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# Ten Years After the Rwanda Exodus

Assessing Refugee Protection in the Great Lakes

Summary Report of the Conference held in Kampala, Uganda

April 14-16, 2004

in collaboration with

**the International Refugee Rights Initiative**

**African NGO Refugee Protection Network**

**Centre for the Study of Forced Migration, University of Dar Es Salaam, Tanzania**

**Refugee Law Project, Makerere University, Uganda**

**Refugee Consortium of Kenya, Kenya**

## **About Us**

For the past quarter century, Human Rights First (the new name of Lawyers Committee for Human Rights) has worked in the United States and abroad to create a secure and humane world by advancing justice, human dignity and respect for the rule of law. We support human rights activists who fight for basic freedoms and peaceful change at the local level; protect refugees in flight from persecution and repression; help build a strong international system of justice and accountability; and make sure human rights laws and principles are enforced in the United States and abroad. Michael Posner is the Executive Director of Human Rights First.

## **About the International Refugee Rights Initiative**

The International Refugee Rights Initiative (IRRI) works to enhance the protection of the rights of those who are forced to flee their homes worldwide. IRRI grounds its research and advocacy in the rights accorded to the displaced in international human rights instruments, and strives to make these guarantee effective in the communities where the displaced and their hosts live. Based in New York and Kampala, IRRI acts as a bridge between local advocates and the international community, enabling local knowledge to infuse international developments and helping local advocates explore the implications of global policy in their work at home.

IRRI was founded in June 2004 by the staff of the former International Refugee Program of Human Rights First and builds on the expertise and partnerships created by Human Rights First through its work on international refugee law and policy.

## **Acknowledgements**

This report was written by Déirdre Clancy and edited by Olivia Bueno, Dismas Nkunda and Michael McClintock. It summarizes the presentations and deliberations of a two day conference held in Kampala, Uganda April 14-16, 2004.

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**Human Rights First**  
333 Seventh Avenue, 13<sup>th</sup> Floor  
New York, NY 10001

Tel: (212) 845-5200  
Fax: (212) 845-5299  
[www.HumanRightsFirst.org](http://www.HumanRightsFirst.org)

and from

the **International Refugee Rights Initiative**

E-mail: [info@refugee-rights.org](mailto:info@refugee-rights.org)

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## THE CONFERENCE WAS ORGANIZED IN COLLABORATION WITH:



### **African NGO Refugee Protection Network**

The African NGO Refugee Protection Network (ANRPN) brings together non-state actors in the field of refugee protection to foster a culture of support and collaboration, with a view to strengthening the protection of refugees and internally displaced persons, primarily in the Great Lakes region, but in close conjunction with other African networks. Pamela Reynell is the Coordinator of ANRPN.



### **Centre for the Study of Forced Migration**

The Centre for the Study of Forced Migration (CSFM), established in 1995, is situated at the Faculty of Law, University of Dar Es Salaam. The Centre is multidisciplinary in character and draws members from the Faculties of Law, Arts and Social Sciences, and the Institute of Development Studies. Among the activities of the Centre are research, teaching, curricula development and preparation of teaching aids and materials, service delivery/outreach, and dissemination of humanitarian law. CSFM also plays an advisory role to government and lobbies for appropriate law reform on issues relating to forced migration. Dr. Khoti Kamanga is the Director of the Centre.



### **Refugee Consortium of Kenya**

The Refugee Consortium of Kenya (RCK) is a human rights organization whose objective is to promote refugee welfare in Kenya and in the greater East African region. In its advocacy role RCK works through its programs to educate, raise public awareness, make interventions and articulate refugee concerns, in order to encourage the development of policies that are sensitive to the vulnerable situation of refugees. It champions the cause of refugees through extensive local, regional and international networking and collaboration. Judy Wakahiu is the Director of the Refugee Consortium of Kenya.



### **Refugee Law Project, Makerere University, Uganda**

The Refugee Law Project (RLP), an autonomous project of the Faculty of Law, Makerere University in Kampala, Uganda, was established in November 1999 with a mandate to protect and promote refugees' rights in Uganda. The RLP works through three symbiotically related programs: a research and advocacy program which seeks to raise the profile and awareness of refugee law and related issues among stakeholders and civil society; a legal aid and counseling department which provides free legal advice and representation to refugees and asylum seekers; and an education and training department which trains government officials, practitioners in the field and other interested parties, in human rights and refugee law and related issues. Zachary Lomo is the Director of the RLP.



## Table of Contents

<b>I. Introduction and Background to the Conference</b> .....	<b>1</b>
<b>II. The Opening Session: Refugee Protection in the Aftermath of the Rwandan Genocide</b> —an Overview of Key Trends .....	<b>3</b>
<b>III. Summary of Working Group Discussions</b> .....	<b>13</b>
A. Going Home .....	13
B. The Calculations of Security .....	15
C. Resettlement and Durable Solutions .....	18
D. Refugee Social and Economic Rights .....	19
E. UNHCR and NGO Partnerships for Protection .....	22
<b>IV. The New “Solutions”</b> .....	<b>27</b>
<b>V. Beyond States: The Responsibility of Civil Society and Regional and International Actors</b> ...	<b>31</b>
A. The Role of Local NGOs .....	31
B. The Place of Regional Arrangements in Refugee Protection .....	32
C. The International Community .....	33
<b>VI. Conclusions and Recommendations</b> .....	<b>37</b>
<b>Appendix I: Opening Address, Minister of State for Disaster Preparedness and Refugees,</b> <b>Uganda, Hon. Amongin Christine Aporu</b> .....	<b>45</b>
<b>Appendix II: Conference Agenda</b> .....	<b>47</b>
<b>Appendix III: List of Participants</b> .....	<b>51</b>



## I. Introduction and Background to the Conference

In November 2003 a group of refugee protection advocates came together at a workshop on forced migration and human rights in Sierra Leone.<sup>1</sup> Seizing the opportunity to discuss developments in the Great Lakes region, the group identified a number of worrying trends in refugee protection policy and practice. Ten years after the Rwandan genocide, as protracted conflict in the region continued to force the displacement of millions from their homes, there were indications that fatigue was setting in among refugee-hosting communities. Aid contributions to hard-pressed states grappling to protect and assist refugees in an increasingly difficult environment had diminished and the international community was moving to focus its energies elsewhere. Even the authority of the United Nations High Commissioner for Refugees (UNHCR) seemed to be in question in the region as calls for refugees to “go home” grew ever more strident and incidents of forced return were on the rise.

At the same time the group recognized that new opportunities were emerging in the region for moving policy and practice in a positive direction. Conflict in the region was—for a time—abating through negotiated peace settlements in the Democratic Republic of Congo (DRC), Burundi and Sudan. New refugee rights legislation was under consideration in Uganda and Kenya. At the international level, states in the region were engaged in preparations for a major international conference which would focus on developing an integrated approach to fostering peace, security and development in the Great Lakes region.<sup>2</sup> In order for NGOs to be able mount an effective response and learn from the changing protection environment, the group felt there was a need to carry out a more comprehensive stocktaking. This assessment of the state of protection in the region would form the basis for a new advocacy and research agenda.

It was proposed to convene a conference on refugee protection which would bring together both local and internationally based non-governmental organizations (NGOs) in the region. The conference would focus on identifying the challenges facing refugee protection in the Great Lakes in the light of the lessons learned from response to the outflow of refugees from Rwanda in 1994 and its aftermath. Recommendations would be developed for how states and NGOs

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<sup>1</sup> The workshop was organized by the Social Science Research Council, New York.

<sup>2</sup> The idea of holding an international conference on the Great Lakes had been discussed within the framework of the Organisation of African Unity (OAU) since 1995 and finally endorsed by the U.N. in 2000 with a call by the Security Council for the convening of an International Conference on Peace, Security, Democracy and Development in the Great Lakes Region under the joint auspices of the A.U. and the U.N.

could contribute to improving the practice and policy of refuge protection in the region. In particular it was hoped that practical strategies for enhancing protection could be identified as a contribution to the deliberations of the International Conference on Peace, Security and Democracy in the Great Lakes Region (hereafter “the International Conference”) scheduled to take place in November 2004.

On April 14-16, 2004 representatives of NGOs and experts from Senegal, Switzerland, the United States, the United Kingdom and eight countries in the Great Lakes region gathered in Kampala in Uganda in collaboration with representatives of UNHCR for a two-and-a-half-day conference.<sup>3</sup>

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<sup>3</sup> The conference opening statement, participants list and agenda are attached respectively at Appendix I, II and III of this report.

## **II. The Opening Session: Refugee Protection in the Aftermath of the Rwandan Genocide—An Overview of Key Trends**

Speakers acknowledged that the opportunity to dialogue on the future of refugee protection in the Great Lakes region and to identify practical strategies for action, came at a particularly apposite time. Steps were being taken towards a more permanent peace in some parts of the region after many years of conflict and thousands of refugees were poised to consider the possibility of returning home. Preparations for the International Conference had also created an expectation that a more coordinated and sustained approach would be found for tackling the region's considerable human rights and humanitarian challenges.

Notwithstanding these clearly positive political developments, participants recognized at the same time that instability and conflict continued to wrack the region and violation of the most basic rights of refugees was rampant. Access by refugees to physical security, health, shelter and humanitarian assistance in many countries was severely compromised and the political context within which advocates worked on the ground remained complex and difficult. In turn, the very presence of, and response to, refugees was a factor which had acutely affected relationships between states, particularly contributing to prolonged cycles of conflict in the region. Among the key challenges facing refugees and those working to enhance the protection of their rights in the Great Lakes region were:

- Lack of access to populations in need;
- Widespread gender-based violence and discrimination;
- Inadequate security for displaced populations and humanitarian staff;
- Ineffective and insufficient disarmament and reintegration of former combatants;
- Violation of the principle of voluntary refugee return.

As the overview of the current state of refugee protection began it was suggested that three core questions be kept in mind during the deliberations:

- What could be done to encourage adherence to the refugee protection standards which had been agreed by states in the region?
- What were the processes which needed to be triggered to ensure success?
- How could progress be measured?

It was urged also that debate throughout the working groups and plenary reflections be focused on developing *practical* suggestions which could be incorporated into a plan of action for consideration by the International Conference.

## Looking Back

Identifying the roadmap for tackling the current challenges began with a look backwards. What lessons for improving refugee protection in the region could be gleaned from an analysis of the response to the Rwanda exodus both within the region and internationally? Dr. Bonaventure Rutinwa presented the keynote address on the topic entitled, “The Legacy of the 1994 Rwanda Refugee Exodus on the Refugee Protection Regime in the Great Lakes Region.” A panel of experts and representatives of NGOs and UNHCR responded to the paper, sparking the plenary discussion which followed.<sup>4</sup>

The Rwandan exodus had created an enormous challenge—a forced movement of population without precedent in terms of scale, rapidity, and geographical concentration. In addition to the over the two million refugees forced to flee Rwanda, at one point over two thirds of those who remained were internally displaced. States in the region assisted by the international community did manage to provide protection to hundreds of thousands of refugees. But the extraordinary circumstances of the outflow created severe difficulties for both refugees and those who were charged with responding to their plight.

## Security and Accountability

Even before the Rwanda emergency, all of the countries in the region had been either hosts to, or generators of, refugees and the “open door” policy which had been the reputed hallmark of Great Lakes policy was clearly already under strain. In addition to the overwhelming numbers of displaced, complicating the humanitarian response was the fact that among the arriving population were armed fighters and those who had committed atrocities in Rwanda and elsewhere. The very movement of refugees itself was open therefore to strategic exploitation by those intent on further crimes and warfare. Two major questions immediately faced those grappling with the mix of refugees, rebels and *genocidaires* who fled out from Rwanda in 1994:

- How could the physical security of refugees and aid workers be ensured in the context of effective control of camps by abusive armed militia and the perception of the refugee as a “threat”?
- How could the need to immediately provide protection and assistance to hundreds of thousands of refugees arriving *en masse* be reconciled with the obligation to exclude those individuals who had committed serious crimes (the refugee law requirement of exclusion)?

Providing protection in this context was an almost impossible task for humanitarian actors had no military backing, political clout, or mandate to act forcefully. A number of attempts were made to safeguard the refugee camps and provide basic security. Ultimately, however, states in

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<sup>4</sup> The panel of experts was comprised of Wairimu Karago, Regional Coordinator, Great Lakes Operation, UNHCR, Judy Wakahiu, Executive Director, Refugee Consortium of Kenya, Professor Joseph Oloka-Onyango, Faculty of Law, Makerere University, and Honorable Norbert Mao, Chairman, AMANI Group. See Appendix III for full affiliations.

the region and the international community appeared to have concluded that the financial and political costs and the risks to personnel involved in a comprehensive effort to separate armed elements and others intent on distorting the civilian nature of the camps were too great. The result was the deaths of thousands of refugees and a perversion of the humanitarian function.

Ten years on participants acknowledged that effective mechanisms were still not in place to deal with the kind of security questions posed by the Rwanda outflow—either in the Great Lakes or beyond. Certainly, an insistence on the positioning of camps at a reasonable distance from the border—as required by African refugee law—did go some way towards achieving greater safety. In practice, however, the political interests which underlay the militarization of camps were extremely hard to tackle through humanitarian channels. Despite the fact that the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 OAU Convention)<sup>5</sup> specifically provided both that granting asylum to refugees should be considered a purely humanitarian act, and that refugees should not be permitted to engage in “subversive” activities, refugees continued to be viewed as political and military currency.

### Humanitarian Provision

Prior to the Rwanda emergency the delivery of humanitarian assistance in the region had operated in a tripartite manner through joint operations between UNHCR, government, and international and local civil society partners. The flight of millions of Rwandans had triggered a massive influx of international NGOs into the region of various character and capacities and local organizations had initially been marginalized in the melee. Eventually, international NGOs did integrate local staff components in their operations and regional humanitarian assistance capacity began to benefit. Participants noted that in parallel with the re-building of local capacity in the wake of the Rwanda emergency had also come an improvement in contingency planning. The tragic death of over 50,000 refugees in Goma from cholera and other diseases in the first weeks of the Rwandan refugee exodus was unlikely to be repeated. It was seen as important that support for local humanitarian capacity be sustained.

### Violation of the Principle of Non-Refoulement

In the early days of the outflow from Rwanda in 1994 states in the region had responded by opening their doors to those fleeing the turmoil. As they came under increasing pressure, however, border closures and the forced return of hundreds of thousands had ensued. Since then, it was noted that repatriation had in many respects become the preferred solution in the region, with instances of forced return of refugees amounting to violation of the principle of non-refoulement being reported. States in the region continued to cite a number of key challenges as complicating their ability to provide asylum to refugees, including:

- The security and political implications, real or perceived, of hosting refugee groups;
- The negative impact of the presence of refugees, real or perceived, on the environment and on the economic health of refugee hosting areas;

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<sup>5</sup> OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa, 1001 U.N.T.S. 45, *entered into force* June 20, 1974.

- Insufficient material and other resource support from the international community.

There was some suggestion, in fact, that forced return—whether directly or indirectly—was again on the increase in the region as a way of managing refugee populations.

## Refugee Social and Economic Rights

Some participants noted that “encouraging” refugee repatriation in the region had not only taken the form of direct action forcing refugees back across the border. The denial of socio-economic rights to refugees—with a view to making their daily lives in exile more difficult—had been a hallmark of policy at various times and in different countries in the region since 1994. Such measures had included ration cuts and restrictions in refugee freedom of movement and employment—an approach deemed acceptable to various extents by both states and international institutions.

Conversely, it was noted at the same time that parallel innovations in refugee policy by states and UNHCR in the region had focused on helping refugees reduce their reliance on humanitarian assistance, and had taken integrated approaches to provision of services to, and the development of, host and refugee communities. The Uganda Self-Reliance Strategy and the Zambia Initiative were particularly cited. Quantification of the success of these programs was, however, a matter of controversy. It was felt by some, for example, that the concept of self-reliance employed in these schemes had focused over-exclusively on farming and related options. A more rights-oriented approach would have seen the policy adapted to allow refugees access to a wider range of employment options—thus drawing upon the full complement of their skills and capacities.

One of the central questions which was identified as requiring further study (especially in the light of the Ugandan and Zambian experiences) was to what extent humanitarian and protection responses to refugee situations could be fashioned for use as catalysts for the development of both refugee and host communities. It was recalled by some that refugees were generally hosted in peripheral areas, where nationals themselves might not always have secured the means to meet their basic human needs.

## Who was Responsible?

Although states are primarily responsible for the protection of refugees on their territory, it was acknowledged that finding long term solutions to the plight of refugees in the region required coordinated regional *and* international effort by a variety of actors. The Rwanda emergency, both in terms of its root causes and its mushrooming aftermath, clearly required—and did not receive—such sufficient comprehensive attention.

It was recognized by participants that it was sometimes difficult to identify the point at which the international community should be required to step in and assume responsibility for sharing the “burden” of protection with a hard-pressed host state. It was clear, however, that this must be well before a refugee situation completely overwhelmed infrastructure and capacity as it did in Tanzania and the then Zaire in 1996. Ideally, the international community as a whole should be engaged from the beginning in a coordinated response to crises. It was emphasized, however,

that UNHCR alone should not be required to shoulder the full responsibility of the international community.

For future crises a matrix of responses needed to be developed, including providing strong support for UNHCR's mandate, grappling decisively with the political dimensions of the emergency in the early stages, and structuring in support for long term re-building of state capacity. UNHCR, for example, had been utterly overburdened and ill-equipped to deal with the complex security challenges faced in camps in Goma in 1996—and was not the appropriate agency to be charged with doing so. The U.N. Security Council's eventual assumption of these critical peace and security responsibilities came too late and in too weak a form.

It was noted by participants that a key element in galvanizing international will to act was the question of whether critical international economic or other interests were perceived to be at stake in a refugee crisis. It was suggested by some speakers that development of standards and doctrine which would root international responsibility in an obligation to act could be a baseline for attacking political inertia in the future.

It was pointed out that discussion of the role of the “international community” needed to include regional actors. Although in 1994 the OAU had identified looming threats as the violence associated with the Rwanda outflow escalated, it did not act decisively enough. Regional powers clearly shared responsibility with the broader international community for the failure to act to prevent the Rwandan genocide and respond to the consequent refugee crisis. The new African Union (AU) was urged to take a more effective lead in responding to ongoing crises in the region which bore many of the indicators present in the lead up to the Rwandan genocide. The situation in Darfur in western Sudan in particular was cited and the potential and requirement for action under the strengthened AU constitutional mandate emphasized.

Finally, it was suggested that appropriate provision for refugees and the displaced should always constitute a fundamental aspect of the accords and agreements which marked the end of a conflict. At the same time it was cautioned by others that the fate of refugees should not be bound too tightly with the resolution of a crisis—it was important that the fundamental rights of individual refugees were protected, however conflict “resolution” was conceived. In this regard it was suggested that the involvement of refugees in peace negotiations, including discussion of provisions relating to population movements, citizenship, and returnee protections, should be encouraged.

## **Looking to the Future**

### **Finding Durable Solutions**

With a number of conflicts in the region abating, return home was becoming a possibility for many refugees. It was recognized, however, that enthusiasm for repatriation should not blind states and advocates to the need to ensure that every decision by a refugee to return home was fully voluntary. The 1969 OAU Convention was explicit about the requirement of voluntariness: “[t]he essential voluntary character of repatriation shall be respected in all cases and no refugee

*shall be repatriated against his will.*”<sup>6</sup> Forcing refugees home who did not wish to return, or for whom return was unsafe or unsustainable, not only endangered the principle of non-refoulement: it exacerbated cycles of displacement. In Burundi and Rwanda, for example, the question of the availability of land and uncertain security had already sent some returning refugees into a new round of exile. The need for adequate support to be provided to states contemplating the return and re-integration of refugees across a whole continuum of skills and education levels was paramount.

Creating viable options for integration in host countries of the region was going to be a critical durable solution for many Great Lakes refugees. This was particularly the case for some of those refugee groups which had spent extremely protracted periods in exile such as the 1972 Burundian caseload. Resettlement was also an option which could be considered—although by its nature resettlement was only of potential benefit to a limited number of refugees. It was stressed that all three durable solutions should be explored in parallel when considering solutions for particular refugee groups. Coordination between states in the region about return movements, to the extent appropriate with states’ obligations to protect, was also important. It was pointed out, for example, that a harmonized approach to repatriation operations on the basis of national caseloads might contribute to discouraging “irregular” or secondary movements of refugees.<sup>7</sup>

In situations where refugees fleeing a particular crisis had been recognized on a *prima facie* basis, the occasion of a repatriation operation was often the first time many refugees were provided an opportunity to have their situations individually assessed. Clearly ascertaining the status and ongoing protection needs of the population at this point was key. Developing accurate registration procedures for those refugees who expressed a desire *not* to return home was an important aspect both of ensuring the voluntariness of each decision to return and designing comprehensive solutions. There was a danger that if procedures for the identification of continuing needs for protection were not thoroughly addressed concerns about the motivation for reluctance to return could poison local support for the establishment of long term refuge.

## The Legal Framework Governing Refugee Protection in the Great Lakes

In examining the state of refugee protection in the region over the last decade it was clear that there had often been a disconnect between the human rights and refugee rights obligations assumed by states and the experiences of refugees on the ground. On the one hand states in the region had agreed to uphold a very strong framework of human rights and refugee protection via a plethora of international and regional treaties. On the other hand, the content of many of these protections had either been left unincorporated in national laws. Compliance with international standards in practice varied enormously. Within the Great Lakes region this had resulted in varying standards of protection, ranging from generous practice which went way beyond the

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<sup>6</sup> 1969 OAU Convention, Article V, 1.

<sup>7</sup> “Secondary” or “irregular movement” is the movement of “refugees, whether they have been formally identified as such or not (asylum seekers) who move in an irregular manner from countries in which they have already found protection, in order to seek asylum or permanent resettlement elsewhere.” It involves “entry into the territory of another country, without the prior consent of the national authorities or without an entry visa, or with insufficient documentation normally required for travel purposes or with false or fraudulent documentation.” See Executive Committee Conclusion No. 58 (1989) on the Problem of Refugees and Asylum Seekers who Move in an Irregular Manner from a Country in which they has Already Found Protection.

narrow requirements of national law to highly restrictive approaches on the other end of the spectrum.

In some cases divergences from the requirements of African refugee law had been exacerbated by active attempts by states and others to dilute standards. Reference was made, for example, to proposals promoted by states in the region to create “safe zones” in countries of origin designed to facilitate imposed return of refugees to countries where safety had not been secured. Such concepts threatened to undermine basic principles of both refugee and humanitarian law. Other threats to the integrity of the African refugee law framework emanated from outside the region. It was also noted that developments in European law and new refugee policy approaches being explored at Geneva level had the potential to impact the legal framework in the region. This needed to be closely monitored.

It was noted that in some states in the region good refugee policy had been the result of the incumbent government’s positive attitude towards the presence of refugees, rather than one rooted in a state policy buttressed by the requirements of national law. There was a need—to differing extents in countries in the region—to incorporate regional and international human rights treaties and humanitarian law into enforceable domestic law. This would increase the potential for more consistent compliance with refugee rights obligations. Some countries in the region, notably Kenya and Uganda were in the final stages of passing very positive legislation which would enshrine refugee rights in domestic law. Their example might be followed.

It was recognized by participants, however, that achieving a comprehensive refugee protection legal framework in the region was just the first step. Implementation was the most critical challenge. One participant noted, for example, that the proliferation of an ever-increasing number of guidelines and operational benchmarks around protection had not always resulted in an increase in the quality of refugee protection. There was, it was suggested, a need to bring practice into line with current standards and guidelines before further codification was embarked upon.

It was noted that state authorities were in many cases very open to looking at the findings of comparative analyses of different models of protection. Exchanges around “best practices” needed to be stepped up. Incorporation of the recommendations of regional refugee protection plans of action—for example that of the Comprehensive Plan of Action developed in Conakry in 2000<sup>8</sup>—into national policy planning should be encouraged. It was pointed out that NGOs had a particular role both in the promotion of relevant legislation and in promoting the enforcement of such laws. The close work of a group of NGOs with the Ugandan and Kenyan parliaments in the region was cited as a good example in this regard.

It was pointed out that in tracing the framework of protection in the region it was important to recognize that refugee law was not the only source of legal obligation which could be referenced. Human rights law and humanitarian law were essential complements to refugee law in achieving

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<sup>8</sup> The Conakry Plan of Action was the outcome of the Special Meeting of Governmental and Non-Governmental Technical Experts which was convened under the auspices of the OAU and the UNHCR in March of 2000 on the occasion of the 30<sup>th</sup> anniversary of the 1969 OAU Convention. See Special OAU/UNHCR Meeting on the 30<sup>th</sup> Anniversary of the 1969 Convention, Refugee Survey Quarterly, Vol. 20, No. 1, 2001, UNH CR, Centre for Documentation and Research, Geneva, Published by Oxford University Press.

a comprehensive approach to protection. In fact they were the primary sources of obligation in some critical areas, such as physical security for refugees and the displaced.

Finally, it was noted that the regional and sub-regional arrangements in the Great Lakes such as the East African Community also provided an additional layer of legal standards and mechanisms which could be used to ensure the rights of those forced to move—especially in relation to freedom of movement, rights of work and residence etc. With view to preparing for, and considering how to best impact, the development of these new frameworks to the benefit of the displaced, it was suggested that NGOs might examine the experience to date of the Economic Community of West African States (ECOWAS) in West Africa.

## Public Education

The importance of sensitizing host populations to the needs and rights of refugees was a constant refrain of participants. At the same time it was recognized that local hosts needed to be assured that those refugees who were being received were genuinely in need of asylum. Where host countries had neglected to provide for effective refugee protection—particularly through thorough registration and determination procedures—this had often set the tone for a reluctant response by the national population. Procedures should be put in place which clearly demonstrate to host communities that those who are not eligible for protection or who pose a security threat will be identified and separated from the refugee population.

It was recognized that governments in the region had on occasion resorted to spreading negative propaganda about the character and impact of refugee groups when unpopular action against refugees was contemplated. Regrettably some parliamentarians in the region had also been guilty of abusing their position to stir up fears about the “stranger,” some of which had even resulted in physical attacks on refugees. The vital leadership role of local parliamentarians, both in educating the public and in helping to address concerns about the presence of refugees, was therefore emphasized. It was suggested that civil society advocates provide timely information to parliamentarians to ensure that they play a more effective role in tempering the activities of the executive branch where threats to refugees and the safety of host communities are imminent. Outreach to local communities and the training of local administrators could also be the focus of collaboration between states and NGOs.

## Human Rights and Refugee Rights

A recurring motif during the opening plenary discussion was the importance of examining and promoting refugee rights as part of a broader human rights agenda. The kernel of any review of the plight of the displaced over the last decade in the region had to be a human rights analysis. It was pointed out that the flight of refugees was always a symptom of the primary problem: war, bad governance and human rights violations.

Improving the prevailing human rights situation in a country of origin was the first step towards both preventing refugee flows and creating the conditions necessary for the return of refugees who had gone into exile. Amid the desire on all sides to see refugees return home it was important to recall that the challenges faced by returnees would continue to be those which had sparked the outflow: xenophobia and recognition of nationality, land rights, bad governance etc.

The abject failure of both regional powers and the international community either to deal with the catalysts of the Rwandan genocide as they were being clearly signaled or to tackle the aftermath of the genocide by addressing exacerbating factors (such as, for example, the flow of arms to genocidal militia) had resulted in ten years of further conflict and refugee flight in the Great Lakes region. It was recognized, however, that the refugee question was frequently “relegated” to discussion and action in the relief and assistance context. NGOs were often themselves reluctant to deal with the dimensions of a refugee crisis which lay beyond the humanitarian. Engagement with the security and political considerations of refugee flight required, it was acknowledged, a very different skill set.

It was suggested that refugee advocates needed to look more closely at how to bridge the gap between the human rights advocacy which focused on root causes of refugee flight and the advocacy and service provision work which dealt with the humanitarian aftermath. More reflection on how response to refugee movements could address the underlying causes of the displacement was required. It was noted that certain primary protection responses such as, for example, those related to separation and exclusion, had immediate human rights and root cause dimensions. The failure to engage with these aspects of protection in the wake of the Rwandan genocide had resulted in a whole new cycle of conflict. Issues such as the growth of xenophobia and permitting impunity for serious crimes needed to be more effectively addressed in the region as a precursor to both protection of refugee rights and the prevention of future refugee flows.

Some participants called for better early warning in order to prepare for future outflows. Others argued that it was political will, and not foresight, which was the missing link in qualifying the humanitarian and protection response. A number of participants cited continuing regional and international inaction in the face of the plight of the displaced in Darfur as an example of where lack of information was not the absent element. The question was posed as to whether the region was any freer of the threat of genocide than it was ten years prior? In the view of some participants the ongoing situation in Sudan and the Democratic Republic of Congo suggested the contrary. Humanitarian response was mere window-dressing when the underlying factors were consistently ignored.

Use by NGOs of the “refugee rights as human rights” approach to popularize the cause of refugees was advocated. It was pointed out that the 1951 U.N. Convention relating to the Status of Refugees<sup>9</sup> was in fact the very first human rights treaty and prefigured by over fifteen years the covenants on civil and political and economic, social and cultural rights. Focusing on refugees as human beings first might also contribute to reducing the tensions caused by the perception of refugees as “outsiders” and “threats.” Refugee rights advocates might consider reaching out to the human rights community when seeking, for example, to promulgate new legislation. At the same time it was important that the special protections due to refugees did not lose primacy as a result of such strategies.

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<sup>9</sup> 1951 U.N. Convention relating to the Status of Refugees, 189 U.N.T.S. 150, *entered into force* June 22, 1954 [hereinafter 1951 U.N. Convention].



## III. Summary of Working Group Discussions

### A. Going Home

The presenters described how host country fatigue and diminishing support from donor states outside the region were key factors affecting the refugee assistance environment in the region. As a result of diminishing international support UNHCR and host states had been put under tremendous pressure to identify those durable solutions which would reduce the number of refugees—naturally with a particular emphasis on return. The coming to a close of major cycles of conflict in the region in 2003 had also helped to set the stage for a series of major repatriation efforts in 2004.<sup>10</sup>

#### What were the Critical Factors in Decision-Making relating to Repatriation?

All agreed that security was the principal preoccupation of refugees considering a decision to return home. Refugees needed to be assured that ceasefires would be maintained and that governmental control and authority had been re-established in the country of origin. Protection from sexual and gender based violence—one of the major reasons for the flight of refugee women and children—was an essential part of this assessment. The existence of basic social infrastructure, roads, rudimentary social services was also important. For prospective Rwandan and Burundian returnees, the availability of land and the question of property rights was also a critical issue.

Whether the safety of returnees would be effectively monitored was also a question often posed by refugees. In some cases this could be addressed through legal action: prosecuting those responsible for the actions which had caused refugees to flee or removing enabling factors specific to the reasons for flight, such as confirmation of recognition of nationality or ending ethnic discrimination, were cited as examples. For others, however, returning home meant acceptance of the fact that those who had caused them harm would never be tried for their crimes. It was acknowledged by participants that it was difficult for such persons to be confident that atrocities would not occur again. Conversely, revenge attacks were feared by people who

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<sup>10</sup> UNHCR was promoting return to Rwanda for the remaining 60,000 refugees still in exile and tripartite agreements had been reached with host countries on formal frameworks for repatriation. In Burundi, UNHCR had been facilitating spontaneous return to areas in the north and east. In the DRC, the east and parts of Katanga were still very precarious, but UNHCR had been able to facilitate return to other regions. Discussions were also underway around the return home of southern Sudanese refugees.

had fled Rwanda after the genocide and thought they would be branded as human rights violators.

It was pointed out that NGOs in countries of origins were particularly well placed to encourage governments to amend legal frameworks to create conditions more conducive to repatriation, for example in relation to nationality and land law. The situation of women returnees in some states needed particular attention during discussions on law reform, specifically inheritance rights and access to channels for the restitution of property. Accountability and impunity were also key legal reform issues. It was recognized, however, that the question of how to balance these imperatives with the need to encourage return and reconciliation was a huge challenge.

### **Safeguarding the Voluntary Nature of Repatriation**

It was acknowledged by participants that in a climate where return home was heavily promoted, refugees often made decisions to go home which were not fully voluntary. In some countries pressure was frequently exerted on local government to “encourage” repatriation. It was recounted how one senior official in a heavily populated refugee area had openly declared his desire to see the area become a “refugee free zone.” He had even gone so far as to suggest that those refugees who expressed reluctance to return were criminals. This rhetoric had been accompanied by energetic enforcement of restrictions on freedom of movement, closure of local markets, restriction of rations, and individual arrests and deportations. UNHCR often had little capacity to respond to such aggressive measures. Scapegoating of refugees for broader problems in the community was also a common occurrence. Refugees were not only blamed for importing criminality but for creating economic or environmental problems.

Participants pointed out that pressure to return might not only come from governments. In some cases individuals within the refugee community had asserted improper pressure on their compatriots and this needed to be taken into account in repatriation procedures. It was recognized that there was often a divergence of opinion between members of the same refugee population about prospects for return—whether along lines of social strata or political affiliation.

It was urged that refugees be more actively engaged in the repatriation process. Refugees should be involved at all stages of the process—pre-repatriation planning, the repatriation operation itself, and post-repatriation. There was also a need to solicit input from various segments of refugee communities. Voices from across the refugee skills spectrum, for example, could be taken into account in identifying the range of possible contributions to the success of the return effort. The needs of women and unaccompanied children required particular attention.

Information campaigns which helped refugees to make an informed choice about return were vital. Among the initiatives which had been taken by UNHCR were the production of newsletters, promotion of go and see visits, go and inform visits, development of audio-video material, etc. It was suggested that civil society in the country of asylum was particularly well positioned to seek out independent information about the situation in the home country. NGO conference participants had visited countries of origin in order to assess the situation first hand and inform refugee communities accordingly.

The option of continued asylum was critical to voluntariness. It was stressed by participants that refugees needed to be assured that those who feared return would continue to be offered

protection in the host country. A transparent process through which refugees could assert their need for protection was required. It was noted that “secondary movement” of refugees—a pre-occupation of many states—was often the product of a lack of information in situations where authorities had robustly promoted return to the point where refugees felt that they no longer had a genuine choice to stay. Repatriation procedures needed to be set up in a way which gained—and fulfilled—the trust of refugees.

### **Increased Efforts in the Country of Origin**

It was noted that successful return was predicated on both support for the reintegration process and the conduct of adequate monitoring of the rights of returnees. Participants urged that the amount of assistance allocated to returnees be increased in order to improve the prospects of successful reintegration. The character of the assistance granted to those returning home should also be re-examined. Providing standard agriculture-based reintegration packages to returning refugees without further arrangements was not sufficient in all cases. Retraining might be required, for example, for those who would not be able to return to their former occupations.

Participants emphasized that commitment to monitoring the situation of returnees was also crucial. It was pointed out that in a number of the tripartite repatriation agreements relating to the return of Rwandan refugees UNHCR had undertaken to monitor the situation of returnees. For this to be effective, however, UNHCR had to be permitted by the government of the country of origin to establish a sufficient presence. Adequate resources to carry out activities such as house visits were also often lacking. In this context, there was a role for civil society in partnering with UNHCR (which would always have limited capacity) to carry out monitoring and basic legal protection functions.

There was a suggestion that the disparity in treatment of refugee returnees and internally displaced persons (IDPs) in the country of origin needed to be addressed. The presence of IDPs naturally affected the extent to which return programs underway in the region could be expected to be successful. In this regard it was emphasized that the extent to which the rights of IDPs could be dealt with in an integrated manner with those of refugees merited further discussion.

It was acknowledged that successful return could not just be achieved by an effective reintegration plan alone: it depended also on comprehensive programs to rebuild infrastructure and ensure long term development in the country of origin—realms beyond the remit of UNHCR and humanitarian actors. Finally, it was suggested that support for countries of origin in the reintegration of returning refugees should be paralleled by support for initiatives targeted at areas where refugees were previously hosted. The rapid movement of large populations of refugees and their humanitarian support structures out of refugee hosting areas often had a deleterious effect on the local economy and infrastructure.

## **B. Refugees and the Calculations of Security**

It was recognized that in the complex political context of the Great Lakes region, states did not always view the grant of asylum as a purely humanitarian act. Refugees in the region were frequently perceived as posing direct threats to security and not simply as victims of conflict and political unrest. This characterization of the refugee as threat was exacerbated by the fact that

mixed in with genuine refugees were armed elements, mercenaries, combatants, and others who had committed serious crimes including genocide. The way in which states responded to their responsibility to protect arriving refugees, however, critically affected whether the presence of refugees did indeed in fact result in increased levels of insecurity both within, and outside the borders of, the host state.

When considering issues of protection and security some participants emphasized the point that the interests of states, host communities and refugees should not always be assumed to be in opposition. The interests of *genuine* refugees generally coincided with legitimate state interests—specifically the maintenance of a safe environment where rights could be protected. It was recognized at the same time that states often had well-founded concerns about the presence of refugees. Refugee settlements had in the past attracted armed incursions and generated tensions with other states.

It was noted that pursuit of the global “war on terror” had manifested itself in a number of negative ways for refugees in the region. This included a rise in rhetoric equating “refugee” with “threat” and the encouragement of hostility against outsiders, the enactment of new anti-terrorism legislation containing measures which significantly affected the scope of refugee rights, and an increasing willingness to term opposition to government policy as “terrorism.”

Dr. Makumi Mwagiru, the Director of the Institute of Diplomacy and International Studies at the University of Nairobi, introduced the conceptual framework for the session and provided an overview of the main trends in the approach to security and refugee movements in the region. Security concerns of states, he explained, had traditionally focused on threats coming from the outside. Over the last decade the dilemma of security had been reconceived to include a greater emphasis on the quantification of “threats from within.” Refugees were viewed as particular nodes of threat.

It was suggested that shifting the perception of the refugee question from one which was conceived as an issue of internal security to an internationalized one could set the stage for both more imaginative responses and international solidarity. A complex matrix of internal, external and transnational issues needed to be assessed. To some extent this approach was already being adopted in the region, symbolized by the fact that in some countries refugee matters were now coming within the purview of ministries of foreign affairs rather than that of home affairs..

The question was raised as to whether the “human security” model might also be a useful starting point for understanding the relationship between refugees and security. It was acknowledged that the term had been appropriated in some unhelpful ways. At the same time, in a region where hundred of thousands of civilians had died as a result of the indirect effects of conflict—starvation, disease, misappropriation of resources, disintegration of social services—rather than as a result of direct hostile attack by the forces of another state, an understanding of security that was broader than that of traditionally understood threats to the borders and governments of states appeared necessary. Gender-based violence and the abuse of children at all stages of refugee flight were also recognized both in the working session and in the plenary discussion as an endemic security problem in the region which required urgent and concerted action.

## Registration and Separation

The separation of armed elements and the identification of those within a group of arriving protection seekers who were not genuine refugees were essential requirements of protection. The failure to do in the wake of the Rwandan genocide had resulted not only in the deaths and suffering of refugees and humanitarian workers and the misappropriation of humanitarian resources. The long term effects on peace and security in the region was still being felt today.

It was pointed out that it was often not a lack of will on the part of host states, but a lack of capacity, which was the cause of the failure to separate. A dearth of resources and accurate intelligence information (both within and outside the host country) were among the factors which prevented states from clearly identifying and separating refugees within mixed flows. It was suggested that assistance to states could take the form of bilateral or multilateral technical or other support to the national military or police in order to develop an improved logistical and operational capacity for such operations. It was also acknowledged that, although such response was expensive, it was cost effective in the long term.

It was stressed that the establishment of thorough registration procedures for arriving protection seekers was essential, encompassing the provision of identity documentation, signed by a competent authority. In situations of mixed flows there was often much confusion around just who was a genuine refugee. Such clarity was important, not only as way of protecting refugees themselves, but as a contribution to lowering local community tensions. Participants noted that this was a critical issue in the DRC. It was emphasized that ensuring security for refugee and host communities required the attention of a range of actors—including civil society and refugees themselves. The importance of the choice of location for refugee camps and settlements was noted, with distance from the border being only one of a number of factors which needed to be taken into account.

The question was also raised as to whether there were specific obligations on third states to assist the host state in responding to challenges of security which could be extrapolated from African law. It was recalled that provisions of the 1969 OAU Convention which specifically recognized that there were circumstances where a state might find it extremely difficult to continue to provide asylum and could turn to other signatory states for assistance. Further, in terms of the broader international response, U.N. Security Council Resolution 1296 (2000) invited the U.N. Secretary-General to bring to the attention of the Security Council “situations where refugees and internally displaced persons are vulnerable to the threat of harassment or where their camps are vulnerable to infiltration by armed elements.” It was also important that action be taken to bring to justice those within an arriving population of protection seekers who could be identified as suspected of having committed a serious crime. Host states were urged to increase their capacity to try those responsible for serious international crime, in particular through the ratification and implementation of the 1998 Rome Statute of the International Criminal Court.<sup>11</sup>

Finally, there was some discussion as to whether states in the region were increasingly willing to consider the use of force as a tool for implementing refugee policy. Discussion of a number of

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<sup>11</sup> The Rome Statute of the International Criminal Court, U.N. doc A/CONF. 183/9 (1998) *entered into force* July 1, 2002.

particular incidents ensued, including an extended exchange around an effort to relocate a group of Sudanese refugees within Uganda.

### **C. Resettlement and Durable Solutions: Better Engagement between UNHCR and NGOs**

Darius Ellis of the HIAS Refugee Trust of Kenya set the framework for the discussion, eliciting broad acknowledgement from participants that access to the resettlement solution for refugees in the region needed to be improved, particularly through enhanced procedures and more effective and consistent application of resettlement criteria.

The potential for civil society to contribute to the improvement of access to resettlement was emphasized. NGOs were particularly well placed to identify appropriate protection cases due to their day to day engagement with refugees. Models of such successful engagement were already in place in Nairobi, where UNHCR and the government of the United States engaged a network of NGOs in case referral.

It was acknowledged, however, that training and support were needed in order to ensure that NGOs were able to more comprehensively deliver on their potential. Their effectiveness in making successful referrals was often hampered, for example, by a dearth of staff capacity, particularly around how to build a case for resettlement. Participants advocated a focus on building the knowledge of those NGO representatives and government officials who interacted directly on the front lines with refugees in the resettlement process, including training on more effective case preparation. It was noted that governments often failed to make clear how their criteria for resettlement operated *vis-à-vis* UNHCR defined standards. Joint training sessions with UNHCR were suggested. Finally, as the number of NGOs engaged in case referral expanded, it was suggested that it would be important to develop a better framework for coordination in order to ensure avoid duplication of effort.

The extent to which employment skills rather than protection criteria had been taken into account by states in selecting refugees for resettlement was an issue of concern for some participants. It was suggested that UNHCR might have a role in challenging the principles underpinning the policies of some states which appeared to influence the interpretation of accepted criteria. The particular vulnerability of those with HIV, for example, was often treated as a bar to resettlement—rather than an element to be considered in making a decision on the most appropriate solution. In terms of a critical approach to the factors underlying resettlement decisions, the selection of children for resettlement needed to be paid specific attention.

There was recognition that refugees often held significant misconceptions about the resettlement process. The question was raised as to how NGOs and UNHCR might work together to make standards and procedures more transparent and better understood. Issues of language and gender were just some of the barriers which arose. It was felt that improved feedback from resettled refugees and quality information sharing might help, including reducing the “pull factor” which had been often cited by those opposing new access points as complicating resettlement efforts.

Finally, it was noted that the international legal framework which might be understood to govern resettlement operations had not been clearly established. The question was posed as to whether there was an opportunity to develop a restatement of relevant legal obligations in a set of principles which could form the basis of such a framework. In this regard, it was noted that proposals for developing multilateral agreements around resettlement were under discussion within the Convention Plus process.<sup>12</sup>

### **Expanding Resettlement Countries in Africa**

It was recognized that if resettlement was to become an effective solution for a larger number of refugees, then the engagement of a greater number of states was required. In particular, participants noted the potential benefits of expanding the capacity of African countries to engage in resettlement. Efforts to have African states offer resettlement in the past had met with many challenges—not least lack of support for the creation of effective integration programs. It had been to some extent assumed erroneously by prospective donors that integration of “African” refugees in “African” states did not require special measures. Improved information gathering and analysis were required in order to assess the experiences of local receiving communities and government/policy-making officials to date in West Africa, and to develop new approaches for the future. Caution was urged however that promoting the expansion of resettlement in Africa did not simply shift the “burden” of refugee protection. It was important that traditional resettlement countries did not view the development as an excuse to reduce their own resettlement programs. Finally, although these efforts had traditionally been spearheaded by UNHCR, it was suggested that the AU might also have a role to play in promoting the expansion of the number of African states participating in resettlement programs.

## **D. Refugee Social and Economic Rights**

Discussion in this session focused on drawing out the elements of two unique approaches to enhancing refugee livelihoods which had been tested in the region—the Zambia Initiative and the Ugandan Self-Reliance Strategy.

### **The Zambia Initiative**

Geoffrey Mulenga of the Faculty of Law at the University of Zambia introduced the key elements of the Zambia Initiative to the working group participants.

Of the eight countries which bordered Zambia five had generated refugee flows, with civil wars with international dimensions in Mozambique and Angola creating large movements of population. Some of the Zambian camps had hosted refugees for many decades: Mayukwayukwa camp, for example, had been established as early as 1966. For refugees who had lived all their lives in exile with little realistic prospect of returning home, local integration was the most

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<sup>12</sup> Convention Plus is a process coordinated by UNHCR which aims to “improve refugee protection worldwide and to facilitate the resolution of refugee problems through multilateral special agreements.” Three priority challenges have been identified: the strategic use of resettlement, more effective targeting of development assistance and clarification of the responsibilities of states in the event of secondary movements of refugees and asylum seekers. See *Convention Plus at a Glance*, at [www.unhcr.ch](http://www.unhcr.ch).

obvious durable solution. It was also, however, the solution least advocated for and supported by states.

The Zambia Initiative was an attempt to provide an opportunity to refugees to resume their lives and begin to integrate in the host country. An initiative of the Zambian government and supported by key governments outside the region, the central principle of the new approach was the promotion of integrated development for both refugee and host communities: “a new phase in the relationship between local and host populations.”

Among the activities which had been funded as part of the scheme in Zambia were the construction of schools (Danish government: U.S. \$9.7 million) and investment in disease resistant seeds (United States: U.S. \$1 million). Japan had donated ambulances and the Swedish government was funding projects dealing with HIV and reproductive health. Wells had been dug to serve both refugees and locals. Overall, the local population had welcomed the increased integration of the refugee population, with resistance palpable only in isolated incidents, largely dependent on individual personalities.

Two challenges were identified to achieving sustainability for the scheme. First, despite the generous support received from some states, greater commitment of resources was required. Second, the legal framework guiding the initiative was insufficient:

- Although the government had designated agricultural land for use by partners in the initiative, titles to the land had not been granted—much of the land remained under customary tenure. There was concern that this could become the source of tension in the future, particularly as foreigners were not permitted to own land under the Zambian law in force.
- Acquisition of Zambian citizenship was not a possibility for refugees—even children of refugees who had spent their whole lives in Zambia were not permitted to apply for citizenship.
- Zambia, like many other African states, had entered a reservation to Article 26 of the 1951 U.N. Refugee Convention which guaranteed freedom of movement for refugees, a right which was central to effective integration.
- Zambia had also entered a reservation to the Convention provision enquiring equal treatment of refugees and nationals with regard to primary education.

## The Uganda Self-Reliance Strategy

Lucy Hovil of the Refugee Law Project of Uganda began the discussion with a brief overview of Uganda’s Self-Reliance Strategy (SRS). The Uganda Self-Reliance Strategy (SRS) had been launched formally in May 1999 as a joint initiative of the Ugandan Office of the Prime Minister and UNHCR. Originally designed to support Sudanese refugees, the strategy focused on integrating assistance to refugees with service delivery to the local population. The scheme envisaged that refugees would be able to grow their own food and pay for their own services by 2003. While the overall response to the strategy had been positive, its implementation dragged far behind the pace intended. In addition to the slow speed of implementation the following weaknesses in the operational framework were cited:

- Primary framework requirements were missing: At the time of the introduction of the SRS strategy it had been acknowledged that success was dependant on two things (a) new refugee rights legislation and (b) a secure environment. Unfortunately, the new legislation had not been passed and security had not been assured in West Nile and other regions.
- An incomplete vision of integration: Although the SRS strategy had advocated integration of service provision between refugee and host communities, it had not addressed other measures which would ensure genuine social and economic integration. The settlement structures themselves, for example, maintained their geographical separation from the local citizen population.
- SRS focused on camp resident refugees: SRS did not make provision for the integration of self-settled refugees in the strategy plan. This ignored a large segment of the population and precisely the segment of the refugee population which was most on its way to achieving the kind of self-sufficiency envisaged.
- Resources to support the initiative had been slow to arrive: Assisting states continued to be reluctant to move from a humanitarian assistance model and to view refugees as agents of development.

Some participants found that the absence of a legislative framework had not been a barrier to the success of the SRS strategy. They argued that the 1964 Ugandan Control of Aliens and Refugees Act had provided a workable framework and that the imminent passage of the new Refugees Bill would have little impact on the functioning of the scheme. There was also some resistance to the criticism that SRS had been implemented too slowly. It was pointed out that a transitional period had been necessary in order to bring all sectors of the administration and the local community on board.

## Overview

It was suggested that without an overhaul of the legal framework in both Zambia and Uganda it was difficult for integration initiatives to be successful. In some respects the schemes had suggested innovations in practice and policy which had not been reflected in domestic law. It was noted, however, that the draft Refugee Bills which were under discussion in Kenya and Uganda did seek to enshrine refugee social and economic rights as recognized in the 1951 U.N. Refugee Convention.

With respect to the programs themselves, participants noted the need for broader involvement of local communities in the planning and design of the strategies. There might be a benefit, for example, in broadening the range of activities included in the schemes beyond the agricultural e.g., to include microfinance. It was recognized that many of the areas which hosted refugees had limited access to employment opportunities for both refugees and nationals.

It was agreed that improved data and objective indicators were necessary in order to improve the design of current projects, communicate better about successes of the programs, and increase support from states beyond the host country. A lack of concrete information had prevented a thorough evaluation of the initiatives. To what extent, for example, did better integration by refugees in host communities create a stronger basis for refugees to be in a position to return home successfully in the long term? It was suggested that NGOs could have a role in the

assessment of the schemes—it was noted that the Refugee Law Project of Uganda was embarking on such a project.

It was clear that taking a development approach to provision for refugees and considering the specific needs refugee and host communities in national development plans was an initially expensive option for which greater and sustained resources were needed. Overall the resources dedicated to the two initiatives under discussion had been insufficient. In Uganda, for example, not one state outside of the region had earmarked funds in its multi-lateral refugee assistance contribution for the SRS strategy. The question was raised as to whether the choice of funding structure for the initiatives had also involved any particular benefit: Zambia (bilateral) or Uganda (via a multi-lateral institution). Participants felt that to date local actors had not been doing enough to encourage the international community to support initiatives which focused on integration—whether because of political pressures or simply lack of information. NGOs were urged to support UNHCR’s funding efforts. In the long term, however, it was pointed out that if projects were completely driven by the interest of their financial backers outside the host state, sustainability was unlikely.

## **E. UNHCR and NGO Partnerships for Protection**

Judy Wakahiu Executive Director of the Refugee Consortium of Kenya and Manisha Thomas of the International Council of Voluntary Agencies (ICVA) provided introductions to the key issues for this working group discussion. It was recognized that in the Great Lakes region UNHCR had taken on an ever-widening range of responsibilities. This had occurred both as a response to the highly complex exigencies of the multiple crises in the Great Lakes during the previous decade and as a result of financial and political pressures from states both inside and outside the region. Exacerbating the situation was the fact that some states in the region had tended increasingly to delegate refugee protection responsibilities to UNHCR, leaving the agency to manage with little or no assistance from the host government. As a result there were often unreasonable expectations and confusion surrounding the scope of UNHCR’s mandate and an over-burdening of its capacity.

All agreed that the adequacy of the resources allocated to UNHCR operations in the region had to be addressed. Increased control of budgets by donors and earmarking of funds had put UNHCR in the position of being able to respond less flexibly to emerging crises. The wars in Afghanistan and Iraq had caused a shift in the focus of donors which had been coupled with increased scrutiny and, in some respects, fatigue, *vis-à-vis* UNHCR’s response to ongoing refugee crises in the Great Lakes region. Greater donor engagement in scrutinizing the allocation and use of funds could, of course, result in increased accountability and effectiveness. But this was only possible where there was agreement by all partners both on priorities and indicators of success.

It was noted that in some contexts UNHCR programs and priorities appeared to be driven by the largest donors and their interests.<sup>13</sup> The inconsistencies which arose in the character and quality

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<sup>13</sup> Host countries are by definition the primary “donors” for refugees who flee into exile. Throughout this report, however, the word “donor” is intended to identify those states and entities outside the Great Lakes region which make monetary or other material contribution towards the provision of assistance and protection to refugees in host countries in the region. It is

of UNHCR's response to refugee crises in different parts of the world could often be attributed to specific donor preoccupations. Exacerbating the situation was the general observation that UNHCR had historically tended to emphasize different facets of its function in Africa and elsewhere: monitoring and advocacy, for example, had been keynotes of UNHCR's activities in the Global North; humanitarian offices and assistance delivery was the signature of UNHCR's profile in Africa. At the same time, it was noted that if capacity to provide protection seemed to be under threat within UNHCR's Great Lakes operation this could be traced to a lack of resources rather than an absence of will. Protection activities were generally labor intensive and depended on the availability of well-trained, qualified staff. There was a need to firmly reconcile the question of resource allocation within UNHCR with the hierarchy of its mandate.

It was also pointed out that in considering responses to refugee situations in the region it was important to assess the consequences of assigning new duties to UNHCR. Donors to UNHCR were often the worst offenders in this regard: it was reported, for example, that UNHCR had been requested to work with MONUC to support former combatants. At the same time, some participants clearly appreciated those occasions where UNHCR had stepped outside its strictly circumscribed role, for example its involvement in peace process negotiations.

### **Protection and the Authority of UNHCR**

It was not just a lack of resources which had contributed to the perceived emasculation of UNHCR in the region. The events of September 11, 2001 and the protracted nature of conflict in the Great Lakes had made the search for durable solutions more challenging, resulting in a slowdown in resettlement rates, the growth of host community and donor fatigue and a loss of trust in the U.N. as a whole. These factors had perhaps rendered the agency less able to challenge forced return and other derogations from refugee protection principles.

It was recognized that for UNHCR to maintain both freedom of operation under its mandate and a workable relationship with host states was a difficult balancing act. One participant, for example, described a situation where UNHCR had been constrained to declare the repatriation of a number of refugees "voluntary" where in fact it was widely understood to have been forced. There was a comment also to the effect that it seemed that in recent years UNHCR staff members in the Great Lakes region had been subject to expulsion for reasons other than unprofessional or criminal conduct. It was also alleged that there had, in parallel, been added government pressure on humanitarian actors and others advocating for the rights of refugees in some countries of the region.

It was suggested that in cases of expulsion transparent follow-up and investigation mechanisms within UNCHR and the greater U.N. system might be instituted in order to ensure that they were properly investigated. Should expulsions be found due solely to a staff member having acted in defense of the UNHCR mandate adequate protest should be voiced, especially where the country concerned was signatory to the relevant international instruments. Signature of the U.N. and OAU Refugee Conventions involved an acceptance of UNHCR's mandate and the presence of UNHCR staff. Reference was made to the fact that reparations could be sought from states for

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acknowledged that multilateral donors (such as UNHCR) will draw on funds and support provided collectively by states, which will include the financial and other contributions of states in the region.

unlawful expulsion of a U.N. official acting pursuant to mandate. It was important, however, that whatever action was taken did not further jeopardize staff security and capacity to carry out their duties. It was emphasized by participants that states were required to take measures against those who committed crimes or whose activities were inimical to its security. There was a need to make a clear distinction between the normal expulsion of diplomats, the expulsion of U.N. staff for criminal or unacceptable conduct, and the expulsion of staff for reasons related to the execution of UNHCR's mandate.

Although expulsions were, in the first instance, an internal matter for UNHCR, it was recognized that the circumstances of an expulsion could function as an indicator of the state of the wider protection environment. Where it was determined that expulsion had been unlawful, information about the policy issues involved might be shared with others in the refugee protection community in that country. Civil society engaged in refugee protection had a direct interest in understanding the situation and stepping up their advocacy efforts accordingly.

There was a strong suggestion from a number of participants that the question of the expulsion itself should not be over emphasized—the frontline protection or other mandate issues which arose were the most effective focus. NGOs were challenged to think through how they could best assist UNHCR in dealing with the undermining of its function and mandate—when this was through direct attacks or indirect attacks on its staff through expulsions. The question of staff security was also highlighted as a related issue of concern—UNHCR had been trained in how to operate in dangerous situations in the field, but the decision about when to stay or remain in a particular situation was a difficult one.

### UNHCR Structures – a Headquarters/Regional Divide?

The question was raised as to whether there tended to be a gap between UNHCR policy as promulgated at headquarters level and that which existed in practice in the Great Lakes region on the ground. Principles for stewarding civil society partnership and mechanisms for mainstreaming protection in field operations, for example, had been clearly developed by UNHCR through the Reach Out and PARinAC processes.<sup>14</sup> There was a perception, however, that translation of these commitments and practices to the field had sometimes been difficult. Instances were cited where NGOs had felt that local UNHCR offices had not fully adhered to headquarters guidelines relating to, for example, response to irregular movement and criteria for resettlement operations. It was recognized of course that divergences could often be a matter of interpretation in the particular circumstance.

Headquarters policy trickle down was not the only problem. There were also instances where it appeared that UNHCR field offices were *themselves* not being heard at headquarters level—even during times when vital policy decisions were being taken relating to their area of jurisdiction. It was felt that this had increased the vulnerability of UNHCR staff and undermined their position in the field on a number of occasions. It was suggested that NGOs could play a role in helping to encourage consultation with local UNHCR staff by direct intervention with UNHCR at Geneva

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<sup>14</sup> The PARinAC process was conceived in Oslo in 1994 and was designed to facilitate better cooperation between the UNHCR and the more than 800 NGOs worldwide with whom it collaborates. The Reach Out process was conceived in 1997 in response to increasing pressure on UNHCR's protection mandate and focused on increasing NGO capacity for refugee protection. For more information, see [www.reachout.ch](http://www.reachout.ch).

and regional level and by engaging with the views of the field office. Enhancing the transparency of the lines of UNHCR policy-making would foster confidence with both refugees and implementing partners.

### **UNHCR and its Relationship with Civil Society**

It was noted that UNHCR had a relationship with NGOs which was unique among U.N. agencies. Improvements were, however, possible. A deficit of information often hampered the capacity of civil society organizations to act in support of UNHCR's position and mandate, for example. Many of the suggestions for action from participants emphasized increased dialogue, partnership, and information sharing. It was pointed out also that UNHCR's authority was rooted in the legitimacy it enjoyed *vis-à-vis* refugees, governments and NGOs. Lack of transparency, real or perceived, tended to compromise UNHCR's position.

It was suggested that there could be more intensive exchange of policy documents and protection reports between UNHCR and NGOs. It was pointed out that although not often posted on the Internet, UNHCR policies were generally considered public unless specifically classified and were available on request. Participants were urged to ask for copies of UNHCR guidelines, policy statements, framework agreements and inter-office memos—and to refer to them in discussions with UNHCR. Increased information sharing between UNHCR and its partners might also enhance the complementarity of respective work plans and help identify those areas where NGOs could best fill the gap left by any decline in UNHCR's capacity. Joint training sessions for NGOs and local UNHCR staff on particular issues or on protection standards, benchmarks and models of best practice would also increase the potential for identifying and achieving protection goals.

Some participants were of the view that it was more effective for UNHCR to build strong relationships with governments to promote protection—UNHCR was in a unique position *vis-à-vis* states. They considered that UNHCR's platform was quite separate from that of civil society and needed to be independently nurtured—especially those aspects of its mandate which related to its supervisory function. NGOs could of course benefit from interaction with and provision of support to UNHCR. Civil society should be ready to pressure states to rectify policies where they fell short and where UNHCR was unable to assert its authority.

The importance of strengthening local capacity (both governmental and non-governmental) to carry out protection related activities was highlighted. Ensuring that the burden and responsibility for refugee protection was more effectively shared was in UNHCR's interest. Status determination was noted as one area, for example, where it was suggested that NGOs could be trained, leading to the creation of sustainable capacity within national determination procedures. It was pointed out that in the context of the various large repatriation movements which were ongoing or imminent in the Great Lakes region, building the capacity of civil society in the country of origin to monitor and advocate for returnee rights was particularly important.

One issue which arose was the how to ensure greater UNHCR accountability. Did NGOs have a role in assisting UNHCR to critically reflect on its activities? There was concern that on some occasions UNHCR had demonstrated greater “collusion” with states than its mandate would indicate. Corruption scandals and accusations of the criminal abuse of women and children had

also tainted UNHCR's reputation in recent years. In terms of the misconduct of staff, participants welcomed the strengthening of UNHCR's organizational hygiene in the wake of the sexual exploitation scandal uncovered in West Africa. The creation of a more robust internal inspection unit within UNHCR was favorably noted but continued attention to the professionalization of staff and the deployment of increased numbers of protection officers on the ground was urged.

In devising successful strategies for refugee protection in the region it was pointed out that it was important to consider the scope for an interchange of roles between UNHCR and NGOs. As embodiments of the local citizenry, NGOs were at times freer than UNHCR to speak out and challenge the state. At others, UNHCR was in a better position. Participants proffered examples of situations where civil society had been able to take a more public stance than UNHCR on a protection issue due to political delicacies—members of NGOs, as citizens, were not easy to “put on the next plane out.” Ultimately, a more active attention to the possibility of such partnership could result in a strengthening of UNHCR's mandate and role.

Finally, on a practical note, it was emphasized that NGOs could play a role in educating donors and enhancing donor relationships for UNHCR at country level through facilitation of field visits or media campaigns. If handled competently this would lead not to bruising competition between UNHCR and NGOs, but to complementarity. It was noted that competition in itself should not be seen inherently as a bad thing—coordination and partnership were the keys.

## IV. The New “Solutions”

Professor Chaloka Beyani opened the session with his presentation entitled “Convention Plus’ and ‘Effective Protection’: Myths and Realities”. He provided an overview of the possible impact on the future of African refugee protection of international developments in refugee policy,, particularly through the Convention Plus forum and ongoing European law reform.<sup>15</sup> Professor Sifuni Mchome opened the discussion the discussion to participants with a response to Professor Beyani’s paper.

There were three main areas of policy change contemplated in the Convention Plus process: enhancing resettlement as a tool of protection/element of burden sharing and durable solution, allocation of assistance and development aid, and clarification of the responsibility of states in relation to “secondary” movement. At the European level, potential policy developments included the creation of regional protection zones and new bilateral agreements governing issues such as the return of failed asylum seekers and the processing of applications for asylum “in regions of origin.” These new refugee policy models indicated changes in how protection for the displaced might be conceptualized and put into practice in Africa and internationally going forward.

It was acknowledged that it was difficult to assess the impact of the developments under discussion as much of the detail of the proposed policy changes had not yet been clearly defined. There was a danger, however, that the current foundations of refugee law could be eroded—despite the fact that this was not the expressed intent of the process. What would be the fate not only of the rights folder which refugees in Africa held under the OAU and U.N. Conventions but of existing structures of protection? Would resettlement criteria merge with the asylum standard? Would the higher threshold of the refugee definition of the 1951 U.N. Convention percolate into the application of the 1969 OAU Convention and lower the protection standards which African states had deliberately and progressively adopted. As one frustrated participant put it starkly, “if the [1951] Convention doesn’t apply let’s scrap it.”

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<sup>15</sup> Convention Plus is a process coordinated by UNHCR which aims to “improve refugee protection worldwide and to facilitate the resolution of refugee problems through multilateral special agreements.” Three priority challenges have been identified: the strategic use of resettlement, more effective targeting of development assistance and clarification of the responsibilities of states in the event of secondary movements of refugees and asylum seekers. See *Convention Plus at a glance*, available online at [www.unhcr.ch](http://www.unhcr.ch).

It was suggested that NGOs had a particular role to play in exposing and explicitly tackling the dangerous philosophical underpinnings of some of the proposals. Detected in some of the proposals was, for example, an underlying rationale of burden *shifting*, rather than burden *sharing*. In addition, the meaning of burden sharing itself tended to be narrowly conceptualized as a transfer of financial resources by the Global North. It was noted how Tanzania, for example, had recently been offered four million British pounds in additional development aid if it would operate a transit centre for asylum seekers from Africa whose refugee status applications had been rejected in the United Kingdom. Although that initiative ultimately was not implemented, it was an indication of the prevailing approach. Participants noted that there was no guarantee that similar proposals would not be revived.

At the extreme end of a range of policy approaches under consideration the suggestion still persisted that wealthier states might be permitted to contract out of their obligation to permit arriving asylum refugees to remain on their territory and have their applications for asylum considered—the “buffer strategy.” Certainly the implication of many of the discussions within the Convention Plus process was that refugees were “better off” nearer their regions of origin and far from the borders of states in the Global North. There seemed also to be a strong ideological component to the discussion—the majority of the extraterritorial measures being explored by Europe were directed towards Africa despite the fact that the majority of asylum seekers in Europe were from Eastern Europe and elsewhere.

It was pointed out that the primary impetus for the adoption of new policy models was coming from states in the Global North. Only a small number of African states had been involved in the discussions. Nor had the content and potential effect of Convention Plus and other policy making processes been examined within African civil society. A number of European NGOs had, on the other hand, done good work on developing understandings around “effective protection” and other concepts which were being used in Europe to found the new models. It was vital that African NGOs and researchers understood the potential impact of proposed developments on both the legal framework and policy making surrounding protection in the region, and received support for ongoing assessment of these initiatives.

It was recalled that where African NGOs were well informed and able to coordinate with their counterparts outside the region they had in the past had an impact on extra-continental lawmaking. One participant described how a coalition of African and European NGOs had defeated a bilateral accord which would have involved the return of failed African asylum seekers for “processing” in Senegal. In thinking through the areas where African NGOs could begin to engage more proactively, a number of questions were raised:

- What would be the relationship between “special agreements” concluded between African states and states outside the continent, and the requirements of African refugee and human rights law? In Africa, for example, would the 1951 U.N. Convention refugee definition, rather than that of African refugee law, become the prevailing standard?
- What enforcement mechanism would apply to bilateral agreements which purported to govern refugee protection obligations? Would UNHCR have the capacity to play a supervisory role *vis-à-vis* the protection of the rights of individuals?

- Was there a danger that proposals such as those intended to enhance “regional protection” would force African states to become “agents” for the refugee protection obligation of states in the global north? What would be the forum for the assignment of responsibility?

Although a cautionary approach to extraterritorial policy making processes was recommended, a number of participants suggested that NGOs should also explore how strategic engagement could ensure the attraction of additional resources to Africa. Increased attention and support from states outside the region to refugee hosting countries in Africa, whatever the mixed motivations, provided the opportunity to advocates to not just seize the policy making momentum but to shape how resources got allocated. Denmark and Japan, for example, had recently revised their development policy in order to prioritize assistance to countries (such as Tanzania and Zambia) which hosted huge numbers of refugees.

Finally, participants recalled that some of the ostensibly new models being promulgated within the new policy making processes contained more than echoes of old programs and approaches. In the discussions of better linkages between responses to refugees and development policy there were useful lessons which could be garnered from an analysis of the successes and failures of the First and Second International Conferences on Assistance to Refugees in Africa. Engagement of the African human rights system in holding the line on protection was another of the suggested strategies.



## V. Beyond States: The Responsibility of Civil Society and Regional and International Actors

Discussion in this session focused on exploring the responsibilities of those other than states and UNHCR which had a role promoting refugee protection.

### A. The Role of Local NGOs

Eva Ayiera of the Refugee Consortium of Kenya launched the panel discussion on the role of NGOs. Two emerging challenges to effective refugee protection in the Great Lakes which were particularly amenable to attention and action by local NGOs were identified:

- The fatigue of donor and host communities *vis-à-vis* the presence and perceived economic impact of large numbers of refugees for protracted periods;
- Increased hostility toward refugees rooted in the perception of refugees as threats to security.

It was noted how polarization of communities was palpable in the region with refugees no longer viewed as objects of humanitarian compassion but as sources of threats to security—whether directly as individuals or as the cause of political tensions between states. The global “war on terror” and prolonged economic downturns in many refugee-hosting countries had also contributed to tarnishing the image of the refugee as deserving of protection.

Local NGOs had a primary role with respect to public education, in particular countering the misconception that refugees were principally threats to the security and economic wellbeing of the host state. It was suggested that NGOs strive to facilitate the conduct of research which would help provide an empirical basis for such assertions and underpin the debate on refugee protection practice and policy. More independent, impartial data could contribute to lessening the rhetoric of fear. The availability of “scientific information” which could buttress lobbying for legislative and policy change was critical if local NGOs were to increase their impact. The recent study by the Centre for the Study of Forced Migration in Dar es Salaam on the impact of refugees on Tanzania’s environment was identified as an example of the effective use of scientific research to play a critical part in both national and regional discussions on refugee protection policy.

It was recognized at the same time that most NGOs in the region had insufficient resources to engage in sustained research. It was important therefore to strategize about how NGOs could

not just build internal capacity but also maintain collaborative relationships with other organizations within the region and outside in order to infuse their advocacy with more detailed field analysis. Attention by NGOs to their own internal structures and processes which might be impeding their effectiveness as advocates was also urged. Among the additional approaches highlighted for adoption by NGOs in the region were:

- emphasizing the link between refugee rights and human rights and promoting policies which addressed both the rights of refugees and host communities;
- engaging with human rights treaty implementation mechanisms in the enforcement of refugee rights;
- encouraging a focus on the political and root causes of refugee flows, in addition to the humanitarian response;
- more effective early awareness-raising about emerging crises.

In the context of what was termed the increasing “globalization of exclusion” of refugees strengthened collaboration with international civil society was also essential. As overwhelmed local populations were exhausted from long support for refugee communities held in suspended states of dependence on humanitarian aid, the regional and international protection environment would have ever greater impact on the local. It was important that NGOs maintain connections with both experts and networks outside national borders. It was suggested that the new African NGO Protection Network could develop a role in this regard. The work of the West African Refugees and Internally Displaced Persons Network (WARIPNET), a member of the former network, might be looked to as an example.

Finally, the issue of budget allocation for refugee protection was identified as an area where civil society could play a useful role on the national plane. Advocacy with international donors, in collaboration with NGO colleagues from outside the region, was also important. The timely release of financial resources from the international community was often a pivotal factor in the success of response to a humanitarian crisis. Local assessment of needs and capacities would bring a compelling dimension to the advocacy. It was also suggested that NGOs engage in greater dialogue with donors from outside the country on refugee problems and protection priorities, whether through facilitation of field visits or regular informal exchanges.

## **B. The Place of Regional Arrangements in Refugee Protection**

Opening up the discussion on the place of regional arrangements in the promotion of refugee protection, panelist Chidi Odinkalu pointed out that the way in which the international community had fashioned its response to the displaced across the world reflected a tyranny of territory: an emphasis on the objective fact of state borders rather than a subjective analysis of need. Regional arrangements offered a way of extending the territory of protection beyond that traditionally conceived around the centrality of states.

It was urged that ways be sought to strengthen the implementation of the African Union’s framework of human rights protection in favor of the displaced. In addition to bolstering the functioning of the AU’s Humanitarian Affairs, Refugees and Displaced Persons Division (formerly the OAU Refugee Bureau), focus on the scope of the African Charter on Human and Peoples Rights (the African Charter) as a vital complement to the standards in the 1969 OAU

Convention was suggested. It was pointed out that the 1969 OAU Convention—Africa’s first human rights instrument—did not contain a monitoring mechanism. Locating the question of refugees within the African Charter through exploring how its human rights provisions could be understood as supportive of refugee rights, could therefore be a very effective approach. With the revitalization of the African Commission on Human and Peoples Rights and the foundation of a new Court, NGOs now had new tools for enforcing the 1969 OAU Convention.

At the same time it was noted that despite the wide-ranging human rights provisions within the African Union system, synergy between the AU and sub-regional bodies around human rights and refugee protection had not been sufficiently developed. Similarly, standard-setting at national level had been rarely linked to developments at sub-regional or regional level. The most recent attempt to look strategically at the inter-relationship of these systems and their effect on refugee protection had occurred during the development of the OAU/UNHCR Comprehensive Implementation Plan in 2000.<sup>16</sup> This was an area on where NGOs could consider a greater role.

In exploring the capacity of sub-regional arrangements in the Great Lakes region it was suggested that it was important to draw a distinction in the African context between “procured” regional arrangements and conscious regional arrangements. The divisive legacies of colonialism had created competitive and contradictory groupings which called for rationalization. For refugee protection advocates one of the challenges was how to work towards the alignment of the various sub-regional mechanisms so that the result would be a synergy, rather than a diminution, of protections for the displaced. If residence and establishment in neighboring countries in the region was a matter of regional citizenship—as it was for example in ECOWAS states—the ways whereby refugees could access protection would be multiplied. The existence of areas of freedom of movement and residence within a regional arrangement with enforcement mechanisms created new channels for intervention in support of refugee rights. The Protocol on the free movement of persons, right of residence and establishment in the ECOWAS system was mentioned as a model which might be examined for adoption in the region.<sup>17</sup> The mandate of the International Governmental Authority on Development (IGAD) was also identified as having particular potential for extending the mantle of protection for the displaced in the region. At the same time it was important to keep in mind that within the regional arrangements there was a tendency to conceive refugee movements in terms of security and defense rather than as groups of citizen/subjects—to the detriment of protection of their rights.

### C. The International Community

In terms of the broader international context and the role of state actors from outside the region two questions were posed by panelist Deirdre Clancy to initiate the discussion:

- What lessons could be learned from the Rwanda exodus?
- To what extent could regressive policies in the region be linked to the failure of regional and/or international actors to appropriately “burden share”?

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<sup>16</sup> See footnote 8 above.

<sup>17</sup> See Supplementary Protocol A/SP.1.7/85 on the Code of Conduct for the Implementation of the Protocol on Free Movement Persons, the Right of Residence and Establishment at <http://www.sec.ecowas.int>.

Host states had the primary responsibility for protecting refugees, but the multifaceted issues of security which faced host states in the Great Lakes region in the aftermath of the Rwanda exodus could hardly have been dealt with by states acting alone. In the absence of decisive support from outside the region host countries were quickly overwhelmed by the sheer scale and complex character of the Rwanda outflow. Ten years later many states in the region continued to struggle to provide assistance and protection to large numbers of refugees, some of whom were still in exile as a result of the failures of the international community in the aftermath of the Rwanda tragedy. The will of states outside the region to effectively share the responsibility to protect refugees in the Great Lakes—in a timely and coordinated manner—had been inconsistent throughout the previous decade.

It was pointed out that the approach to refugee protection in African law as enshrined in the 1969 OAU Convention explicitly recognized the requirements of collective responsibility where national capacity was under strain. The principles of responsibility-sharing were also found, if less overtly, in the 1951 U.N. Convention. One of the clear lessons of the Rwanda exodus, however, was that members of the international community often had a greater interest in framing solidarity in refugee situations in narrow and conventional humanitarian, rather than political, terms. Recognition of the requirements of the latter, of course, might necessitate robust action which states were unwilling to contemplate. It was striking to note, for example, how the amount of publicity and aid that flowed towards the Rwandan refugee camps in the aftermath of the genocide starkly contrasted with the lack of attention and assistance which went towards preventing the incipient genocide: while the United States, for example, blocked a mandate for U.N. peacekeepers to provide protection and to act to prevent genocide in Rwanda, once the refugees had fled abroad it had troops on the ground within days to implement a “feeding and watering program.”

It was noted also that many of the factors which continued to fuel the conflict after the initial exodus of refugees were external to the region. Some were even linked to those states that were ostensibly contributing to the humanitarian “response.” It was the U.N. Security Council’s very own commission investigating the flow of weapons to the *Forces Armées Rwandaises* (the armed forces of the former government of Rwanda), for example, which found evidence of the involvement of the-then Zairean government and states including Belgium, France, Bulgaria, China, and South Africa in the movement of arms. Unsurprisingly, admissions of culpability were not forthcoming; nor was any action taken to identify complicit states.

Echoing the discussions which had taken place during the opening session of the conference, the importance of integrating attention to root causes into the operationalization of the international response to refugee emergencies was noted. One of the most egregious aspects of the response to the Rwandan emergency had been the failure to separate armed elements and others who were destroying the humanitarian nature of the camps, particularly in eastern Zaire in 1994/1995. The result was an extraordinarily overt reconstruction of ex-FAR structures and operations. In certain such situations it was likely that only the international community had the capacity to take decisive action in establishing safe conditions.

Although it did call unequivocally for separation of those threatening the security of the camps, the OAU had been unable to act alone. Shamefully, it had taken the U.N. Security Council until November 1996 to first acknowledge that the magnitude of the crisis in eastern Zaire constituted

a “threat to peace and security in the region.”<sup>18</sup> Even then it set the most minimal of objectives in its “decisive” plan of action. It requested the secretary-general to draw up a framework for the creation of a multi-national force to ensure access to humanitarian relief and “assist the United Nations High Commissioner for Refugees with the protection and voluntary repatriation of refugees and displaced persons.”<sup>19</sup>

In thinking through how NGOs in the region might identify those states outside the region with the potential to particularly affect refugee policy in the Great Lakes going forward the following suggestions were made:

- States which play a leading role in international agencies guiding refugee policy (e.g., UNHCR, IOM), humanitarian or development aid allocation (e.g., the World Bank), or the international political agenda setting processes (e.g., the International Conference);
- States which have declared interests in specific thematic areas of international relations affecting refugee policy e.g., Japan—human security; Canada—issues of state sovereignty and intervention/refugee security;
- States which are adopting internal policies which might have an extra-territorial effect;
- Regional groupings, e.g., the European Union.

It was pointed out that it should not be forgotten that international NGOs also had a critical task in setting the agenda of the “international community” and thus shaping refugee protection policy in the Great Lakes. In their response to the Rwanda exodus much had been written about the abject failure of international humanitarian NGOs across a range of areas: lack of coordination and cooperation, destructive competition, ill-trained and inappropriately equipped staff, complicity in the control by Hutu militia of the camps and ultimately fuelling of the war machine itself. The Rwanda refugee crisis had in fact sparked a crisis in international humanitarianism from which it had not yet recovered. In looking at the way in which international NGOs going forward could offer support to their local counterparts in promoting protection in the region the following activities were mentioned:

- Helping to build capacity of regional NGOs to provide assistance and protection;
- Linking regional NGOs with policy making processes in regional and international fora through policy alerts, exchange of information, and coordinated advocacy;
- Conducting public education on the situation of refugees and the role played by states and host communities in the region in supporting them in exile;
- Building and coordinating strategic advocacy campaigns on thematic issues;
- Persuading states outside the region to adequately fund responses to refugee emergencies;
- Providing an independent and authoritative voice on protection issues where political sensitivities might enjoin overt advocacy by local NGOs.

Finally, it was recalled that it was difficult to talk about the international community and not mention the pivotal role which the media played in determining the character and quality of the

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<sup>18</sup> Security Council Resolution 1078, U.N. doc. no. S/RES/1078 (1996), November 9, 1996, preamble.

<sup>19</sup> *Ibid.*, at para. 10(a).

response of the international community to political turmoil and conflict. When eastern Zaire was invaded by hordes of journalists in search of a story in 1994 only weeks after the world had ignored the unfolding genocide, the frenzy of attention did result in a flow of emergency resources—but hugely disproportionate to those which would have been required to help prevent the genocide

It was also noted that the way the media approached reporting on the camps in eastern Zaire was perhaps unhelpful in the long term, not just because it was highly reductionist in terms of understanding the crisis but also because it was directly detrimental to the protection of refugees. In 1996 the pictures transmitted to the world of tens of thousands of refugees fleeing home to Rwanda allowed the public outside the region to feel that the disaster was over, however horrific the circumstances which catalyzed the mass movement. The question was raised as to whether there were ways NGOs could think through how to develop a more effective and strategic relationship with the media.

## VI. Conference Conclusions and Recommendations

The following conclusions and recommendations reflect the general consensus of conference participants regarding the most urgent areas for action. The recommendations are not comprehensive—there were a range of issues under each theme which conference participants did not have time to address. There were also matters noted as important by delegates but for which recommendations were not developed. A strong focus of the discussions was the way in which NGOs could contribute to creating optimal refugee protection policy and practice in the region.

### A. The Legal Framework Governing Refugee Protection in the Great Lakes Region

#### Instruments, Standards and Implementation

*In many countries in the region there is a gap between the requirements of international and regional laws and national law and practice. In some countries of the region this has resulted in refugees being accorded few protections in national law.*

- National standards and practice of refugee protection in the region should be brought into line with applicable regional and international human rights, refugee, and humanitarian law. Strategies for the introduction of new laws, or for the implementation or amendment of existing legislation, might be developed collaboratively with **UNHCR and NGOs**. In formulating goals and identifying models of best practice the following activities might be contemplated:
  - Analysis of gaps in national and regional legal frameworks affecting the protection of refugees and the displaced in the region and design of legislative strategies to redress these deficiencies, including consideration of model legislation;
  - Recourse to national and regional human rights supervisory mechanisms with a view to obtaining authoritative guidance on how standards should be interpreted on the ground and narrowing the gap between applicable regional standards and the experience of refugees in the region. Some participants indicated the need for more precise recommendations regarding the role of regional mechanisms and the new institutions of the AU in promoting refugee rights.

- **NGOs** should consider how to best engage the various sub-regional intergovernmental grouping in tackling the problems faced by the forcibly displaced in the Great Lakes region. The experience of ECOWAS in responding to refugee crises in West Africa might be studied in this regard.
- **NGOs, in collaboration with UNHCR**, should encourage review of national legislation relating to the question of citizenship and property rights.
  - **Civil society** should seek support for the conduct of a study on models of acquisition and loss of nationality in countries in the region, including their contribution to root causes of displacement and discrimination. Best practice recommendations should be formulated, referencing international human rights, refugee, and statelessness law where applicable, including the rights of the child.
  - **States** in the region should develop workable law and institutions which give effect to the exercise of rights relating to the possession and use of land and property, and inheritance, in line with international law, in particular how they impact on the return of refugees from periods of protracted exile. Protection of the rights of displaced (both refugees and IDPs) in relation to restitution of property and land is critical to sustainable refugee return and to prevention of future conflict. The property and inheritance rights of women, and children orphaned in the genocide or in the HIV/AIDS pandemic, must receive adequate attention in such frameworks. Comparative examination of previous experiences in the region e.g., the situation of Ugandan Asians, the experience of Rwandans in the 1970 and 1980s and of Burundians in Tanzania, might be considered.

## Extra-Territorial Developments

*Refugee protection and migration policy developments in Europe and within the Convention Plus initiative, including proposals for overseas processing and development aid conditionalities, have the potential to critically affect the character of refugee law and policy in the region.*

- **States in the region, civil society and UNHCR** should explore the possible impact of European and international refugee and migration policy reform proposals on the quality and character of refugee protection available in Africa. Particular attention should be paid to the potential to undermine the 1969 OAU Convention. Among the issues which might be examined are:
  - The definition of “refugee” and the scope of the *non-refoulement* protection set out in the 1969 OAU Convention and their relationship to those enshrined in the 1951 U.N. Convention;
  - The character of the rights of asylum seekers and refugees under future proposed arrangements, in particular their compatibility with rights accorded under African regional arrangements, including detention, restriction of freedom of movement, etc;
  - The question of the legal obligations of states in the region for actions taken pursuant to arrangements with states outside the region intended to fulfill the latter’s refugee protection obligations;
  - The impact of conditioning development assistance on acceptance by states in the region of return and readmission agreements and other agreements relating to the provision of refugee protection.
- **NGOs in the region** should consider developing partnerships with organizations outside the region (such as European and international NGOs) which would

increase their influence on policy making discussions taking place internationally. Strategies for minimizing the negative impact of such policies on standards of refugee protection in Africa should be drawn up.

## B. Key Themes

### Refugee Protection and the Requirements of Security

*The separation of armed elements and those responsible for gross human rights crimes from with an arriving refugee population is one of the core requirements of protection and maintaining the security of refugees, humanitarian workers, and host communities in situations of conflict. Lack of sufficient resources, accurate information, and inadequate procedures have prevented states in the region from carrying out this task. An additional obstacle has been the absence of a comprehensive regional approach.*

- **States, in collaboration with UNHCR**, should develop practical arrangements for separation operations, building on the framework and guidelines agreed at global level under the auspices of the Global Consultations and the Agenda for Protection.<sup>20</sup>
  - A comparative examination of the strengths and weaknesses of the Zambian security initiative, the Tanzania security model, and a review of the involvement of U.N. military forces in responding to the security of the displaced might assist in identifying key operational elements.
- Adequate assistance should be made available to states to carry out thorough separation operations, where necessary, and as soon as possible after refugees cross the border:
  - Technical and other support should be provided by the **international community, either bilaterally or via multilateral efforts**, to national authorities and police in the region in order to develop improved logistic and operational capacity for separation operations;
  - **Regional institutions** should consider the development of stand-by structures which would include mechanisms for both collection and analysis of information and early warning relating to refugee security and logistical support for managing mass influxes, and to which states could present requests and obtain support for responding to situations that threaten public security.
- **States, in collaboration with UNHCR**, should be supported to improve refugee registration procedures, essential complements to effective separation operations. Such procedures should include provision of secure identity documentation authorized by a competent authority.

*Ensuring the security of refugees and host communities more broadly requires a range of measures, from registration and separation to provision of adequate humanitarian assistance, and the participation of a range of actors. Among the issues raised by participants:*

<sup>20</sup> UNHCR's Global Consultations process culminated in 2001 with the re-affirmation of the centrality of the 1951 U.N. Convention and the identification of a program of action aimed at strengthening the Convention and making it more resilient to the character of modern refugee movements (the Agenda for Protection). See <http://www.unhcr.ch/cgi-bin/texis/vtx/global-consultations?page=home>.

- **Host states** should work in partnership with all stake holders to ensure security for refugees and host communities, including refugees themselves and relief providers.
- **Governments in the region** should be urged to fulfill their essential obligation to ensure safe and secure humanitarian access to refugees and displaced populations.
- **NGOs** might consider their role in, and potential responsibility for, dealing with issues relating to refugee security. This might include consideration of capacities for: information sharing, including the dissemination of accurate information to host and refugee populations; reducing the threat of refugee-host community tension; and the promotion of projects to combat xenophobia.

## Refugee Social and Economic Rights and the Development of Host Communities

*Host governments must be supported through sustained input of resources to enhance the independence and self-reliance of refugees and to integrate the needs of refugee and host communities in national development plans. Further work is needed, however, to develop practical ways of implementing this approach in practice and to convince all stakeholders of its effectiveness.*

- Among the activities which could be carried out by **NGOs** to support this agenda are:
  - Comparative study of the relative strengths of the **Zambian and Ugandan self-reliance and development models**, taking into account their particular contexts;
  - Empirical exploration of the claim that promotion of refugee integration and self-reliance creates conditions in which refugees are better prepared—and able—to return when the situation in the host country permits.
- In designing development strategies, **states** should ensure that post-repatriation recovery plans are instituted in areas formerly hosting refugees in order to assist former host communities in managing demographic and environmental changes.
- In developing programs for refugee self-reliance, **states, UNHCR and implementing partners** should strive to include both refugees and local hosts in their design. They should take into account the wide variety of skills and capacities of refugees, especially those outside the agricultural context. Access to vocational training programs, for example, should be extended to refugees where possible.
- Self-reliance strategies cannot be successful without the facilitation of a minimum of individual refugee freedom to choose the most effective use of available resources in a given circumstance. **UNHCR and local NGOs** should advocate for the amendment of domestic legislation where necessary in order to ensure that it provides for the recognition of refugee rights as set out in the 1951 U.N. Convention, particularly those relating to the rights to work, engage in self-employment, and freedom of movement.

## C. Durable Solutions

*Sustainable strategies for resolution of the plight of refugee groups in the region requires a comprehensive approach, involving consideration of all three of the durable solutions—local integration, repatriation, and resettlement. In particular, and despite the fact that returning home in safety is the hope of many refugees in the region, return will not be possible for all. Protection of the rights of the internally displaced must be an integral part of the consideration of durable solutions.*

## Repatriation and Continued Asylum

- Refugees and their representatives should be encouraged and facilitated to participate both in the negotiation of peace agreements and the design of repatriation programs.
- The voluntary character of repatriation must be respected. **States and UNHCR** should ensure that every refugee is provided with an opportunity to freely express his or her wish to either repatriate or remain in the country of asylum. Special arrangements may be required in order to ensure that decisions to repatriate by women and children are made completely voluntarily.
- Where cessation<sup>21</sup> is declared or is under contemplation, transparent procedures should be developed by **states in consultation with UNHCR** to ensure that all individuals who continue to have a well-founded fear of return are given the opportunity to express their need for continued international protection. From the outset of the announcement of a voluntary repatriation operation refugees should be made aware that such procedures have been put in place.
- Effective protection must be ensured for those who are unable to repatriate. **Third states** can support countries of first asylum to fulfill their obligation to protect by increasing material assistance or through offers of resettlement.
- **UNHCR** should be facilitated in allocating sufficient resources towards establishing an adequate presence in the country of origin during repatriation operations, including at border reception points.
  - Partnership with civil society should be encouraged. **NGOs** in the country of origin can also play a role in the promotion of safe and dignified return through, *inter alia*, relief distribution, provision of legal services, monitoring and information campaigns, and assistance in family reunification programs.
- Adequate reintegration assistance should be made available to returning refugee groups by **countries of origin, supported by the international community**, in addition to support for provision of expanded social services to local receiving communities. Planning for refugee return operations should also take into consideration the needs of returning IDPs where relevant.
- **States** in the region should strive where appropriate to coordinate their repatriation efforts, including the application of the cessation clause, in collaboration with **UNHCR**, and *strictly in line with their human rights and refugee law obligations*. Where the latter principles are respected in a uniform manner this may contribute to a diminution in secondary movements of refugees while ensuring that international protection continues to be provided to those who need it.

## Resettlement

- **States, UNHCR and implementing partners** should work to improve the process whereby resettlement is obtained by those for whom it is the optimal solution. This

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<sup>21</sup> Cessation of refugee status is a mechanism within refugee law which involves a determination that a refugee is no longer in need of international protection. Cessation of refugee status is provided for in both the 1951 UN Convention (article 1C) and the 1969 OAU Convention article I(4)). The basis upon which a declaration of cessation can be made is described in broader terms in the latter Convention.

- might include review of how standards and procedures are applied, the location of resettlement points, the accessibility of decision makers and the role of UNHCR.
- As avenues are expanded for resettlement, including through NGO involvement in the selection process, there is a need for improved communication and coordination between **NGOs, resettlement states, and UNHCR**. UNHCR might take the lead in developing an agreed framework for case referrals which would, *inter alia*, avoid duplication and ensure that urgent cases are channeled in the most effective way to appropriate states.
  - **UNHCR** should continue to assist states to identify groups which are in particular need of resettlement, in addition to urgent protection cases.
  - Although resettlement criteria have been agreed at the international level, how they are interpreted in particular contexts is not always uniform, by individual states and UNHCR, and in the context of the 1969 OAU Convention.
    - The primacy of protection and the criterion of vulnerability as the rationale for prioritization within resettlement caseloads must be reaffirmed by **states, UNHCR, and implementing partners**. Physical or mental limitations, or infirmities such as HIV+ status, should not be an absolute bar to resettlement. Children, including child soldiers, should be subject to special consideration, with best interest determinations paramount.
    - **States and NGOs** should increase the capacity of their officials to correctly understand and apply resettlement standards through, for example, training for staff on the ground in effective case presentation. Such training has been done successfully by NGOs in the region, in partnership with UNHCR.
  - **States, UNHCR, and civil society** should strive to encourage expansion both of the number of resettlement places available to refugees in the region and the spread of countries participating in such programs, including in Africa.
    - The **AU, in partnership with UNHCR**, might play a promotional or coordinating role for increased resettlement within the continent.
    - **UNHCR** might consider undertaking a study of lessons learned from recent efforts to develop resettlement programs in West Africa, including challenges relating to integration and securing adequate material support for new resettlement states.
    - Adequate support, particularly through **targeted development assistance**, should be provided by **third states** to build capacity in new countries of resettlement – incentivized allocation of development assistance should not, however, result solely in “burden shifting.”

## **D. The Role of Local Civil Society and UNHCR**

- **States and the international community** must provide UNHCR with sufficient political support and material resources to effectively carry out its protection oversight function. Where there are indications that staff expulsions may be linked to a disregard of UNHCR’s mandate, and steps are taken within the U.N. system to investigate the incident, U.N. must ensure that the rights of the expelled staff member are fully respected and that the capacity of UNHCR to fulfill its mandate in a principled manner is reinforced.
- The problem of sexual and gender based violence continues to persist in refugee camps and settlements. Measures to combat the abuse of refugees by humanitarian

staff have generally concentrated on disciplinary aspects, including termination of employment. **UNHCR and NGOs** should pursue full implementation of a “zero tolerance” policy in tandem with assigning adequate numbers of protection staff, meeting the social and economic needs of refugee women and vigorously pursuing the prosecution of perpetrators of sexual and gender based violence.

- **UNHCR** should prioritize the goal of recognizing and strengthening local capacity for refugee protection, both governmental and non-governmental, so that the burden and responsibility for protection can be effectively shared. UNHCR should at all times, however, maintain its primary supervisory and coordination role.
- **NGOs** should work to deepen their capacity for quality research and advocacy, particularly around analysis of comparative practices and the identification of optimal models for implementing protection standards. More effective collaboration across the region in terms of information exchange and the design of complementary research and advocacy agendas might be considered. **NGOs** should strive also to work collaboratively to monitor the implementation of refugee protection standards in the region, including through the engagement of regional mechanisms.
- **Local NGOs** should collaborate with **NGOs outside the region** to monitor and engage in strategic advocacy on refugee policy developments occurring in Europe and internationally which may have direct consequences for refugee protection in Africa. International NGOs must ensure that their activities in the region are complementary to those of local organizations, and do not undermine local capacity.



## Appendix I: Opening Address

Hon. Ms. Amongin Christine Aporu

Minister of State Disaster Preparedness and Refugees, Uganda

The Special Representative of the Secretary-General for the Great Lakes Region, Hon. Members of Parliament, Distinguished Delegates in your respective capacities,

Let me take this opportunity, first to thank you for organizing this regional dialogue again and for inviting the Office of the Prime Minister to participate.

This dialogue comes at an opportune time, because as you will note there are a number of positive developments and steps being taken to resolve some of the worst conflicts in the region.

Ladies and Gentlemen,

Conflicts that shattered the region for more than two decades did not only generate refugees and IDPs, but retarded the advancement of the region as a whole. It is saddening to note that, in the past ten years, the Great Lakes Region and the Horn of Africa accounted for the largest number of IDPs and refugees in Africa. This situation is not good for us. Consequently, as other regions were struggling and aspiring for development, the Great Lakes continued to grapple with the problem of IDPs and Refugees.

Ladies and Gentlemen,

The internal ramifications and social-political dynamics that were at the centre of this crisis should now offer the region a platform and lessons of how to tackle the root cause of these conflicts. As a region, we cannot afford to be embroiled in situations of war and displacement forever. It is in this regard that the efforts by IGADD, COMESA, AU, and various efforts like the Arusha Peace Initiatives, Lusaka Accord and the current SPLA and Government of Sudan peace talks should be strongly supported. Collectively, we should endeavor to ensure that these processes result in permanent peace and stability for the region.

Ladies and Gentlemen,

In the area of Refugee Protection, Uganda like other countries in the region has been at the forefront of the crisis. A number of challenges and problems associated with hosting large numbers of refugees have been experienced even to the extent of straining relationships between states.

Although a number of countries, especially in the developed “North” continue to put restrictive refugees policies, as a region, there is need to put in place refugee friendly legislations and practices to accord our people who are forced to flee their countries of origin for one reason or another an opportunity to live a normal life, while in exile.

In Uganda, Government continues to pursue strategies, which seek to enhance self-reliance and household well-being of refugees and host communities. Through the implementation of long-term strategies and integration of services, refugees are perceived as part and parcel of the broad framework of the government’s development plans and service delivery mechanisms.

Refugees benefit from the existing government development programs like Universal Primary Education and PEAP. This approach has proved to be an appropriate response to protracted refugee situations. However, it has also shown that a development approach to refugee issues is expensive and requires additional resources. However, attracting additional resources remains a problem. It is our hope that strategies proposed under initiatives like Convention Plus will address this problem.

At the policy level, government has formulated a new Refugee Law, which has been described as model legislation. This Law is now before the Parliament and will be debated very soon. The Bill incorporates international standards and principles for the treatment of refugees. I invite you all to make comments to improve it and in the near future to contribute towards its implementation.

Ladies and Gentlemen,

Before I end my remarks, one point is crucial. Although such pro-people legislation is put in place, there is a need to address the root causes of refugee crises. People are forced to flee because of bad governance, abuse of fundamental human rights and under development. These are areas, which create a vicious cycle of conflict and forced displacement of people. We need to address ourselves to those issues.

A review of the past ten years shows that most governments in the region have made positive developments in this direction. The vision under various initiatives like NEPAD, AU, COMESA and IGADD need to be strengthened.

Ladies and Gentlemen,

I hope that your deliberation in this dialogue will go a long way in contributing to these efforts. Our people crave for peace and stability. It is with these that we can enjoy the fruits of our prosperity.

I wish you fruitful deliberations.

Thank you.

## Appendix II: Conference Agenda

### April 14<sup>th</sup>

09:30 – 10:30 Opening Ceremony

#### *Welcome and Overview of*

#### *Conference Objectives:*

Zachary Lomo, Director,  
Refugee Law Project

#### *Welcoming Remarks:*

Honorable Christine Aporu, Minister of  
State, Disaster Preparedness and Refugees,  
Uganda

#### *Opening Address:*

Wairimu Karago, Regional Coordinator,  
Great Lakes Operation, UNHCR

10:30 – 11:00 *Coffee*

11:00 – 11:45 *Plenary*: Presentation

#### *Identifying the Challenges:*

A decade after the 1994 Rwandan refugee  
exodus what is the current state of refugee  
rights protection in the Great Lakes region?

#### *Keynote Presentation:*

Dr. Bonaventure Rutinwa, Senior Lecturer,  
University of Dar es Salaam

11:45-13:00 *Plenary*: Panel Discussion

#### *Reflecting Diverse Perspectives:*

A panel discussion reflecting responses to  
the challenges set out in the previous  
session from different perspectives  
(Wairimu Karago, Regional Coordinator,

Great Lakes Operation, UNHCR, Judy  
Wakahiu, Executive Director, Refugee  
Consortium of Kenya, Professor Joseph  
Oloka-Onyango, Faculty of Law, Makerere  
University, and Honorable Norbert Mao,  
Chairman, AMANI Group)

- *Facilitator*: Zachary Lomo, Director,  
Refugee Law Project

13:00 – 14:30 *Lunch*

14:30 –16:30 *Working Groups* (including  
coffee break):

*Each working group will be framed by brief expert  
presentations—including reference to concrete  
cases.*

#### *Refugees and the Calculations of Security:*

Can resurgence in militarization/use of  
force in response to refugees be identified in  
the region? How is the global “war on  
terror” affecting protection and the attitude  
of states towards refugees? How can  
protection and security be reconciled? What  
is the role of NGOs?

- *Experts*: Zachary Lomo, Director,  
Refugee Law Project; Dr. Makumi  
Mwagiru, Director of the Institute of  
Diplomacy and International Studies,  
University of Nairobi.

#### *Going Home:*

The politics of repatriation, refugee rights in  
the negotiation of peace agreements and the  
assurance of voluntariness. Are there

lessons to be learned from Uganda and Tanzania? What is the role of NGOs in ensuring safe return (e.g. information collection, monitoring)? What are the essential conditions for sustainable return?

- *Experts:* Joel Harding, Refugee Protection Programme Manager, International Rescue Committee; Professor John Okumu, Center for Refugee Studies, Moi University.

#### ***Refugee Economic and Social Rights:***

What models available can make a difference? A critical exploration of the Zambia Initiative, the Tanzanian experience and the Uganda Self Reliance Strategy. Is there a link to sustainable return?

- *Experts:* Lucy Hovil, Senior Researcher, Research and Advocacy Department, Refugee Law Project; Geoffrey Mulenga, Lecturer, Faculty of Law, University of Zambia

16:30-17:30 **Plenary:** Feedback from working group sessions.

- *Facilitator:* Pamela Reynell, Coordinator, African NGO Refugee Protection Network

## **April 15<sup>th</sup>**

09:00 – 11:30 *Parallel Working Groups* (including coffee):

#### ***Refugee Advocates: Is the role and authority of UNHCR under threat?***

How is the international arena changing for UNCHR? How are relationships with states affected? What are the effects on the ground? In light of this, how can the exercise of UNHCR's vital protection function be strengthened? What role can NGOs play in helping UNHCR to reassert its authority and play a greater complementary function with respect to protection? Is there a need to rethink relationships?

- *Experts:* Judy Wakahiu, Executive Director, Refugee Consortium of Kenya; Manisha Thomas, Humanitarian Officer, International Council of Voluntary Agencies (ICVA).

#### ***Resettlement and Durable Solutions:***

What role can different approaches to resettlement play in enhancing protection and contributing to durable solutions in the Great Lakes—"strategic" use of resettlement? Are there ways in which international and national NGOs in the Great Lakes can work more effectively together? Where does UNHCR fit?

- *Expert:* Darius Ellis, Country Director, HIAS Refugee Trust of Kenya

11:30 – 12:15 **Feedback** from 2 working groups and wrap up

- *Facilitator:* Judy Wakahiu, Executive Director, Refugee Consortium of Kenya

12:30 – 14:00 Lunch

14:00 – 15:30 **Plenary:** Presentation followed by Discussion:

#### ***The New "Solutions" and Refugee Protection:***

What are the implications for refugee protection in the region of new extra-regional/bilateral measures, for example off-shore processing, safe-havens in the countries of origin, inter-state economic agreements? What might be the effect of current trends in the extra-territorial migration policy of states outside Africa on protection in the region e.g., the United States and the European Union? What proactive advocacy/research agenda must be taken up?

- *Presenter:* Dr. Chaloka Beyani, Senior Lecturer in Law, London School of Economics
- *Commentator:* Professor Sifuni Mchome, Associate Dean, Faculty of Law University of Dar es Salaam

- *Facilitator:* Déirdre Clancy, Director, International Refugee Program, Human Rights First

15:30 – 16:00 *Coffee*

16:00 – 18:00 *Plenary:* Beyond States

Three short presentations followed by plenary discussion:

***Civil society discourse and responsibilities:***

How can NGOs work to shape a positive public discourse about refugees? How can host communities and/or civil society outside of Africa be engaged?

- *Expert:* Eva Ayiera, Advocacy Programme Officer, Refugee Consortium of Kenya

***Regional and sub-regional organizations:***

Are there ways in which regional and sub-regional institutions can be more effectively harnessed to enhance refugee protection in the Great Lakes? The AU and the ECOWAS example as models?

- *Expert:* Chidi Odinkalu, Senior Legal Officer for Africa, Open Society Justice Initiative

***The Wider International Context:***

To what extent can regressive policies in the region be linked to the failure of regional and/or international actors to appropriately “burden share”? What lessons can be learned from the Rwanda Exodus? How and where could a more energetic advocacy effort be directed?

- *Expert:* Déirdre Clancy, Director, International Refugee Program, Human Rights First
- *Facilitator:* Pamela Reynell, Coordinator, African NGO Refugee Protection Network

## **April 16<sup>th</sup>**

09:00 – 09:30 *Plenary:* Presentation of Draft Recommendations

09:30 – 10:30 *Perusal of recommendations/Coffee*

10:30 – 12:00 *Plenary:* Discussion, amendment and endorsement of recommendations.

12:00 *Closing ceremony*

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## **African NGO Refugee Protection Network Forum**

### **April 16<sup>th</sup>**

Afternoon Session for Members of the African NGO Refugee Protection Network



## Appendix III: Participants List

### Conveners

#### Zachary Lomo

Director, Refugee Law Project  
Faculty of Law, Makerere University  
UGANDA

#### Lucy Hovil

Senior Researcher, Research and Advocacy  
Department, Refugee Law Project  
Faculty of Law, Makerere University  
UGANDA

#### Winifred Agabo

Senior Education and Training Officer,  
Refugee Law Project, Faculty of Law,  
Makerere University  
UGANDA

#### Pamela Reynell

Coordinator, Africa NGO Refugee Protection  
Network

#### Judy Wakahiu

Director, Refugee Consortium of Kenya  
KENYA

#### Eva Ayiera

Advocacy Programme Officer,  
Refugee Consortium of Kenya  
KENYA

#### Dr. Sifuni Mchome

Associate Dean, Faculty of Law, University  
of Dar es Salaam  
TANZANIA

#### Deirdre Clancy

Director, International Refugee Program,  
Human Rights First  
USA

#### Dismas Nkunda

Africa Coordinator, International Refugee  
Program, Human Rights First  
USA

#### Olivia Bueno

Program Associate, International Refugee  
Program, Human Rights First  
USA

### Local NGOs

#### Ancilla Ndahigeze

Coordinatrice, Collectif des Association et  
ONG Feminines du Burundi (CAFOB)  
BURUNDI

#### Edouard Biha

Coordinateur du Programme Renforcement  
des Sections de la Ligue Iteka, Ligue Iteka  
BURUNDI

**Maître Georges B. Kapiamba**

Directeur chargé des enquêtes, recherches  
et protection, ASADHO/Katanga  
DEMOCRATIC REPUBLIC OF CONGO

**Jean Baptiste Mulengezi**

Groupe Jeremie, Bukavu  
DEMOCRATIC REPUBLIC OF CONGO

**Martin K. Mbugua**

Program Officer, Monitoring and Research,  
The Kenya Human Rights Commission  
KENYA

**Roger Bouka Owoko**

Directeur Exécutif, L'Observatoire  
Congolais des Droits de l'Homme  
REPUBLIC OF CONGO

**Apophia Kabuni Twiine**

Lecturer and Faculty Academic Registrar  
Faculty of Law, National University of  
Rwanda  
RWANDA

**Manal Mohammed Abdel Halim**

Mutawinat Group,  
SUDAN

**Duanne Poppe**

Director, Tanganyika Christian Refugee  
Service  
TANZANIA

**Geoffrey Mulenga**

Lecturer, Faculty of Law  
ZAMBIA

**International NGOs and Regional  
Representatives**

**Norbert Mao**

Chairman, AMANI Great Lakes  
Parliamentary Group

**Darius Ellis**

Country Director, HIAS Refugee Trust of  
Kenya  
KENYA

**Sarah Oppenheim**

Associate Director of International  
Operations, Hebrew Immigrant Aid Society  
USA

**Joel Harding**

Refugee Protection Programme Manager,  
International Rescue Committee, Tanzania  
TANZANIA

**Mr. Aden Raj**

Country Director, Jesuit Refugee Service,  
Uganda/Southern Sudan  
UGANDA

**Sadikh Niass**

Coordinator, West African Refugee and  
Internally Displaced Persons Network,  
WARIPNET  
SENEGAL

**Manisha Thomas**

Humanitarian Affairs Officer, ICVA –  
International Council of Voluntary Agencies  
SWITZERLAND

**Warigia Kimani**

Consultant - International Conference on  
the Great Lakes Region, Fellowship of  
Christian Councils and Churches in the  
Great Lakes and Horn of Africa  
(FECCLAHA)  
KENYA

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## International Organizations

**Wairimu Karago**

Regional Coordinator  
UNHCR Great Lakes Operation

**Leonard Zulu**

Executive Assistant to Regional  
Coordinator  
UNHCR Great Lakes Operation

**Steven Gonah**

Protection Officer, UNHCR  
UGANDA

**Experts****Dr. Bonaventure Rutinwa**

Senior Lecturer, University of Dar es  
Salaam, Faculty of Law  
TANZANIA

**Dr. Chaloka Beyani**

Senior Lecturer in Law, London School of  
Economics  
UNITED KINGDOM

**Chidi Odinkalu**

Senior Legal Officer for Africa, Open Society  
Justice Initiative  
NIGERIA

**Barbara Harrell Bond**

Distinguished Adjunct Professor, Forced  
Migration and Refugee Studies, American  
University Cairo  
EGYPT

**Joe Oloka Onyango**

Lecturer, Faculty of Law, Makerere  
University  
UGANDA

**Professor John Okumu**

Center for Refugee Studies, Moi University  
KENYA

**Dr. Makumi Mwangi**

Director of Institute of Diplomacy and  
International Studies, University of Nairobi,  
KENYA

**Anna Schmidt**

University of California, Berkley  
USA

**Government of Uganda****Douglas Asiimwe**

Office of the Prime Minister  
UGANDA

**Charles Bafaki**

Office of the Prime Minister  
UGANDA

**Felix Kazahura**

Office of the Prime Minister  
UGANDA

**R.M. Wafula**

Office of the Prime Minister  
UGANDA

**Honorable Amongin Aporu**

Minister of State for Disaster Preparedness  
and Refugees  
UGANDA

**Carlos Twesigomwe**

Commissioner for Disaster Management  
and Refugees  
UGANDA



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