the highest per refugee in the world. With water tables being drawn down and other refugee needs increasing, will the international community continue to fund requirements? Chad's political and economic situation is being stretched to the limit and the refugee presence is increasingly seen as adding to the vulnerability of the state. A solution has to be sought in a political settlement in Darfur that allows for the voluntary repatriation of refugees in conditions of safety and dignity.

While a political settlement to conflict is pursued, efforts to facilitate solutions for the refugees are being undertaken by UNHCR in western Sudan. To help create conditions that would allow refugees to return safely from neighbouring Chad, UNHCR increased its presence in West Darfur from September 2004. UNHCR's mandate does not automatically extend to the protection of IDPs, but in October the UN Secretary-General requested UNHCR to take responsibility for the protection and voluntary return of IDPs to their villages of origin in West Darfur. This decision allowed UNHCR to support efforts by the Secretary-General's Special Representative for Sudan to bring the humanitarian crisis under control.

From the outset of its involvement in West Darfur, UNHCR's approach has focused on helping to restore the IDPs' right to return to their homes as the principal viable solution to displacement and by extension, the conflict. While at present IDP camps and settlements provide a degree of safety due to the involvement of AU



K. MCKINSEY / UNHCR

**A Sudanese IDP woman selling food in the market**

monitors and the presence of other international agencies, it would be tragic if these sites became permanent, fuelling allegations of ethnic engineering and creating slums of marginalised persons who were previously self-sufficient farmers, albeit poor. Regrettably, security conditions do not allow for an early return.

The lack of development has accentuated the struggle for resources. Destitute nomads, forced by the encroaching Sahara desert to search for pastures, covet farmland. Some of these nomads have filled the ranks of the Janjaweed. Addressing chronic underdevelopment and desertification is part of the longer term solution for the region.

In West Darfur, UNHCR applies 'protection through presence' through regular visits to IDP settlements and remote villages. This approach has helped to stabilise the security situation. By intervening with the authorities, UNHCR, often in cooperation with the AU monitors, provides enhanced physical protection to persons of concern, particularly

***The lack of water, firewood and grazing land is increasingly pitting refugees against host communities in a struggle for resources***



those outside camps. Monitors secure identified areas until a police presence has been established, reduce the threat posed by roving militias and investigate incidents. UNHCR's protection monitoring role results in increased space and scope for other agencies to provide assistance to IDPs. UNHCR complements its protection work with targeted assistance. The Office has established centres to provide refuge to women and girls in areas of high sexual violence and is assisting IDPs and refugees who return to begin lives anew in their villages of origin. Enabling returnees to remain is a key solutions-oriented activity. UNHCR bolsters reintegration through small-scale community-based projects with shelter, water, health, education, seeds and farming tools distribution, and reconciliation projects.

UNHCR is expanding its presence in West Darfur. Seven additional offices are being established throughout the state. Political and financial support are crucial for increasing protection. However, such efforts cannot substitute for the political settlement being pursued by the AU and the government of South Africa, among others. Human rights violations continue to prevail in Darfur, making return to villages of origin unsafe. Yet, when conditions permit and IDPs can return in safety and dignity, refugees in Chad are sure to follow.

### South Sudan

In contrast to the situation in Darfur is the prospect for lasting peace in south Sudan. The Comprehensive Peace Agreement (CPA), concluded between the government of Sudan and the SPLM on 9 January 2005, augurs well for southerners. Peace should mean the end of a 21-year

conflict that caused the death of over two million persons, mainly through war-induced famine and disease, forced four million people from their homes – the largest internal displacement in the world – and prompted the flight of more than half a million refugees into seven neighbouring countries. The

CPA has been signed. How will it be consolidated through return, reintegration and reconstruction?

With improved security, barring exceptions such as the danger posed by mines, the spontaneous return of refugees to south Sudan began a year before the signing of the CPA. Returnees, mainly not registered with UNHCR, were persons living outside refugee camps in neighbouring countries. Among the spontaneous returnees, estimated at 200 000, were persons who crossed the

border on a regular basis to ascertain conditions in their villages of origin and trade. UNHCR and other agencies assisted these persons to reintegrate in their communities to the extent possible.

In the past year, UNHCR has also been strengthening its presence in south Sudan to prepare for the organised return of refugees. UNHCR has set up offices in Rumbek, Yei and Juba, and will extend its presence to Tambura, Yambio, Kajo Keji, Bor, Kapoeta, Pochalla and Damazine. These are key areas of origin or transit as refugees return to their home areas. UNHCR's preparatory activities centre on assisting persons during return and upon arrival to encourage reintegration. For some refugees, returning from lives in camps in an assisted fashion could start in the latter half of 2005.

Mine-free roads, transportation, assistance along the way and upon arrival, and safe initial reintegration of returnees are essential if return is to be durable. But UNHCR must also take into account the needs of receiving communities, many already with inadequate means to provide for their own peoples. To increase reception capacities, UNHCR, together with partner agencies, is helping to create conditions conducive for return by carrying out community-based reintegration projects in protection, health (including HIV/AIDS), education, water, sanitation, mine awareness, basic shelter, agriculture, infrastructure building and repair, reconciliation and coexistence, community services, livelihood and self-reliance, and capacity-building of local NGOs. UNHCR has complemented its staff component with emergency response teams of sectoral specialists to accelerate project implementation.

Refugees and receiving communities place the highest premium on educational opportunities. Refugees have benefited from educational services, including vocational training programmes, in their countries of asylum. Before deciding to return, they will want to see similar opportunities available in south Sudan. Receiving communities will have to accommodate additional students, many of whom are better educated than local youth. The need for trained personnel in the south is large and the knowledge with which refugees return will be an asset. But disparities may fuel tensions. A balance will have to be struck to enable both receiving communities and ex-refugees to benefit from educational and other opportunities. For its part, UNHCR is building and refurbishing 42 primary and secondary schools and a vocational training centre, and providing bicycles and other means to promote income-generating schemes so that, among other needs, teachers' salaries can be paid.

**Most of the 200 000  
Sudanese refugees  
in eastern Chad are  
from West Darfur**



H. CAUX / UNHCR

Vaccination against measles for newly arrived Darfur refugees in a camp

In preparing for the return of refugees to south Sudan, UNHCR and other agencies are in a race against time. They must put in place adequate services for communities to remain viable entities. In 2005, UNHCR's budget for repatriation and reintegration assistance is US\$ 80 million. Other UN agencies and NGOs are also making significant investments in the future of south Sudan. In April, donor countries pledged US\$ 4.5 billion in Oslo to rescue the south from the ravages of war. It is hoped that these commitments will materialise in the near future so the cross-sector efforts of UNHCR and its partner agencies will be integrated into the medium- and long-term development plans for south Sudan.

The UN Mission in Sudan (UNMIS) has asked UNHCR to, in addition to caring for returning refugees, undertake responsibility for playing a key role in co-ordinating the protection, return and reintegration of IDPs who are expected to move from northern Sudan to greater Equatoria and Blue Nile State. As many of the IDPs will be going back to areas where refugees are also returning, ensuring that similar protection and assistance standards are in place for both groups is crucial to avoid the emergence of intra-communal conflict.

Assisting communities receiving these groups takes on added meaning and urgency. To address the protection and assistance needs of IDPs as they move southwards, UNHCR is establishing a further office in Malakal.

The signing of the CPA was long awaited. As the Government of National Unity takes shape and agencies address the myriad challenges of rebuilding the south, peace remains fragile. UNHCR's responsibilities are great as it implements activities on the ground.

The paradox of war and peace in the Sudan is a reality. However, the fact that peace is part of the equation there remains hope for a resolution to the conflict in Darfur. ▀

*Milton Moreno is Operations and Policy Coordinator with UNHCR in Khartoum. UNHCR's Sudan Situation operation covers the Sudan and eight countries hosting Sudanese refugees.*

#### Endnotes

- 1 'Janjaweed' is loosely translated from the local dialect as 'devils on horseback carrying guns'.



COMMENTARY

JAMILA EL ABDELLAOUI

# Repatriation, Reintegration and Reconciliation: The Case of **Burundi**

**T**he inauguration of Mr. Pierre Nkurunziza, leader of former rebel movement National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD), as the new President of Burundi on 26 August 2005 marked the end of a major transition in the country, exactly five years after the Arusha Agreement for Peace and Reconciliation in Burundi was signed in Arusha, Tanzania. The inauguration of the new president was the result of a series of elections held between February and July 2005 under relatively peaceful circumstances.

After decades of civil war, a protracted negotiation process and a challenging implementation of the peace agreement, Burundi is finally at peace. Understandably so, it is still a fragile peace. Like any other country coming out of years of civil strife, Burundi's new government faces enormous challenges, including the repatriation and reintegration of thousands of refugees, some who have left the country as far back as 1972. This article assesses the challenges and prospects for a smooth return of

refugees in Burundi and highlights some of the efforts being made to ensure the success of this process. In so doing the article also provides an overview of how a partnership between the African Centre for the Constructive Resolution of Disputes (ACCORD) and the United Nations High Commissioner for Refugees (UNHCR) is contributing towards relatively stable process efforts in some parts of Burundi.

## **Burundian refugees and their repatriation**

Burundi is one of the smallest countries on the African continent but its people comprise the largest single refugee population in Africa.<sup>1</sup> Whilst the country has witnessed several acts of violence since gaining independence in 1962, most of the Burundian refugees fled the country during the crises of 1972 and 1993.

In April 1972, the government survived a Hutu uprising and reacted with harsh reprisals against the Hutu elite, which led to an estimated killing of more than

200 000. Around 300 000 people fled the country to neighbouring countries. Tanzania was the biggest recipient of Burundi refugees.<sup>2</sup>

In October 1993, only four months after the installation of the country's first democratically elected government, a group of army officials staged a coup d'état and killed President Ndadaye and several other high positioned officials, such as the Speaker of the National Assembly (who in the event of the President being incapacitated would have been the next in line for the highest office), Minister of Interior, and the Vice-President of the National Assembly. The putsch triggered massacres throughout the country with Hutu peasants rising up and killing their Tutsi neighbours in what was perceived as revenge attacks. Subsequently, the predominantly Tutsi army retaliated, supposedly to restore order. As a result of these violent debacles, more than 50 000 people were killed and 800 000 people, mostly Hutus, fled to the neighbouring countries of Rwanda, Democratic Republic of the Congo (Zaire at the time) and Tanzania. Additionally, 400 000 peasants belonging to the Union for National Progress (URPRONA), both Hutus and Tutsis, became internally displaced persons (IDPs). The total population of Burundi, at the time, was almost six million.<sup>3</sup>

After almost a decade of civil unrest, the security situation in most parts of the country improved as a result of the signing of several cease-fire agreements with different rebel movements in 2002 and 2003. Subsequently, UNHCR in Burundi commenced the repatriation process of the thousands of refugees from the neighbouring countries who had expressed a willingness to return. Between 2002 and 2004, UNHCR repatriated more than 200 000 Burundian refugees. The UN Agency plans to repatriate more than 150 000 refugees in 2005.<sup>4</sup>

If history is anything to go by, the preparation and the timing of the repatriation process is very important as it can affect the political stability of the country. In 1993 for example, some 50 000 refugees who fled Burundi in 1972 returned to the country after the instalment of the newly elected government. Among other things, this government has promised the right of all refugees to return and to reclaim their land. Most of this land however, was sold to soldiers by the government after the crisis in 1972 and the subsequent fleeing of thousands of refugees. However, the newly elected government was ill prepared for the repatriation and had, at the time, not dealt with the issue of land. On the one hand, it was faced with the obligation of returning land that previous governments had illegally sold to the rightful owners. On the other hand, it had to prevent a situation whereby the Tutsis would feel they

lost everything. The subsequent demonstrations by Tutsi families whose land was indeed expropriated is often mentioned as one of the causes of the crisis in 1993.<sup>5</sup>

### Reintegration

The issue of land is still a major challenge that faces post-conflict Burundi today. Burundi is one of the most densely populated countries in the world and its population is growing rapidly. Moreover, more than 90% of the population makes a living out of agricultural activities. Due to the country's weakened economy there are limited possibilities for economic development in the short-term.

The Arusha Agreement stipulates that "all refugees and/or *sinistrés*<sup>6</sup> must be able to recover their property, especially their land."<sup>7</sup> However, the Burundi Land Code of 1986 indicates that if land is owned by someone for longer than 30 years, then that person should become the legal owner of the land.<sup>8</sup> This means that many of those who left Burundi in 1972 have lost the right to reclaim their land.

As a result, the main challenge that repatriates are facing upon their return in the country are land-related. However, the reintegration of Burundian repatriates is closely linked to the recovery and ownership of the property they left behind. Otherwise, one could witness a situation whereby people are physically back in their own country but are unable to participate in the country's economic and political life. This could result in the repatriation merely being a relocation process in which refugees who returned home simply become IDP's.

### Reconciliation

Closely linked to the issue of land is that of reconciliation. As article 8k of the Arusha Agreement stipulates: "...the objective is not only the restoration of their property to returnees, but also reconciliation between the groups as well as peace in the country."<sup>9</sup> This being the case and in the spirit of the Arusha Agreement it is necessary to add 'Reconciliation' to the existing concepts of the "4R's": Repatriation, Reintegration, Rehabilitation and Reconstruction. The successful reintegration of Burundian repatriates also depends on reconciliation

***Like any other country coming out of years of civil strife, Burundi's new government faces enormous challenges, including the repatriation and reintegration of thousands of refugees, some who have left the country as far back as 1972***

between the people of Burundi.

The importance of providing people with land notwithstanding, it is equally important to restore the bond of trust between citizens. For example, people who stayed and those who left may have been on different sides of the conflict and both could have gone through different sufferings and experiences. Given the nature of the crises in the country, these divisions could be ethnic. However, other factors that could possibly contribute to the division between communities are gender, social status and the time of return and place of asylum.

Another challenge in Burundi is the damaged relationship between citizens and the state. Throughout Burundi's history, the State and the rebel movements were able to violate people's rights with impunity. Moreover, local authorities have often abused their power to expropriate land for public purposes resulting in a high number of land disputes between repatriates and local authorities. Therefore, in the phase that Burundi finds itself in presently, it is important to focus on repairing human relationships.

One important tool to deal with the issue of reconciliation in the country is the National Truth and Reconciliation Commission (NTRC) that was created by a presidential decree on 27 December 2004. Unlike in most countries, which have experienced conflicts, the injustice inflicted on the Burundi people has never been addressed formally. The NTRC has been put on hold however and it is not clear when the Commission will commence with executing its mandate.

### Partnering for reconciliation

In collaboration with the UNHCR office in Burundi, ACCORD commenced its Legal Clinic Project in 2004 by opening offices in the provinces of Bururi and Ruyigi. Bururi is struggling with many complex land disputes since most of the refugees returning to this province would have left during the crisis in 1972. Ruyigi, a province bordering Tanzania, is one of the provinces that has received the highest number of repatriates.

The revision of the abovementioned Burundi Land Code and the establishment of the NTRC are prerequisites to deal with the challenges related to repatriation and reintegration of Burundian refugees. In addition to this however, the Legal Clinic Project aims to assist the reintegration of refugees and reconciliation between Burundians by undertaking activities that provide legal assistance to beneficiaries and that inculcate a culture of non-violent transformation of conflict, and promote



ACCORD's Legal Clinic Project activities in the provinces of Bururi and Ruyigi

dialogue and reconciliation.

The Legal Clinics undertake daily missions into selected communities (and are therefore often referred to as Mobile Legal Clinics) to receive beneficiaries that are facing a variety of challenges, mostly related to land tenure. During these missions, the Legal Clinic staff provide a *sounding board* as well as legal assistance. In addition, the Legal Clinics offer a mediation service since

attempting mediation between conflicting parties is free and often quicker. The competent judicial institutions are often overwhelmed with cases and as a result cases may be heard months later thus exacerbating the frustrations of the conflicting parties. The period that the parties have to wait before their case is heard is very crucial since cases have shown that this is when the tensions are likely to heighten. In addition, the judicial institutions do not have the capacity to provide services free of charge. Thus the overall strategic objective of the Legal Clinic projects is to offer alternative dispute mechanisms to the people who are in need, not only to see justice being done but also to ensure that they can live together after their disputes have been resolved.

In addition to the daily missions, the Legal Clinics organise community level trainings and workshops in conflict management, peaceful coexistence and reconciliation. To ensure sustainability, it is important to build the capacity of local communities to deal with conflicts so that they themselves are eventually able to ensure the prevention and non-violent transformation of conflicts. The trainings and workshops furthermore provide communities with a platform to dialogue on issues related to the history and the future of the country.

The rationale behind this approach is that in order to change relationships between the people, one must start 'at the bottom' rather than enforce such change 'from above'. Furthermore, for each activity, the Project invites different sections of the communities and by interacting with each other in a 'neutral space' they would realise that they have more in common than initially perceived.

Whilst the main objective of the Project is to assist with the reintegration of Burundian refugees, it also focuses on the receiving communities. It is crucial to prevent a situation where the returning refugees are perceived to be privileged over the receiving communities. This creates a division and could result in grievances against the returnees by the receiving communities, which would hamper national reconciliation in the end. Moreover, as a result of the repatriation process, the receiving communities are likely to face challenges as well.

It is furthermore important to engage the local council of Hutu and Tutsi elders (the *Bashingantahe*) in the Project's activities. Traditionally, community conflicts were brought before a *Bashingantahe* council. However, the credibility of the institution has been weakened during the crises and approaching the *Bashingantahe* is presently not always perceived by communities as a possibility to resolve their issues. On the other hand, the core of the Institution is assisting with the peaceful resolution

of conflicts at a community level and whilst the modernisation of the institution is ongoing at different levels, it is important to recognise the importance of the Institution.

## Conclusion

The current situation in Burundi gives hope and cautious optimism that the people of Burundi are about to witness and enjoy a period of stability and peace. It is noted that the new government is faced with a number of challenges, which would require the support from different actors.

One of these challenges is to ensure that the process of repatriation proceeds smoothly and that the people of Burundi find a way of reconciling with each other. Such a smooth conduct of the process and the necessary reconciliation thereof has to begin at local or community level. It is the local population which more often than not has been at the receiving end of the conflicts, and for them to acknowledge that Burundi is changing for the better, they need to among other things, see the changes in their local environment. Thus, initiatives that aim to ensure that these communities are reconciled (such the Legal Clinic project with refugees); initiatives that make these communities realise that they are part of this route to peace in Burundi, are part of the necessary measures in order to secure the future of the country. ▀

***The successful reintegration of Burundian repatriates also depends on reconciliation between the people of Burundi***

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## Endnotes

- 1 Statistics derived from UNHCR Burundi, available at: [www.unhcr.ch](http://www.unhcr.ch)
- 2 Ould-Abdallah, A. (2000) *Burundi on the Brink 1993-1995*. Washington: United States Institute of Peace (USIP), p 24.
- 3 *Ibid*, p 37
- 4 UNHCR Operation Plan for the Repatriation and Reintegration of Burundian Refugees. January 2005 Edition.
- 5 Ould-Abdallah, A. (2000) *Burundi on the Brink 1993-1995*. Washington: United States Institute of Peace (USIP), p 35.
- 6 The Arusha Agreement for Peace and Reconciliation refers to all displaced, regrouped and dispersed persons and returnees as *sinistrés*.
- 7 Arusha Agreement for Peace and Reconciliation in Burundi. Protocol IV, Chapter 1, article 8B.
- 8 République du Burundi (1986) *Loi Portant Code Foncier du Burundi*, Titre II, Chapitre I, Section 1, Article 29
- 9 Arusha Agreement for Peace and Reconciliation in Burundi. Protocol IV, Chapter 1, article 8K.



# The **African Union's** Institutional Framework for responding to Forced Displacement in Africa

The African Union (AU) has been engaged in addressing the challenges posed by the forced displacement of African populations since the inception of the Organisation of African Unity (OAU),<sup>2</sup> on 25 May 1963, until 2002. The nature of forced displacement on the continent and the institutional responses of the continental organisation has changed over time. Historically the focus was on forced displacement as a result of anti-colonial independence struggles from Algeria to Zimbabwe. In this post-independence era forced displacement is the result of gross and systematic violations of human rights linked to armed conflict (both international and non-international)<sup>3</sup> arising from the failure to negotiate a sustainable common space for the co-existence of political, social, ethnic, economic and national differences within and between African states. From the inception of the then OAU to the establishment of the African Union<sup>4</sup>, the continental organisation

and its member states have demonstrated consistency in supporting the cause of refugees and internally displaced persons (IDPs),<sup>5</sup> at policy level and in practice.<sup>6</sup>

However, this paper is not an interrogation of the successes and challenges that the African Union has faced and experienced in addressing the enormous challenges of forced displacement in Africa in the last 40 years. It is a presentation of the evolving institutional infrastructure of the African Union geared towards addressing refugee and IDPs issues and other humanitarian priorities, under the regime ushered in by the Union in 2000. It is a survey of the transforming AU and its efforts at revitalizing the prevention and response capacity to forced displacement. As is evident from a cursory review of activities in the last four years it is a work in progress – albeit with exciting prospects. New bodies have been established and old ones are being revitalized to ensure a better response to the protection and assistance needs of

victims of forced displacement. The new responses also focus on ensuring greater state compliance with the legal framework for the protection of the rights of victims of forced displacement. We use the term “forced displacement” or “victims of forced displacement” in recognition of the continuum that exists between the situations of internally displaced persons and asylum seekers and refugees. This reality has been recognised in the literature for over a decade and has been acknowledged under the AU and other multilateral institutions, such as the United Nations and SADC among others. It is a recognition that in Africa the protection and assistance of such people is often precarious. The difference between life and death or the continued violation of one’s rights may often be determined by accident or fate, i.e. whether one crosses an international boundary. More often than not victims of forced displacement in Africa stop fleeing after obtaining protection from kinship-bound or friendly neighbouring communities, at times in another country.

### **Legal basis for the AU’s initiatives in addressing forced displacement**

The AU’s work of addressing the problem of refugees is governed by the legal architecture defined in various African legal instruments and policy decisions of the organs of the former OAU and now the AU. This legal framework has been developed over forty years of policy and practice – at times through trial and error. The framework includes, but is not limited to, ministerial declarations, resolutions, Executive Council decisions and legally binding treaties of a general and specific nature, dealing with the basic rights of refugees and other persons of concern to the AU’s humanitarian project.

At the core of the regional refugee protection regime is the 1969 OAU Convention governing the Specific Aspects of Refugee Problems in Africa (1969 OAU Refugee Convention); the 1981 African Charter on Human and Peoples Rights (1981 ACHPR) and the 1999 African Charter on the Rights and Welfare of the Child (1999 ACRWC) and related protocols.<sup>7</sup> There are numerous other AU treaties and policy decisions that either directly or indirectly govern its activities in favour of victims of forced displacement. These treaties have been developed in response to the regional specificities of refugee and human rights problems in Africa. They have also been shaped by common African conceptions and perceptions of the status and role of the individual within society and his or her obligations towards the social group from which he or she derives his or her identity. While

heavily borrowing from international (that is, European Judeo-Christian philosophical conceptions) human rights standards, Africa has consistently asserted that universal standards developed under the United Nations have to be enriched by an African culture and understanding of basic rights and protections. In most instances this has included balancing individual rights with the duties and obligations owed to society or the group. The 1969 OAU Refugee Convention has been globally acknowledged as a landmark contribution to the international refugee protection regime through its broadening of the refugee definition in response to Africa’s needs. It was a radical affirmation and expansion of the refugee definition contained in the Eurocentric 1951 United Nations Convention relating to the Status of Refugees (1951 UN Refugee Convention) and its 1967 Protocol. It subsequently influenced the development of the Cartagena Declaration – even though the latter further expanded the definition to include victims of gross human rights violations. The influence of international standards (primarily UN level) is implicit and evident in the form and substance of AU treaties in their preambular and operative provisions. The authoritative status of the 1969 OAU Refugee Convention has been reaffirmed in the almost universal adoption of it by AU member states<sup>8</sup> and it is used as the basis for national refugee legislation of many African states,<sup>9</sup> alongside the 1951 UN Refugee Convention.

The legally binding treaty basis of the AU’s activities in favour of victims of forced displacement is regularly supplemented by Executive Council decisions on specific issues. The AU is currently engaged in efforts to elaborate a legal framework making specific provision for the protection and care of IDPs.<sup>10</sup> On the anniversary of the 1969 OAU Refugee Convention, member states reaffirmed the continuing relevance of the Convention, and agreed to only supplement it with “soft” law in areas where some specific refugee protection issues may not have been foreseen.

### **Institutional context**

The primary institutional responsibility for ensuring that the member states and the various organs of the AU implement these decisions and treaties lies with the AU Commission, under the leadership of the Chairperson and

***Africa has consistently asserted that universal standards developed under the United Nations have to be enriched by an African culture and understanding of basic rights and protections***





Hundreds of thousands of refugees are returning to Rwanda after being in Zaire for more than two years

Deputy Chairperson and eight elected Commissioners. Issues of forced displacement and free movement fall under the purview of the Department of Political Affairs under which the Division of Humanitarian Affairs, Refugees and Displaced Persons is situated. The institutional responsibility for implementing the mandate for forced displacement is shared by many organs of the Union and other ad hoc arrangements aimed at bolstering the protection and assistance regime of victims of forced displacement. These organs and mechanisms include, but are not limited to, the Pan African Parliament; African Commission on Human and Peoples Rights; Economic and Social and Cultural Council; Peace and Security Council; the Permanent Representatives Committee and Sub-Committee on Refugees, Returnees and Displaced Persons; Coordinating Committee on Assistance and Protection to Refugees, Returnees and Displaced Persons; Office of the Special Representative of the African Union Commission on the Protection of Civilians in Armed Conflict; Coordinating Committee on Assistance and Protection to Refugees, Returnees and Displaced Persons; and the Division of Humanitarian Affairs, Refugees and Displaced Persons.

This institutional architecture is evolving as key organs of the AU create and elaborate on key institutions foreseen under the 2000 African Union Constitutive Act (as amended in 2003)<sup>11</sup> and the Protocol establishing the Peace and Security Council.<sup>12</sup> Whereas the elaboration and articulation of new AU institutions in the area of prevention and response to forced displacement is a work in progress, what is evident in the policies and practice is that member states are irrevocably committed to the protection of *all* victims of forced displacement, no matter the cause. This commitment is historical. It dates back to the OAU when massive resources were mobilised for the independence struggles<sup>13</sup> and the provision of educational opportunities for refugees from Southern Africa with the cooperation of key partners within the context of the Coordinating Committee on Assistance to Refugees. As already noted, AU member states continue with the practice of earmarking 2% of the regular assessed budget of the African Union for the activities of the Humanitarian Affairs, Refugees and Displaced Persons Division. This mandated budgetary provision is the definitive protection promissory note which AU member states honour every year without

fail. Granted the amount, at slightly over one million US dollars, is not large, but when viewed within the prism of the AU, with many and varied claims on its regular budget, it is evident that the member states are committed to the search for durable solutions to humanitarian concerns in Africa. Thus, amidst all the gloom engendered by the so-called Afro-pessimists who paint the African state as illegitimate and unwilling to meet its responsibilities and obligations in resolving African problems, this is testimony, if any was needed, to the commitment. This has to be seen against a background of member states that have to deal with equally bad, if not worse, humanitarian challenges within their domestic domain, yet to date not a single African state has questioned this formula. It is indeed a consistent affirmation of traditional African hospitality. The AU is currently engaged in initiatives to expand the funding base for humanitarian activities of the Commission to supplement this regular allocation – and we are convinced that this will happen within the strategic planning period 2004-2007.

The AU makes judicious use of these limited resources through regular field assessment missions involving the Permanent Representative Committee (PRC) Sub-Committee on Refugees and the AU Commission to member states. These visits are to assess compliance with key provisions of the 1969 OAU Refugee Convention. The assessment missions are undertaken with the involvement and active assistance of member states, the AU's historical partner – the United Nations High Commissioner for Refugees (UNHCR) – through its Liaison Office to the AU and their extensive network of branch offices in AU member states. Other partners include UN agencies such as the World Food Programme, UNICEF, and other international organisations, including the International Committee of the Red Cross and International Organization for Migration, as well as African NGOs and national Red Cross Societies. In 2004 the African Union provided the UNHCR with resources to supplement its efforts in providing water for refugees in Chad.<sup>14</sup> The African Humanitarian Action was also provided with resources to meet the basic health needs of IDPs in Darfur, Sudan.<sup>15</sup> In 2005 several field assessment missions were undertaken to Benin, Ghana, DRC, Uganda, Burundi, Rwanda, Sudan (both North and South) and Tanzania. In a number of instances token contributions were extended as an expression of solidarity and burden sharing with refugee and IDP hosting countries.<sup>16</sup> Following the humanitarian tragedy occasioned by the famine in Niger the AU provided the Government of Niger with a US\$1 million

grant to assist it in its response to the crisis. These acts of assistance are not an exhaustive statement on AU contributions to member states affected by humanitarian crisis. They are additional to the various acts of member states at a bilateral or sub-regional level in alleviating crisis in neighbouring countries.

To date no scientific studies have been carried out to measure the economic value (in dollar terms) of the contribution of AU member states that host refugees and internally displaced persons. Studies have focused on qualitative consequences of a refugee presence, and have highlighted and over-emphasised the cash contributions of the international partners and donor countries. This is an area that the AU will be focusing attention on as the tools for carrying out such measurements are visible in the quantification of international partners' efforts when intervening in African conflicts or humanitarian operations.

### **AU commission framework**

The AU has taken great strides in reinventing itself to meet the changing needs of African peoples and consolidating its efforts in the search for solutions to refugee problems in Africa. Through a thorough, deliberate and consultative process the AU Commission developed the mission, vision and a four-year Strategic Plan<sup>17</sup>, anchored on the Principles and Objectives of the Constitutive Act<sup>18</sup>. The principles and objectives contained in the AU's Constitutive Act form the cornerstone of the efforts of the Department of Political Affairs, and other departments, in their search for durable solutions to the problems of forced displacement. The activities of the AU Commission are cross cutting and holistic and at times involve inter-departmental coordination and collaboration. Presently, the institution is still in the process of articulating and fine-tuning the extent and scope of inter-departmental cooperation in meeting the objectives of the Union in practice, notwithstanding the fact that the Strategic Plan lays out the general framework for the articulation of such a process.

As stipulated in the Vision and Mission of the AU, 'regional integration' is a vital tool for accelerating the economic, social, cultural and political development of African countries. Integration is seen as key to the alleviation and elimination of the sources of violent

***The AU is currently engaged in efforts to elaborate a legal framework making specific provision for the protection and care of IDPs***

conflicts as well as the enlargement of national markets and harmonisation of regulatory frameworks that will help create an environment conducive to profitability of investments in the Continent. This vision and mission is anchored on the objectives of the AU Commission as stipulated in Article 3<sup>19</sup> of the AU's Constitutive Act.

From this overall AU vision and mission, the Department of Political Affairs has carved its mission statement to promote and facilitate the sustenance of democratic principles and institutions, good governance, popular participation, the rule of law, respect for human rights, within and among African countries, with a view to creating a socio-political environment that is conducive to sustainable development and the acceleration of the political and economic integration of the continent. This mission is primarily derived from the AU Objectives and Principles as stipulated in Article 3 (g)<sup>20</sup> & (h)<sup>21</sup> and article 4 (m)<sup>22</sup> & (p)<sup>23</sup> of the Constitutive Act.

From this mission statement, the Department of Political Affairs has identified the following seven objectives:

- Promoting, facilitating, coordinating and encouraging democratic principles through inter alia, the consolidation and adoption of agreements and instruments and the establishment of new democratic institutions;
- Forging a united front with the Pan African Parliament and other organs towards a common destiny for the peoples of the continent – a destiny that values respect for human rights and dignity, good governance, greater democracy, lasting prosperity and enduring peace.
- Preventing conflicts and political animosities from degenerating into abuses of people's rights in Africa.
- Advocating assistance to refugees, returnees and IDPs and their protection from environmental, natural and man-made disasters, as well as from violations of their human rights.
- Building partnerships between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion among the African people.
- Advocating the prevention and combating of corruption and promotion of accountability and transparency in the management of public affairs as well as socio-economic development on the continent through encouraging the adoption of legislative laws and harmonisation of related policies and legislation between state parties.
- Promoting a culture of peace by building the legitimacy and capacity of core political and social actors,

which include civil society organisations, human rights defenders and national institutions, to raise public awareness, expose abuses and internalise human rights norms and standards.

## **The new institutional architecture**

### ***The Peace and Security Council:***

The Peace and Security Council was established as a standing decision-making organ for the prevention, management and resolution of conflicts. The Council is a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa. The detailed objectives of the Peace and Security Council relating to addressing the humanitarian consequences of conflict or its prevention are outlined in among other provisions Articles 3; 6; 14 and 15 of the protocol.<sup>24</sup> The Council deals with grave situations such as the unconstitutional changes of government in Togo and Mauritania. In addition, the AU deployment in Sudan's Darfur region has widely been acknowledged as having stemmed the tide of killings and other gross and systematic violations of human rights by the Sudanese government-linked Janjaweed militia, which has generally been accused of committing war crimes and other egregious human rights violations against the ethnic African tribes of Darfur.<sup>25</sup>

### ***The Pan African Parliament and Economic and Social Council (ECOSOCC):***

The establishment of the Pan African Parliament<sup>26</sup> is informed by the desire to provide a common platform for the peoples of Africa and their grassroots organisations to be more involved in discussion and decision-making on the problems and challenges facing the continent. The AU Commission is in the process of forging a united front with the Parliament, towards defining a common destiny for Africa that values respect for human rights and dignity, good governance, greater functional democracy and lasting prosperity and peace. The ECOSOCC's establishment under Article 22 of the AU Constitutive Act was informed by the desire of African states to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion among our peoples. It also aims to promote continuous dialogue amongst Africans from all segments of society on issues concerning Africa and its future. The resolution of the root causes of conflict and forced

displacement is one of the key priority issues that would merit the attention of the ECOSOCC. At the time of writing the ECOSOCC had been set up under the Chairpersonship of Nobel Laureate Wangari Maathai.

**The Permanent Representative Committee (PRC) Sub-Committee on Refugees:**

This is a decision-making body of the AU. It is composed of ambassadors of the Permanent Representatives' missions in Ethiopia and of all the AU member states. It should be noted that not many PRC Sub-Committees are constituted as committees of the whole membership. This demonstrates the political commitment of all member states to the question of forced displacement on the continent. It meets at two ordinary sessions per year, but is represented by a bureau of five members who meet as regularly as is necessary.

This Sub-Committee supports the work of the Commission through providing political leadership in response to humanitarian emergencies,<sup>27</sup> conducting in-country needs assessments, followed with token assistance where funds allow, as well as sensitisation of governments and the international community to the plight of displaced persons in Africa. Given the political sensitivity with which forced displacement issues are dealt with in member states, it is indeed encouraging that most member states have been obliging in accepting OAU/AU Assessment Missions. These missions are undertaken in accordance with the supervisory provisions of the 1969 OAU Refugee Convention. The missions may properly be regarded as the precursor to the "peer review mechanism" in operation.

**The Coordinating Committee on Assistance to refugees, returnees and displaced persons:**

This is an advisory body to the PRC Sub-Committee on Assistance to Refugees, Returnees and Displaced Persons. During the anti-colonial independence struggles this Committee contributed immensely to meeting the protection and assistance needs of African refugees. However, following the final decolonisation of the continent, with South Africa's independence, the committee became dormant and was only revitalized this year in July 2005. Under the revitalization strategy and programme of action its membership is being expanded to include humanitarian and human rights organisations in the field, with a focus on African institutions, and those institutions from elsewhere with a demonstrable presence in Africa, African scholars, government institutions and committed and/or influential individuals in the humanitarian fields

including religious leaders, journalists, artists, musicians, and volunteers.

This body, when fully functional, will provide a forum and interface between the practitioners and the decision-making and policy organs. It occupies a pivotal role in policy development, because its member organisations and individuals are generally recognised as the repository of technical craft competence in the field, preventing and responding to forced displacement worldwide. It can also function as an effective vehicle for resource mobilisation and advocacy on behalf of refugees and IDPs.

**The Division of Humanitarian Affairs Refugees and Displaced Persons:**

This Division is the line operational unit of the AU Commission and acts as a Secretariat to all the organs on forced displacement matters. It facilitates the activities of these organs, the decision making, policy development and general discussion forums on matters related to forced displacements as well as coordinating the interface between the humanitarian actors and the decision-making organs of the Union. The division remains central in the coordination, documentation and liaison of the work of the AU Commission, AU Organs and other partners on matters related to forced displacements. The Commission recognises the need for a robust division and is in the process of soliciting funds to expand the division and to make it more effective and responsive to the challenges of forced displacement in a new millennium. In the current programme period (2004-2007) some of the key priorities of the division include, but are not limited to, elaborating a legal framework for the protection and assistance of IDPs; launching an inaugural annual African report on forced displacement; re-launching and institutionalising the African Humanitarian Award; expanding secondary and tertiary education opportunities for African refugees and IDPs; elaborating a free movement regime for Africa; and continued monitoring of member states' implementation of the 1960 OAU Refugee Convention. In addition, the division is focused on ensuring universal ratification and accession to the 1969 OAU Refugee Convention.

***Integration is seen as key to the alleviation and elimination of the sources of violent conflicts as well as the enlargement of national markets and harmonisation of regulatory frameworks that will help create an environment conducive to profitability of investments in the Continent***

### **The African Commission on Human and Peoples Rights (ACHPR):<sup>28</sup>**

ACHPR is the organ of the African Union mandated to ensure the promotion and protection of human and people's rights. It has recently expanded its work including the appointment of a Commissioner, Advocate Tom Bahame Nyanduga, as the Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa. The role of the Special Rapporteur is to investigate and highlight cases and incidents of human rights violations of refugees, asylum seekers and IDPs in member states. The Special Rapporteur has undertaken field missions to a number of countries to highlight the plight of victims of forced displacement. The appointment of a thematic Rapporteur also ensures that issues of forced displacement receive vertical attention at the African Commission on Human and Peoples Rights. It also ensures expert monitoring of member states' compliance with their obligations under the 1981 ACHPR and the 1969 OAU Refugee Convention.

### **The Office of the Special Representative of the Chairperson of the AU Commission on the Protection of Civilians in Armed Conflicts:**

In August 2004, the Chairperson of the AU Commission appointed a Special Representative for the Protection of Civilians in Armed Conflict, a former Prime Minister of Senegal, Madame Baye. The office has a mandate for advocacy and protection, at the highest levels, for civilians during armed conflict, in Africa. This includes speaking out against attacks on civilians, the use of child soldiers, accountability of all combatants for violations of international humanitarian law, and addressing specific issues that impact on civilians, including small arms proliferation, landmines, disarmament, demobilisation, and reintegration of ex-soldiers, sexual violence and exploitation, and HIV/AIDS.

The Special Representative profiles and advocates the protection of civilians in armed conflict with a network of external interlocutors, such as UN and civil society organisations, national focal points, media and a wide range of judicial bodies, and others. She is well positioned for advocacy with other organs of the AU, heads of states and government, leaders of regional and sub-regional bodies, and commanders of state and non-state combatant forces, for purposes of sensitisation and assessment of national protection capacity. The office has direct links to the highest level of authority on the continent.

The Office of the Special Representative is well placed to facilitate the protection of children and civilians when providing input to ongoing negotiations and mediation between armed forces. It should be noted that the office is also charged with reporting human rights abuses to the relevant AU authorities, including the African Court of Justice.

### **Partnerships:**

It has become evident that the challenges posed by forced displacement cannot be solved at the national level only, but must also be addressed at the regional, continental and international levels. This therefore requires coordination of all stakeholders at all levels. The AU Commission has been calling for partnership with relevant players at the national level including NGOs, civil society, governmental bodies; regional organisations including the regional economic communities (RECs), as well as other UN organisations, international bodies and the larger donor community. Partnerships are viewed as a key and integral part of ensuring principled and predictable responses to the problems of forced displacement. Partnerships are at the heart of the AU Commission efforts in becoming more relevant to the daily plight of displaced African peoples.

### **Conclusion**

This article has been an attempt to introduce the outside world to the key institutional infrastructure of the African Union geared towards addressing the challenges posed by forced displacement in Africa. It is an attempt to sensitise other actors, both at the regional and international level of the nascent, albeit progressive efforts, of the AU in ensuring that African peoples are the centre of its activities – regardless of their legal status – whether within their countries or as victims of conflict and forcibly displaced. It has also sought to demonstrate that despite limited resources there is political and financial commitment on the part of the AU and its member states to meet the protection and assistance needs of victims of forced displacement in collaboration with our historical partners such as UNHCR and other agencies and partners. In addition, there is a recognition that while the political will is evident, a lot more needs to be done in terms of ensuring compliance with the relevant instruments. Most important is the recognition of the nexus between forced displacement, armed conflict and human rights violations. Of necessity this admission demands that all organs

and mechanisms of the AU work in unison in seeking to address these problems, in partnership with similarly concerned organisations, in a coalition of the willing. In conclusion, we do recognise that the enterprise that the AU is engaged in is long term and will require the mobilisation of significant human and financial resources, in order to ensure better protection and lasting solutions to refugee and IDPs problems in Africa. ▀

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## Endnotes

- 1 The opinions expressed in this article are solely those of the authors and do not necessarily represent those of the African Union Commission or the African Union.
- 2 According to latest available information in the period 1963 until 2002 the OAU/African Union adopted the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; Four (4) Resolutions and Decisions adopted at the level of OAU/AU Assembly of Heads of State and Government; Seventy-five (75) Resolutions and Decisions adopted at the level of the Council of Ministers and Nineteen (19) Declarations, Recommendations and Plans of Action adopted by different conferences.
- 3 International and non-international armed conflict as defined under the 1949 Geneva Conventions and their 1977 Additional Protocols.
- 4 African Union established in 2000 at the Summit in Lusaka, Zambia, following the OAU Heads of States and Government Sirte Declaration of 9 September 1999 .
- 5 During its lifetime the OAU adopted the 1969 OAU Convention governing the specific aspects of refugee problems in Africa and over – policy decisions by the Executive Council and at Summit level (Assembly of Heads of States and Government) dealing with issues of refugees and IDPs.
- 6 Mandating two percent of the regular assessed budget to the work of the then OAU Bureau for Refugees and Commission for Refugees and then carried over under the AU to the successor Division of Humanitarian Affairs, Refugees and Displaced Persons and the Permanent Representatives (Ambassadors) Committee Sub-Committee on Refugees, Returnees and Displaced Persons.
- 7 1998 Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union, 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003 Protocol of the Court of Justice of the African Union among others, c
- 8 To date only eight (8) AU Member States have not yet ratified or acceded to the 1969 OAU Refugee Convention, and a programme of encouraging their accession is in the plan of work of the Commissioner for Political Affairs.
- 9 Zimbabwe Refugee Act, 1983; Liberia Refugee Act 1993; Tanzania Refugee Act, 1998;
- 10 African Union Executive Council Decision EX.CL/197(V) of July 2005 at Sirte, Libya.
- 11 Article 20bis of the Constitutive Act as amended by the Protocol on Amendments to the Constitutive Act of the African Union Article 9 making provision for the establishment of the Peace and Security Council
- 12 Articles # 3; 6; 14 and 15 among others of the 2002 Protocol relating to the establishment of the Peace and Security Council of the African Union.
- 13 OAU Liberation Support Committee
- 14 African Union Contribution of US\$60 000.00 for drilling of boreholes for Sudanese refugees from Darfur, Sudan
- 15 African Humanitarian Action was given US\$200 000.00 which kick started its programme in North Darfur.
- 16 Benin and Ghana where each given US\$30 000.00 following the influx of Togolese refugees; the Uganda red Cross Society was given US\$150 000.00 through the Ugandan Government's First Deputy Prime Minister for the provision of water, shelter, sanitation and activities for the prevention and response to sexual and gender based violence in its programme with IDPs generated from the conflict in Northern Uganda.
- 17 Commission of the African Union, ' Vision and Mission of the African Union Volume 1' (May 2004)
- 18 Organization of the African Unity, ' Constitutive Act of the African Union' (11th July 2000)
- 19 Quote (a) *achieve greater unity and solidarity between the African countries and the peoples of Africa;* (b) *accelerate the political and socio-economic integration of the continent;*
- 20 Quote (g) *promote democratic principles and institutions, popular participation and good governance;*
- 21 Quote (h) *promote and protect human and peoples' rights in accordance with the African Charter on human and peoples' rights and other relevant human rights instruments;*
- 22 Quote (m) *respect the democratic principles, human rights, the rule of law and good governance;*
- 23 Quote (p) *condemnation and rejection of unconstitutional changes of governments;*
- 24 2002 Protocol relating to the establishment of the Peace and Security Council of the African Union.
- 25 Leading to the referral of the situation in Darfur by the UN Security Council to the International Criminal Court – UN Security Council Resolution 1593, which also called on the African Union to cooperate with the ICC as it carries out its work.
- 26 Article 17 of the AU Constitutive Act and the Protocol to the Treaty establishing the African Economic Community relating to the Pan African Parliament.
- 27 For example when there was an influx of Togolese refugees to Ghana and Benin following the Presidential Elections in Togo the PRC Sub-Committee called for and undertook an urgent mission to assess the situation in the two countries. As a result some token contribution was extended to the two governments to assist them to meet their obligations towards Togolese refugees under the 1969 OAU Convention.
- 28 Established under Article 30 of the 1981 African Charter on Human and Peoples Rights.

# Human Cargo - Journeys Among Refugees

**Author:** Caroline Moorehead

**Publisher:** Chatto & Windus

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**324 pages**

Caroline Moorehead has been a journalist covering human rights issues for more than twenty years. In this capacity, she heard hundreds of refugee stories from all over the globe, some tragic, some with a happy ending, but all of them charged with emotions and human suffering.

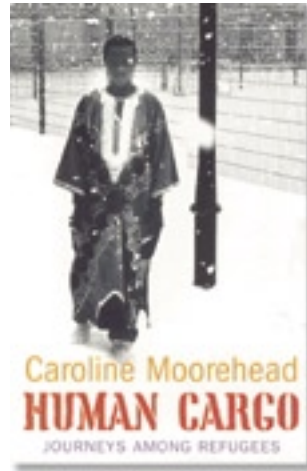
Moorehead captures the essence of her book in these words: “a record of what happens to people when their lives spiral out of control into horror and loss, of the lengths they will go in order to survive, of the extraordinary resilience of ordinary men, women and children when having to accept the unacceptable, and also an account of how the modern world is dealing with exoduses that far exceed in complexity and distance anything the world has known before.”

Today, this flow of modern-day nomads is mixed. There are refugees, defined by the 1951 Geneva Convention as persons who were forced to leave their countries because of a “well-founded fear of persecution” based on their race, religion, nationality, political opinion or membership in a particular social group, and who cannot or do not want to return home. The other group are migrants, legal or illegal. They are persons who voluntarily decide to leave their home country in search of work, to join family or to study.

The two categories are often confused, yet the distinction is a crucial one. Refugees are entitled to asylum, which is a special protection status granting them legal residence and safeguarding them from being forcibly returned to the country where they face persecution. Migrants do not have these kinds of privileges.

Although the book carries the word Refugees in its title, it not only deals with ‘legitimate’ refugees but also with people who claim to be refugees. Caroline Moorehead “started with no preconceived ideas, beyond the recognition that among the asylum seekers there are certainly people who have no history of persecution, and that not everything said to her would be true”.

Each refugee’s fate is an individual one, full of very personal and intimate experiences. Yet there are things that



all refugees have in common, the phases they experience, the manner in which they are dealt with by authorities and even the emotions they endure. Hence the chapters of the book are very aptly named Leaving, Arriving, Afterwards, and A Mode of Being, in that sequence. Although, in her foreword, the author claims that she did not attempt to cover all parts of the world, she in fact does so. By including all continents and carefully choosing her topics, the pieces of the puzzle, in the end, give a complete picture of contemporary refugee issues.

There are the horrors of people crossing from North Africa to Sicily on small, inadequate boats. There is the infamous fence between Mexico and the USA, stemming an ever-increasing flow of poverty-stricken migrants. Moorehead covers life in African refugee camps, as well as the hopeless refugee lives of Palestinians that continue generation upon generation.

But the author also records the happy endings of those who finally return home, or those who have resettled and started new lives in strange countries.

Through refugee’s stories, Moorehead also explains the system of those who take care of refugees: the authorities, aid organisations and, last but not least, the UNHCR. She does not embellish anything. Dealing with refugees is emotionally demanding. Only few manage to keep the right balance between empathy and professional detachment. The author describes them all: the hard-hearted bureaucrats, the ones who take advantage of refugees, and the professional, committed humanitarians who do their best to bring relief and protection. She also illustrates the difficulties these agencies are confronted with, such as dangerous environments, uncooperative governments and financial restrictions.

In all, *Human Cargo* is reality television for readers. The stories are thrilling and compelling, full of human drama and emotions – but all of them as true as life. By giving names, voices and faces to refugees’ fates, the author almost stealthily manages to inform readers about the state of the world’s refugees and to explain the political, security and humanitarian implications in refugee policies, without ever boring them. It is a highly educational page turner, and an illuminating read. ▀