



# REFUGEES IN AFRICA

THE CHALLENGES OF PROTECTION AND SOLUTIONS

**Regional  
Parliamentary  
Conference  
on Refugees  
in Africa:  
"The Challenges  
of Protection  
and Solutions"**

**(Cotonou, Benin  
1-3 June 2004)**



**UNHCR**

United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés



**ICRC**

*UNHCR is grateful to the Human Security Fund of Canada's Department of Foreign Affairs and International Trade (DFAIT), whose contribution enabled the Office to support the holding of the Regional Parliamentary Conference entitled "Refugees in Africa: The Challenges of Protection and Solutions". The Conference was organized in collaboration with the African Parliamentary Union (APU) and the Inter-Parliamentary Union (IPU).*

# Refugees in Africa

## The Challenges of Protection and Solutions

Outcome of the June 2004 regional parliamentary conference co-organized by the African Parliamentary Union and UNHCR, in association with the Inter-Parliamentary Union and the ICRC.



Principal Editors: José Riera and Demian Casey

Cover: Romain Léonarduzzi

Photographs: Suzy Hopper (UNHCR Photo Library)

DECEMBER 2004

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# Refugees in Africa: The Challenges of Protection and Solutions

## Executive Summary

### Origin of the initiative

This publication contains the outcomes of the regional parliamentary conference on “Refugees in Africa: The Challenges of Protection and Solutions”, co-organized by the United Nations High Commissioner for Refugees (UNHCR) and the African Parliamentary Union in Cotonou, Benin from 1-3 June 2004. The conference grew out of an invitation extended to UNHCR



UNHCR / T. Boisard

Returnees planting vegetables in Mozambique.

by the APU to assist it to organize a regional parliamentary conference focusing on refugees in Africa. An event relating to *international humanitarian law* had been organized in cooperation with the International Committee of the Red Cross (ICRC) in Niamey in February 2002. The Niamey Declaration adopted at the close of that event contained many important undertakings regarding parliamentary action to ensure respect for international refugee law, as well as international humanitarian law. UNHCR and ICRC therefore agreed to cooperate closely in preparations for the regional parliamentary conference in Cotonou and, with the support of the APU Secretariat, to ensure that the conference also served to follow-up on the Niamey Conference.

### The Cotonou Conference

The *Regional Parliamentary Conference on Refugees in Africa: The Challenges of Protection and Solutions* conference was held from 1-3 June 2004 in Cotonou and sponsored by the National Assembly of Benin. The conference was an important milestone in the deepening cooperation between UNHCR, the Inter-Parliamentary Union (IPU) and the APU. This was the first time that UNHCR had worked with the APU to reach out to parliamentarians throughout Africa more

strategically in order to raise awareness of the protection problems confronting refugees and the need for durable solutions, as well as the role of parliamentarians in this regard.

According to information provided by the APU, which served as the conference secretariat, close to 200 officials participated in the event. Of these, parliamentarians from the following 26 African countries were in attendance: Algeria, Angola, Benin, Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Eritrea, Ethiopia, Gabon, Ghana, Gambia, Guinea, Liberia, Mali, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Sudan, Swaziland, Togo and Uganda. Ten organizations attended, including the ICRC, a partner in organizing the conference, the Parliament of the West African Economic Community, IFRC, the European Commission (ECHO), UNFPA, the African Development Bank, UNICEF, the African Union, the League of Arab States, the ILO and WHO.

### **Opening of the Conference**

The president of Benin, H.E. Mr. Mathieu Kérékou, solemnly opened the conference on 1 June 2004, in the company of other high-ranking national and international dignitaries including, H.E. Mr. Kalawole A. Idji, Speaker of the National Assembly of Benin; H.E. Mr. Ibrahim Aboubacar Keita, Chairperson of the APU's Executive Committee; Mr. Anders B. Johnsson, Secretary-General of the IPU; Mr. Kamel Morjane, Assistant United Nations High Commissioner for Refugees; Mrs. Erika Feller, Director, UNHCR's Department of International Protection; and Mr. Bertrand Kern, Diplomatic Advisor for Africa at ICRC Headquarters.

Mr. Abdelkader Bensalah, speaker of the Algerian Parliament, was elected as the overall conference Rapporteur. Other members of the Bureau of the Conference were: Mrs. Rebecca Kadaga, Deputy Speaker of the Ugandan Parliament; Mrs. Belinda Bidwell, a member of the Gambian Parliament; Mr. Bamba Ndiaye, an MP from Senegal; and Mr. Mamadou Bakayoko, a member of the Malian National Assembly. Throughout the event a total of 14 experts, including a number of African parliamentarians and government officials, provided testimony to inform the various workshop and plenary topics.



The Conference also heard from Mrs. Erika Feller, Director of UNHCR's Department of International Protection, on "*Refugee Protection: The Basics and New Directions*"; and from Mrs. Bemma Donkoh, UNHCR Regional Representative for Southern Africa, on an "*Overview of Challenges to the Protection of Refugees in Africa*". H.E. Ambassador Emile Ognimba, Head, Division of Humanitarian Affairs, Refugees and Internally Displaced Persons, Political Affairs Department, Commission of the African Union, assisted by Mr. Ilunga Ngandu, Regional Liaison Representative, UNHCR Liaison Office in Addis Abeba, presented the "*The African Union's Comprehensive Implementation Plan*". Mrs. Rebecca Kadaga, Deputy Speaker of the Ugandan Parliament, and Mrs. Christine Lukuka Kulimba, Member of the National Assembly of the Democratic Republic of the Congo, made plenary presentations on the topic of "*Incorporation of refugee law into national law and the specific role of Parliaments.*" (The conference programme is included in the Annex.)

### **Conference Topics**

The conference alerted parliamentarians to risks to refugee safety and protection that are part and parcel of the experience of exile. The workshops described preventive and other mitigating measures that can be taken:

- "*Sexual and gender-based violence (SGBV): prevention and response*"
- "*Maintaining law, order and community peace in refugee camps: roles and responsibilities*"
- "*Armed elements: the threat posed to the civilian and humanitarian character of asylum*"
- "*Best practices regarding the identification, separation and internment of armed elements*"

Refugees are not just problems. In many countries their positive potential is both recognized and nurtured. How can countries build local capacity to protect and receive refugees, while also finding durable solutions? This question was discussed in presentations on:

- "*Durable solutions for protracted refugee situations and self-reliance strategies: UNHCR's framework for durable solutions*"

- *“The Convention Plus Initiative”*
- *“Building national protection capacities”*
- *“Involving civil society in refugee protection”*

## **The Cotonou Declaration and Programme of Action**

The conference adopted by acclamation the Cotonou Declaration and Programme of Action. The Declaration and Programme of Action describe very practical strategies and activities to help African Parliaments in their work in favour of protecting refugees and finding durable solutions for their plight. The Cotonou Conference built on the February 2002 Niamey Conference on International Humanitarian Law, using the same steering committee, which is now charged with encouraging robust follow-up. The Follow-up Committee is to meet regularly (with UNHCR and ICRC assistance) and report back to both the APU and the IPU on progress made in attaining the undertakings and objectives set out in the Declaration and Plan of Action. It was agreed, in principle, that a follow-up conference will be held in 2006.

### **The Declaration:**

- Stresses the continuing relevance of both the 1951 and 1969 OAU Conventions.
- Recognizes that protection includes “the ability to lead a meaningful and dignified life while in exile; and that this requires the empowerment of refugees to attain self-reliance...”
- Contains an undertaking to facilitate the self-sufficiency and local integration of refugees.
- Recognizes the need to promote a change in attitude towards refugees.
- Sets up a “process aimed at strengthening observance of the rules of international refugee, human rights and humanitarian law in Africa” through the work of parliamentarians.

The **Programme of Action** contains 11 broad objectives, each containing a number of specific recommendations:

1. *Ensuring accession to, or lifting reservations on, international treaties relating to refugees and stateless persons.*
2. *Ensuring full and effective implementation of international norms relating to refugees* (for example, to initiate a review of national legislation, make use of all means available to parliament including – public hearings, questions to parliament and visits to refugee camps and refugee-hosting areas, and seeking information on the situation of refugees, displaced persons and returnees in order to take informed action regarding their welfare and rights).
3. *Increasing awareness of international refugee, human rights and humanitarian law.*
4. *Improving responses to mass influx.*
5. *Diminishing dependence on humanitarian assistance by promoting self-reliance* (for example, to enhance productive capacities of refugees and their communities, empower women to play their central role, ensure that refugees enjoy fully their social and economic rights, include refugee-hosting countries in national development plans, give refugees access to education – including by reserving a quota of scholarships for them to attend national universities).
6. *Pursuing durable solutions* (for example, to use UNHCR's *Framework for Durable Solutions*, to encourage UNHCR and resettlement countries to make more strategic use of resettlement, and to acknowledge that, in some cases, local integration may be the best solution).
7. *Ensuring physical safety* (for example, to recognize the importance of registration and documentation).
8. *Maintain the civilian and humanitarian character of asylum* (for example, to disseminate the results of the June 2004 UNHCR-Canadian sponsored workshop on preserving the

civilian and humanitarian character of asylum which was organized pursuant to a request from UNHCR's Executive Committee (ExCom Conclusion 94) and ensure that national DDRR programmes have a regional dimension to minimize the risk that former combatants move from country to country).

9. *Combating intolerance and promoting respect for refugees.*
10. *Protecting and assisting internally displaced persons.*
11. *Promoting partnerships for protection, (notably with NGOs, but also members of civil society (for example, to solicit inputs from civil society, including non-governmental organizations, into matters related to the protection and welfare of refugees).*



Adolescent Congolese refugees playing at Kala camp, Kawambwa in Zambia.

## **UNHCR – African Parliamentary Union – Inter-Parliamentary Union**

### **African Parliamentary Conference: “Refugees in Africa: The Challenges of Protection and Solutions”**

Cotonou, Benin, 1-3 June 2004

#### **Declaration**

**We**, Speakers and Members of National Parliamentary Assemblies of Algeria, Angola, Benin, Burkina Faso, Cameroon, Chad, Côte d’Ivoire, Democratic Republic of the Congo, Egypt, Eritrea, Ethiopia, Gabon, Ghana, Gambia, Guinea, Liberia, Mali, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Sudan, Swaziland, Togo, and Uganda,

**Having** met upon the invitation of the National Assembly of Benin, from 1 to 3 June 2004 in Cotonou, during the Conference on “Refugees in Africa: The Challenges of Protection and Solutions”, organized by the African Parliamentary Union (APU) with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Inter-Parliamentary Union (IPU), and in association with the International Committee of the Red Cross (ICRC), and presided over by the Speaker of the National Assembly of Benin, the Honourable Kolawolé A. Idji,

**Recognizing** that no country is immune from the risk of generating and receiving refugee flows, and that therefore protecting refugees is a shared duty of all States and is a matter of respect for basic human rights,

**Deeply concerned** about the number of protracted refugee situations and the continuing presence of large populations of internally displaced persons in Africa, as well as the presence of armed elements in some refugee camps and forced recruitment, the serious violations of the universally recognized principle of non-refoulement, the growing xenophobia and intolerance against refugees, and threats to the physical safety of refugees, especially

women and children who are vulnerable to sexual and gender-based violence, but also the elderly,

**Paying tribute** to African countries which have provided protection and solutions to refugees over the decades in spite of limited resources,

**Committed** to doing everything in our power to maintain the generous tradition of asylum on the African Continent, and to ensure that refugees receive effective protection and have access to durable solutions as early as possible,

**Heartened** that, as a result of numerous ongoing peace processes in Africa firmly supported by the African Union and its Member States, there is today an enormous potential for durable solutions to refugee problems, especially voluntary repatriation and sustainable reintegration,

**Aware** of the dilemmas posed by mixed movements of refugees fleeing persecution or war and persons migrating for economic reasons,

**Welcoming** the substantial contribution which the New Partnership for Africa's Development (NEPAD), the African Union's Peace and Security Council, as well as the G8 Africa Action Plan, can make to spurring economic development and maintaining peace in Africa,

**Recognizing** that the 1951 Geneva Refugee Convention, together with its Protocol of 1967, as complemented by the 1969 OAU Convention governing the Specific Aspects of Refugee Problems in Africa, remain the foundation of the international refugee protection regime in Africa, and have provided a resilient framework within which millions of refugees have been able to find safety from armed conflicts and persecution,

**Stressing** the continuing relevance and importance of the expanded refugee definition set out in the 1969 OAU Refugee Convention,

**Acknowledging** that an understanding of the plight of refugees fosters acceptance whereas ignorance breeds hostility; that refugee protection includes not only legal and physical protection, but also

the ability to lead a meaningful and dignified life while in exile; and that this requires the empowerment of refugees to be self-reliant, so that they may make a positive contribution to the life of their host communities and prepare for durable solutions,

**Convinced** of the need for more effective preventive measures at national, regional and international levels to address the root causes of refugee flows and other forms of forced displacement, and prevent the eruption or continuation of armed conflict,

**Recognizing** that good governance, observance of the rule of law and respect for human rights are the best form of prevention, while also contributing to peace, stability and economic development,

**Welcoming** the fundamental role played by UNHCR and ICRC, in pursuance of their respective mandates, to protect and assist refugees and find durable solutions to their problems, and to protect and assist civilians in times of conflict,

**Desirous** that the Regional Parliamentary Conference on “Refugees in Africa: The Challenges of Protection and Solutions”, and its predecessor, the 2002 African Parliamentary Conference on International Humanitarian Law for the Protection of Civilians during Armed Conflict, initiate a process aimed at strengthening observance of the rules of international refugee, human rights and humanitarian law in our States,

**Determined** to find durable solutions to the plight of refugees, while continuing to provide effective protection,

**Hereby adopt** the annexed Programme of Action, outlining various courses of action for Parliaments, and accordingly:

***Honouring and strengthening international refugee, human rights and humanitarian law principles***

1. Pledge our continuing commitment to strengthening observance of humanitarian principles and to build on the undertakings contained in the Niamey Final Declaration of

2002<sup>\*</sup>, and **reaffirm** our determination to ensure that our States and all parties to an armed conflict honour their obligations under international refugee, human rights and humanitarian law.

### ***Finding durable solutions***

2. **Recognize** that as a first step, self reliance of refugees be promoted as an important means to decrease dependency, maximise the initiative and potential contributions of refugees, and prepare them for durable solutions.
3. **Undertake** to foster conditions conducive to the implementation of durable solutions for refugees, notably, their voluntary repatriation to the country of origin or, where appropriate, their local integration in the country of asylum, or resettlement to a third country, recognizing that the success of durable solutions depends in large measure on the availability of adequate resources provided in a spirit of international solidarity and shared responsibility.
4. **Call on** UNHCR, development partners and international and regional financial institutions, to redouble their efforts to support countries of asylum to facilitate refugees' self-reliance, and countries of origin to ensure sustainable reintegration following the return of refugees.

### ***Ensuring physical and legal protection***

5. **Pledge** to protect refugees and asylum-seekers, especially women and children, from all forms of abuse, neglect, exploitation and violence, recognizing that the States hosting refugees bear responsibility for their physical protection.

### ***Maintaining the civilian and humanitarian character of asylum***

6. **Undertake** to ensure that the competent authorities safeguard the civilian nature and humanitarian character of the institution

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<sup>\*</sup> Adopted at the African Parliamentary Conference on International Humanitarian Law for the Protection of Civilians during Armed Conflict, held in Niamey from 18 to 20 February 2002.



of asylum and of refugee camps and settlements, without which the basic tenets of refugee protection would be compromised.

### ***Strengthening the role of Parliament***

7. **Resolve** to ensure that our parliaments fulfil their role in the process of acceding to the instruments of international refugee, human rights and humanitarian law, the adoption or amendment of national legislation in line with international standards, ensuring that adequate funds are allocated to implement such legislation, and overseeing the work of the Executive.
8. **Undertake** to encourage a wide-ranging debate on the state of national legislation to implement international refugee, human rights and humanitarian law, and on relevant practices and situations which require our attention.
9. **Encourage** our national parliaments to establish a standing committee, or sub-committee, dealing with all matters related to refugees and international humanitarian law.

### ***Promoting a change in attitudes towards refugees***

10. **Undertake**, as men and women elected by the people, to do all in our power to foster a positive attitude towards refugees and displaced persons, so as to improve their protection and ensure their contribution to the socio-economic development of their host communities.
11. **Commit** ourselves to refrain from perpetuating negative stereotypes about refugees and to ensure that they are not exploited politically, including during electoral campaigns.

### ***Implementing follow-up actions***

12. **Undertake** to forward this Declaration and Programme of Action to the attention of our Governments, and to urge the competent authorities to take every measure necessary to heed and address the concerns reflected therein.

13. **Resolve** to reinforce our cooperation on refugee and returnee matters with UNHCR.
14. **Commit** ourselves to reporting to the African Parliamentary Union on progress in implementing this Programme of Action in our countries, as well as on progress on the objectives stated in the Niamey Final Declaration.
15. **Request** the organizers of the Conference to forward this Declaration and Programme of Action to the African Union for information and distribution at the Assembly of Heads of State and Government, the Executive Council and to the Pan-African Parliament. **We also request** them to forward this Declaration and Programme of Action to the competent organs of the African Parliamentary Union, the Inter-Parliamentary Union, UNHCR and the ICRC, as well as other relevant actors, UN organizations and development partners.
16. **Request** the African Parliamentary Union, IPU, UNHCR and ICRC to widely disseminate the Declaration and Programme of Action of this Conference with a view to facilitating the follow-up.
17. **Request** the African Parliamentary Union to ensure that the Follow-Up Committee on the Niamey Conference also follows up on the Cotonou Conference, convenes at each statutory APU meeting to examine progress in the implementation of the Niamey Final Declaration and the Cotonou Declaration and Programme of Action, and reports on its findings to the IPU's Committee to Promote Respect for International Humanitarian Law.
18. **Request** the African Parliamentary Union to explore with the Inter-Parliamentary Union, UNHCR and ICRC, the possibility of convening a conference in 2006 to review progress made on the follow-up to the Niamey and Cotonou conferences.

## Programme of Action

This Programme of Action describes concrete objectives and strategies to support African Parliaments in their work in favour of protecting refugees and finding durable solutions to their situation. It aims at implementing the commitments contained in the Cotonou Declaration.

### **Objective 1: Ensuring accession to, or lifting reservations on, international treaties relating to refugees and stateless persons**

*Specific strategies:*

- Engage in an active national debate in Parliament and with Governments, with a view to ensuring that, where they have not yet done so, States accede to the following treaties or lift reservations lodged at the time of accession:
  - (i) Treaties protecting refugees and stateless persons
    - Convention relating to the Status of Refugees of 28 July 1951,
    - Protocol relating to the Status of Refugees of 31 January 1967,
    - Convention governing the Specific Aspects of Refugee Problems in Africa of 10 September 1969,
    - Convention relating to the Status of Stateless Persons of 28 September 1954, and
    - Convention on the Reduction of Statelessness of 30 August 1961.
  - (ii) International humanitarian law
    - Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977,
    - Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 June 1977,

- The Convention on Certain Conventional Weapons of 1980 and its Additional Protocols,
  - The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction of 13 January 1993,
  - The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on their Destruction of 3-4 December 1997, and
  - The Statute of the International Criminal Court of 17 July 1998.
- (iii) International human rights law
- International Covenant on Civil and Political Rights, 1966,
  - International Covenant on Economic, Social and Cultural Rights, 1966,
  - Convention on the Elimination of all forms of Discrimination against Women of 1979 and its Optional Protocol of 1999,
  - African Charter on Human and People's Rights of 1981 and its Additional Protocol relating to the Creation of an African Court for Human Rights of 1998,
  - African Charter on the Rights and Welfare of the Child of 1999, and
  - Convention on the Rights of the Child of 1990 and its Optional Protocols on the involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography of 2000.

**Objective 2: Ensuring full and effective implementation of international norms relating to refugees**

*Specific strategies:*

- Ensure that, beyond formal accession to the international and regional treaties, such treaties are effectively implemented through the enactment of national legislation and policies, including provisions penalizing violations of international humanitarian law.

- Observe and implement the suggestions and recommendations contained in the Handbooks for Parliamentarians titled “Protection of Refugees: Handbook on International Refugee Law” published by UNHCR and the IPU, and “Respect for International Humanitarian Law”, published by the ICRC and the IPU.
- Consider initiating a review of national legislation, with a view to amending, where necessary, such legislation so as to ensure consistency with applicable international standards.
- In this regard, support the analysis of national legislation being undertaken by the African Union and UNHCR, pursuant to the Comprehensive Implementation Plan (CIP), as well as that the analysis being undertaken by UNHCR in cooperation with the European Commission, and ensure that the relevant recommendations are implemented.
- Make use of all parliamentary mechanisms available, including public hearings, questions to government and visits to refugee camps and hosting areas, to seek information on the situation of refugees, displaced persons and returnees, so as to take informed action regarding their welfare and rights.
- Ensure that national parliaments mandate one of their standing committees to supervise parliamentary action in relation to refugees and international humanitarian law, or establish a sub-committee to this effect.

**Objective 3: Increasing awareness of international refugee, human rights and humanitarian law**

*Specific strategies:*

- Promote knowledge of international refugee, human rights and humanitarian law among parliamentarians at national and regional levels, and cooperate in this effort by sponsoring or attending seminars and workshops organized in conjunction with relevant organizations, such as the

African Parliamentary Union, the Pan-African Parliament, the IPU, UNHCR and ICRC.

- Encourage the inclusion of international refugee, human rights and humanitarian law in the curricula of academic institutions, including military and police academies and institutions.

#### **Objective 4: Improving responses to mass influxes of refugees**

*Specific strategies:*

- Encourage the competent authorities to work with UNHCR to ensure a more effective emergency response to mass influx situations, based on more predictable and reliable burden-sharing arrangements.
- Encourage the competent authorities to draw up and regularly update contingency plans, working in close cooperation with UNHCR, UN agencies and, where appropriate, the relevant regional and sub-regional organizations.
- Request that national and regional contingency plans make provisions for community-based activities not only addressing the specific needs of refugees but also of their host communities.

#### **Objective 5: Diminishing dependence on humanitarian assistance by promoting self-reliance**

*Specific strategies:*

- Explore the ways and means to enhance the productive capacities and self-reliance of refugees and their host communities, as a means of decreasing dependency on humanitarian assistance and empowering them to contribute to the development of the host country while in exile, and the

reconstruction and economic development of the country of origin upon return. In this regard, recognize the central role of women in any efforts aimed at self-reliance and promoting durable solutions.

- Welcome the focus of UNHCR's Framework for Durable Solutions on attracting additional development assistance for refugees and their host communities, and recognize its potential to promote better quality of life and self-reliance for refugees and host communities pending the implementation of other durable solutions.
- Ensure that refugees fully enjoy their social and economic rights, to empower them to become self-reliant, giving particular attention to overcoming all forms of discrimination, including that based on gender, age or disability.
- Encourage the relevant authorities to establish a database of the skills and professional profiles available within the refugee community, with a view to facilitating their employment and economic empowerment.
- Include refugee-hosting areas in national development plans, and encourage development partners to provide additional funding targeted to host communities as well as refugees.
- Ensure the availability and access to primary, secondary, tertiary and vocational education for refugees, recognizing that education is key to self reliance and all durable solutions.
- Consider allocating a proportion of national scholarships for secondary and tertiary education to deserving refugee children.

**Objective 6: Pursuing durable solutions: voluntary repatriation, resettlement and local integration**

*Specific strategies:*

- Contribute to the development of a more coherent approach to durable solutions by integrating voluntary repatriation, local integration and resettlement, whenever feasible, into one comprehensive approach for resolving refugee situations, implemented in cooperation with countries of origin, host States, UNHCR and its humanitarian and development partners, as well as refugees themselves.
- In developing such comprehensive approaches, make use of the Convention Plus initiative and the related Framework for Durable Solutions, as well as the Agenda for Protection.

### *Voluntary repatriation*

- Respect the right of return and the principle of voluntary repatriation of refugees in safety and dignity.
- Ensure respect for the voluntary nature of the decision to return to the country of origin of refugees, taking into account the specific situation of separated and unaccompanied children.
- Ensure that national authorities in countries of asylum, countries of origin and UNHCR cooperate so that repatriation takes place in safety and dignity, including through the adoption of confidence-building measures such as tripartite agreements spelling out guarantees, conditions and modalities for the voluntary repatriation operations, and go-and-see visits.
- Take all measures to enable returnees to enjoy the same rights as their fellow citizens.
- Promote reconciliation through the implementation of initiatives and projects benefiting returnees, internally displaced persons and all members of the community on an equal footing.
- Call on the competent authorities to cooperate with UNHCR, other United Nations agencies and development actors, to



gain support for the effective reintegration of returnees by implementing the Framework for Durable Solutions.

- Encourage UNHCR and development partners to provide for the environmental, infrastructure and other rehabilitation of refugee-impacted areas.

### *Resettlement*

- Cooperate with resettlement countries and UNHCR in implementing refugee resettlement both as an instrument of protection and as a durable solution, and use resettlement as a meaningful instrument of international solidarity and responsibility sharing.
- Encourage UNHCR and resettlement countries to make more strategic use of resettlement, including through the adoption of more flexible criteria and group processing, as a means to increase the number of resettlement opportunities.

### *Local integration*

- Acknowledge that, where refugees have developed strong family, social and economic links with host communities, it may be in the interest of the host country to facilitate their local integration, through granting of permanent residence and ultimately, naturalization.
- Encourage competent authorities to consider adopting the “DLI” approach (Development through Local Integration), to ensure that the international community provides adequate support for the socio-economic development of communities hosting refugees.

## **Objective 7: Ensuring the physical safety of refugees**

### *Specific strategies:*

- Ensure that the competent authorities assume their responsibility to maintain law and order in refugee camps

and refugee-hosting areas, with the support of the international community when necessary.

- Recognize that registering and documenting refugees contributes to improving their physical protection and the enjoyment of their rights, and invite UNHCR to continue providing support to African States to this end.
- Encourage the competent authorities to cooperate with the ICRC, UNHCR and UNICEF in the tracing and reunification of family members separated so as to preserve family unity.
- Request the competent authorities to set in place appropriate systems to prevent, monitor, report on, and respond, to gender- and age-based violence, including through the prosecution of perpetrators, and to combat the spread of HIV/AIDS within refugee and host communities.
- Encourage the continued development and implementation of training programmes and other practical measures aimed at promoting respect for the right of every refugee to dignity and personal security, and at promoting protection from sexual abuse and exploitation.
- Consider allocating budgets to provide treatment and counseling to victims of sexual and gender-based violence.

**Objective 8: Maintaining the civilian and humanitarian character of asylum**

*Specific strategies:*

- Encourage the competent authorities to ensure respect for the civilian nature and humanitarian character of the institution of asylum and of refugee camps and settlements.
- Strengthen efforts aimed at preventing all forms of recruitment of refugees for military purposes, especially children under 18 years of age.

- Encourage UNHCR and ICRC to disseminate to the APU and African Parliaments, the outcome of the June 2004 Experts Meeting on Maintaining the Civilian and Humanitarian Character of Asylum, aimed at elaborating measures for the disarmament of armed elements and the identification, separation and internment of combatants.
- Encourage the competent authorities in countries facing mixed movements of refugees and armed elements to adopt programmes for the disarmament of these armed elements and the identification, separation and internment of combatants, seeking technical assistance and additional resources from the international community, where required.
- Encourage the United Nations and sub-regional organizations to ensure that programs aimed at integrating former armed elements in post-conflict situations are adequately funded, so as to contribute to sustainable peace and security.
- Call on the competent authorities to minimize the risk that combatants move from one country to another, and thereby perpetuate the cycle of violence and instability, by ensuring that national processes for the disarmament, demobilization, reintegration and rehabilitation of combatants (DDRR) have a regional dimension.

**Objective 9: Combating intolerance and promoting respect for refugees**

*Specific strategies:*

- Sensitize citizens to the plight and rights of refugees, with a view to fostering understanding and acceptance of their presence, and raising awareness of the positive contribution that refugees can make to their host communities and societies.

- Work with the media in national campaigns to combat intolerance and xenophobia and promote peaceful coexistence.

## **Objective 10: Protecting and assisting internally displaced persons**

### *Specific strategies:*

- Acknowledge that internally displaced persons, as part of the civilian population, are protected by human rights and international humanitarian law.
- Reiterate the commitment to ensure that internally displaced persons are effectively protected against violations of their rights, and that the Guiding Principles on Internal Displacement are fully respected by the relevant authorities.

## **Objective 11: Promoting partnerships for protection**

### *Specific strategies:*

- Strengthen cooperation between Parliaments and UNHCR in ensuring adequate protection of refugees and the implementation of durable solutions including, for example, the enactment of refugee-related legislation, bringing to light concerns about protection and durable solutions, and sharing information about the situation of refugees in countries and their respective sub-regions.
- Encourage the participation of civil society, including non-governmental organizations, in matters related to the protection and welfare of refugees.
- Encourage regional and sub-regional parliamentary organizations to analyze and debate refugee problems with regional ramifications, on a regular basis, and to promote coordinated action to address root causes and find durable solutions.

- Encourage African governments and relevant regional and sub-regional organizations to explore the creation of an African Fund for Refugees to mobilize additional international resources to assist, protect and find durable solutions for refugees, with international support.

## Annex: Conference Programme

### DAY ONE

- Opening Ceremony – In the presence of H.E. Mr. Matthieu Kérékou, President of the Republic of Benin, the following dignitaries delivered opening statements:
  - H.E. Mr. Kalawole A. Idji, Speaker of the National Assembly of Benin
  - H.E. Mr. Ibrahim Aboubacar Keita, Chairperson of the Executive Committee of the African Parliamentary Union
  - Mr. Anders B. Johnsson, Secretary-General of the Inter-Parliamentary Union
  - Mr. Kamel Morjane, Assistant United Nations High Commissioner for Refugees
  - Mr. Bertrand Kern, Diplomatic Advisor for Africa at the International Committee of the Red Cross (ICRC) Headquarters, delivered a message from Mr Pierre Krähenbühl, Acting Director General and Director of Operations of the ICRC
  
- Plenary Session
  - “*Refugee Protection: The Basics and New Directions*”, presentation by Mrs. Erika Feller, Director, UNHCR’s Department of International Protection
  - “*Overview of Challenges to the Protection of Refugees in Africa*”, presentation by Mrs. Bemba Donkoh, UNHCR Regional Representative for Southern Africa

## DAY TWO

- Workshop 1: Preserving the Civilian and Humanitarian Character of Asylum
  - “*Sexual and Gender-based Violence (SGBV): prevention and response*”, a workshop presented by Ms. Joyce Mends-Cole, Special Adviser, UNHCR Headquarters
  - “*Maintaining law, order and community peace in refugee camps: roles and responsibilities*”, a workshop presented by Mr. Iain Hall, Senior Security Officer, UNHCR’s Emergency and Security Service, and Mr. René Kamano, Security Adviser to the *Bureau National pour la Coordination des réfugiés of Guinea*
  - “*Armed elements: The threat posed to the civilian and humanitarian character of asylum*”, a workshop presented by Ms. Emanuella-Chiara Gillard, Legal Adviser, ICRC and Mr. Iain Hall, Senior Security Officer, Emergency and Security Service, UNHCR Headquarters
  - “*Best practices regarding the identification, separation and internment of armed elements*”, a workshop presented by Mr. Kanja Sesay, National Commission for Social Action of Sierra Leone and Mr. Bruno Geddo, Senior Legal Adviser, Regional Bureau for Africa, UNHCR Headquarters
- Workshop 2: Building Local Capacity and Finding Durable Solutions
  - “*Durable solutions for protracted refugee situations and self-reliance strategies: the framework for durable solutions*”, a workshop presented by Mr. Nils Harild, Chief, Reintegration and Local Settlement Section, UNHCR Headquarters, and Mr. Peter

Mumba, Permanent Secretary of Home Affairs,  
Zambia

- “*The Convention Plus Initiative*”, a workshop presented by Mr. José Riera, Special Policy Adviser, Convention Plus Unit, UNHCR Headquarters
- “*Building national protection capacities*”, a workshop presented by Mr. Bruno Geddo, Senior Legal Adviser, Regional Bureau for Africa, UNHCR Headquarters
- “*Involving civil society in refugee protection*”, a workshop presented by Mr. Bruno Geddo, Senior Legal Adviser, Regional Bureau for Africa, UNHCR Headquarters and Mr. Jacob van Garderen, Lawyers for Human Rights, South Africa

### DAY THREE

- Plenary session
  - “*The African Union’s Comprehensive Implementation Plan*”, presented by H.E. Ambassador Emile Ognimba, Head, Division of Humanitarian Affairs, Refugees and Internally Displaced Persons, Political Affairs Department, Commission of the African Union, and Mr. Ilunga Ngandu, Regional Liaison Representative, UNHCR Liaison Office in Addis Abeba
  - “*Incorporation of refugee law into national law and the specific role of Parliaments*”, presented by Mrs. Rebecca Kadaga, Deputy Speaker of the Ugandan Parliament and Mrs. Christine Lukuka Kulimba, Member of the National Assembly of the Democratic Republic of the Congo.
- Adoption of the Cotonou Declaration and Programme of Action



## Conference Highlights

### Highlights of the Opening Session

*His Excellency Mr. Mathieu Kérékou, President of the Republic of Benin*

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President Kérékou during the opening ceremony.

Within the sombre overall picture of the problems that riddle and undermine our continent, Africa, the refugee issue is undoubtedly one of our major concerns and, for this reason, deserves unfaltering attention and bold action.

This is why the recurrent desolation of refugees and displaced persons has become the greatest challenge we, we as Africans, face at the beginning of this Third Millennium. Conscious of our historic responsibility, we should confront their plight with courage and effectiveness if we really hope to see our continent emerge from its marginalization, misery and underdevelopment.

Without a doubt, the 1969 OAU Refugee Convention shed new light on important, key questions for protection, with a broad definition of the refugee concept, including groups of persons fleeing situations beyond their control, such as foreign aggression; foreign domination; or serious disturbances of public order in all or part of the territory of the country of origin.

It is our hope that you will find in Cotonou a forum suitable for an exchange of experiences and views on best practices for preserving the civilian and humanitarian character of asylum and the search for durable solutions for refugee problems and for their host communities.

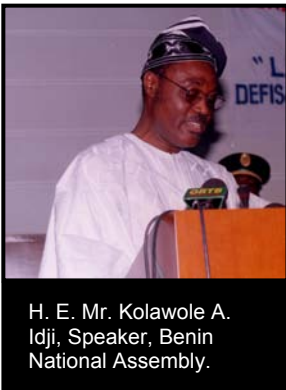
Frankly speaking, the real solution for refugee problems lies essentially in our shared willingness and in our ability to galvanize

our actions and to cooperate amongst ourselves to ensure respect for good political and economic governance and full respect for the rights of all human beings, while improving the daily lot of our working populations.

*His Excellency Mr. Kalawole A. Idji, Speaker of the National Assembly of Benin*

It is with joy and pride that Parliamentarians of the Benin National Assembly welcome you from the four corners of the continent. On their behalf, I welcome you and express to you our sincere thanks.

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H. E. Mr. Kolawole A. Idji, Speaker, Benin National Assembly.

Faced with the scope and consequences of this phenomenon which knows no borders, the African Parliamentary Union, after Cotonou in 1997 and Niamey in 2002, today gives us the opportunity to have our voices heard among the cries of distress of the African population subjected to the worst forms of human suffering.

Indeed, there cannot be African integration without lasting solutions to such problems. Neither can there be development in an environment of crises and wars if African citizens cannot work in the tranquillity in our towns, villages and hamlets.

As worthy representatives of our peoples, I am sure that we have at heart the responses to their deepest aspirations to which this conference will be fully devoted.

*His Excellency Mr. Ibrahim Boubacar Keita, President of Executive Committee of the African Parliamentary Union*

This day is an exceptional moment in the history of the African Parliamentary Union, since we will have the occasion to debate the question of refugees in Africa, a subject of concern because it is, above all, a humanitarian question.

As we look into the topics to be covered, it is clear that this conference follows up on our previous conference on International Humanitarian Law focusing on the rights of civilians in armed conflict, which took place in Niamey in February 2002 that was organized in partnership with the International Committee of the Red Cross and the Inter-Parliamentary Union.

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H. E. Mr. Ibrahim Boubacar Keita, President of Executive Committee of the African Parliamentary Union.

We are called upon, as parliamentarians, to reinforce the role of our respective parliaments in giving priority, on the one hand, to ratifying the international law instruments relating to humanitarian law, refugee law and human rights law and, on the other hand, to set in place a national system for the protection of refugees through the passage or amendment of national legislation in line with established international and regional norms.

*Mr. Anders B. Johnsson, Secretary-General of the Inter-Parliamentary Union*

**T**he theme of African Refugees is the focus of this conference as well as one of the main priorities of the IPU and our partners the APU and the ICRC.

Parliamentarians play a key role in protecting refugees by safeguarding the founding principles of refugee law, assuring effective protection of refugees, and implementing durable solutions.

As the voice of the people, it is your duty to combat intolerance facing refugees and to promote respect for them. The contribution that refugees can make to the wellbeing and diversification of your communities is significant. It is therefore important to encourage the local populations to consider refugees as people who not only need a safe refuge and international protection, but also as people who can participate in the development of your communities and nations.

Parliaments have the primary responsibility to institute a strong legal framework guaranteeing the protection of basic human rights and ensuring respect for and application of the law. The training of key actors, notably the authorities responsible for the protection and assistance of refugees, as well as armed forces and security forces, and familiarizing the public with the principles of refugee law, also contributes to ensuring protection is indeed made available to all who flee persecution from armed conflict. As parliamentarians, it is your duty to ensure the attainment of each of these objectives.

*Mr. Kamel Morjane, Assistant United Nations High Commissioner for Refugees*

**T**his meeting, Mr. President, would not have taken place without the engagement and determination of the African Parliamentary Union, which, since its creation in 1976, has not ceased to work towards reinforcing democracy in Africa and enhanced respect for the values of tolerance and humanism. I should like to thank its honourable members and its secretariat most sincerely.

My thanks also go to the Inter-Parliamentary Union and to its Secretary-General, with whom UNHCR has forged a solid partnership over a number of years. The Parliamentary Handbook on Refugee Protection is perhaps the best example of this.

I am also thankful to the Government of Canada, for having contributed generously to holding this conference as well as for its exemplary devotion to the humanitarian cause. I speak for the High Commissioner when I convey all of our gratitude.

It is nevertheless true that for the first time, even if conflict persists in certain areas, the direction of political events in certain countries and regions of the continent hold out real opportunities for finding durable solutions, notably voluntary repatriation.

Some months ago, while on an official visit to Burundi, I declared that 2004 would be the year of voluntary repatriation for us and that our objective was to reach the end of 2005 having cut the number of refugees by half.

The history of humanitarian crises teaches us that forced displacement of populations cannot be avoided or contained unless the international community engages with determination in conflict resolution. This political will to deal in a timely manner with the root causes of conflict, this action-oriented approach in handling crises should reduce the number of tension zones, and, as a consequence, mass population movements.

UNHCR strongly advocates new strategies to resolve long-standing refugee situations. Such strategies promote positive inter-action between host communities and refugees by encouraging refugees to become agents of development and develop their self-sufficiency potential. This helps to offset environmental and other impacts of the presence of refugees in host communities, and attracts investments towards the development of host communities. This is one of the aims of the Convention Plus initiative.

The initiative aims to improve the protection of refugees while fostering a dialogue between refugee-hosting countries and development partners in finding durable solutions thanks to improved responsibility sharing arrangements.

While voluntary repatriation will remain the primary durable solution, the other two, namely local integration and resettlement, will continue to play an important role in resolving refugee situations.

Humanitarian action, no matter what its size, is just one facet of a broader effort whose aim is to consolidate peace and whose effectiveness depends on the commitment to work together.

*Mr. Bertrand Kern, representing Mr Pierre Krähenbühl, Acting Director General and Director of Operations of the International Committee of the Red Cross*

**T**he International Committee of the Red Cross is delighted to have the opportunity once again to meet with all the participants who solemnly committed themselves at Niamey to improving knowledge about and respect for the norms of international law protecting victims of armed conflict and refugees.

The vast majority of displacements of populations in Africa, internal or across international borders, are caused by armed conflicts or internal violence. Too often, these displacements are a result of violations of the rules of International Humanitarian Law. We must therefore pursue the work begun in Niamey. We must further reinforce the measures of protection for civilians affected by conflict, both for those in their own country and for those who are forced to flee across borders to escape armed violence or persecution.

## Highlights of the Plenary Session

*Mrs. Erika Feller, Director, Department of International Protection, UNHCR Headquarters*

**T**his important conference comes at a critical juncture for Africa. The return of up to two-thirds of Africa's four million refugees may at long last be within reach, with the support of the international community. UNHCR

UNHCR / H. Caux



UNHCR aid worker assisting Sudanese refugees in Chad.

is currently in the process of concluding five voluntary repatriation operations; namely to Angola, Eritrea, Rwanda, Sierra Leone, and north-west Somalia. But we are also seeking additional resources from the international community to start preparations for organised voluntary repatriation to Burundi, the Democratic Republic of Congo, Liberia and Southern Sudan.

This conference therefore presents a unique occasion to hear the views of parliamentarians from across Africa on how to seize the opportunities presented by ongoing peace processes to help millions of refugees and displaced persons to return home in safety and dignity. At the same time, it is an ideal forum to initiate a dialogue with parliamentarians on how to ensure better protection for those refugees who are still unable to return home due to continuing fear of persecution or armed conflict in their countries of origin.

Working with the African Union in analyzing refugee-related legislation in force, we have noted that there are a number of outdated pieces of refugee legislation, often mirroring reservations made principally to the social and economic provisions of the 1951 Convention.<sup>\*</sup> In addition, effective implementation of international norms includes setting in place the legal framework and attendant structures and practices to safeguard refugee rights that your States have undertaken to respect. Most important among these is the right of a refugee not to be returned to a country where he or she might suffer persecution, known as *non-refoulement*. Legal protection therefore involves the establishment of appropriate legislation, rules and regulations to identify and accord protection to refugees, as well as training of law enforcement authorities and other national institutions dealing with refugees. It also includes the availability of appropriate documentation and the grant of certain rights to refugees, such as the right to an education, freedom of movement, freedom of association and access to employment. UNHCR regularly provides technical support to countries for the enactment of legislation consistent with international standards.

In many settings, protecting refugees has a crucial physical dimension.

Throughout Africa, UNHCR has established plans of action for addressing and preventing sexual and gender-based violence, which include improved monitoring and reporting mechanisms, as well as training and public information campaigns. UN-wide and UNHCR-specific codes of conduct for staff members, NGO partners and government officials also form an integral part of the fight against sexual and gender-based violence. The Agenda for Protection recognizes that refugee empowerment is one key to better protection. By generating awareness of ways in which refugee communities can be empowered for their own protection, we can

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<sup>\*</sup> The right to work (Article 17), the right to housing (Article 21), the right to education (Article 22), the right to free access to courts (Article 16), freedom of movement within the territory (Article 26) and the right to be issued identity and travel document (Articles 27 and 28).

mobilize the refugees themselves to prevent and combat such crimes. There is no room for complacency on this issue.

In many instances, the threats to physical safety are linked to violations of the civilian and humanitarian character of asylum.

The presence of armed elements is often preserved as a security concerns for host communities and receiving States. Their presence threatens regional peace and security since lines of conflict in Africa have often proved to run across state boundaries due to the various ethnic and cultural ties of the affected communities.

UNHCR fully recognizes that many protection challenges are linked to the limited capacity of host States to do more, without greater international solidarity and responsibility sharing. This underscores the need for partnerships in protection, including with NGOs and civil society.

*Ms. Rebecca A. Kadaga, Deputy Speaker, Parliament of Uganda*

**B**ecause the right to asylum is a human right, it creates obligations for the recipient state. Among the obligations are provision of basic human rights and security, economic and social rights, the right to freedom of thought and movement, protection from torture or degrading and inhuman treatment, access to education, employment, medical care and housing, amongst others.

Special mention must be made of gender-based persecution. For instance, women fleeing for political, ethnic or religious reasons or fleeing strict social codes either enforced by the state or non-state actors are entitled to protection from persecution, as are victims of sexual violence and rape. There are a number of





countries that have exhaustive guidelines relating to gender-based persecution.

I see the major role of parliaments as being to ensure the state abides by its international obligations and to implementation of refugee law. Parliaments must ensure that international protection of all persons, including refugees is institutionalized, judicially defined and made contractually binding, so as to become enforceable such that any breach would attract sanctions and remedies.

*Mrs. Christine Lukuka-Kulimba, Member of Parliament, National Assembly of the Democratic Republic of Congo*

It took more than 20 years for the parliament to launch legislation on refugees. That is when law no. 21/2002 on the status of refugees of 16 October 2002 was voted into law.

This legal framework demonstrates the willingness of the Congolese State to respect its international obligations by introducing provisions of international treaties in its domestic legislation.

This framework which we provided to refugees in the Democratic Republic of Congo establishes a procedure of eligibility to refugee status, determines the conditions for recognition, the loss of status, as well as the possibility of appeal once the request for asylum has been rejected.

The same law established the National Commission for Refugees (CNR) under the Ministry of the Interior, whose functions are carried out on national territory when people seek asylum. Therefore, this is an innovation in comparison to the previous law.

*Ambassador Emile Ognimba, Chief, Humanitarian Affairs, Division of Refugee and Displaced Persons Issues, Commission of the African Union*

The launch of the Pan-African Parliament last March was a major chapter in the irreversible and continent-wide march towards democratisation upon which we embarked and for

which the President of the Commission of the African Union, Mr. Alpha Oumar Konaré, stints no effort.

In this context, in partnership with UNHCR, we convened a special conference of government experts in Conakry, Guinea, on the occasion of the 30th anniversary of the OAU Convention Covering the Specific Aspects of Refugee Problems in Africa, which adopted a Comprehensive Implementation Plan (CIP) (for the 1969 OAU Refugee Convention).

This plan, which was made available to you today, summarizes 25 concrete actions pursuing three principal goals set out below:

Ratification or accession of the international refugee protection instruments and their effective implementation, while addressing the root causes of refugee flows and seeking durable solutions. The aim here is to:

- Encourage ratification of or accession to the relevant legal instruments, namely the 1969 OAU Convention and at the same time strengthen implementation by filling gaps which have come to light over the years;
- Integrate humanitarian and refugee protection principles in our institutional structures and regional and sub-regional programmes, as well as in those of NGOs; and
- Finally, to carry out a review of the main causes of refugee flows so as to strengthen institutional and socio-economic capacities in host countries and create conditions conducive to durable solutions.

The second broad goal was training and awareness building.

The third aspect relates to the institutional arrangements that were set in place for follow-up and evaluation.

Allow me to share with you some of the conclusions reached by an assessment mission.

Regarding ratification of the 1951 Convention relating to Refugees, its Protocol of 1967 and the 1969 OAU Convention, the mission concluded that, with the exception of one State which is party to none of these instruments, almost all others are party to all three international instruments relating to refugees. At the same time, a number of States lodged reservations or made declarations equivalent to reservations to the 1951 Convention. These reservations relate broadly to articles 7, 8, 9, 13, 15, 17, 18, 22, 24, 26 and 34. The mission also noted wide variations in the state of accessions to relevant treaties relating to human rights.

Regarding national legislation relating to refugees, only three States among those visited had not adopted such legislation.

On the question of government institutions charged with dealing with refugee matters a lot of work remains to be done both to set up such institutions and to provide them with operational capacity. In summary, the report highlights legislative and institutional deficiencies in the way States discharge their obligations towards refugees.\*

It is apparent that much effort is still needed at all levels and particularly by Parliamentarians such as you, in order to complete work in two broad areas; on one the hand, ratification or accession and, on the other, the translation of relevant norms of international refugee law into national legislation. Attention to this issue from your part is required and it would be highly appreciated if you would devote a portion of the proceedings to these important questions which fall within your competence at the national level.

*Mr. Ilunga Ngandu, UNHCR Regional Liaison Representative to the African Union*

**T**he length of the list of outstanding work is by itself illustrative of the challenges facing both AU and UNHCR in moving this Africa protection agenda ahead. The main challenges encountered are related to:

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\* See African Parliamentary Union-UNHCR Study of National Protection Capacities in selected African countries, Geneva, March 2003, pp. 3 and 4.

- Limited financial resources to cover the costs of an ambitious and complex plan to be implemented in 53 countries.
- Lack of human resource capacity fully dedicated to this process.
- Mechanisms of interaction between Addis Ababa – Geneva and individual Member States are not functioning effectively.
- Inadequacy of political will from some Member States to address the difficult arbitration between national security interests and humanitarian law obligations.

For those countries where accession to the 1969 Convention has not taken place, you can promote such a process, including by initiating appropriate domestic refugee legislation.

As the overseer of the work of the Executive, you can familiarise yourself with the refugee laws and related issues in order to ensure that, as regularly as needed, the Minister in charge of the refugee portfolio reports to the Chamber on refugee practices and answer questions raised by Parliamentarians.

Accountability of the Executive to the Parliament on compliance with refugee law and related practices should be mainstreamed in your work as a way to strengthen the protection regime.

Parliamentary Commission visits to refugee programmes and situations on a regular basis would go a long way not only in enhancing refugee protection, but displaying your inclusion of these brothers and sisters as part and parcel of your constituencies in the true African extended-family tradition.

## Highlights from the Workshop on building local capacity and finding durable solutions

*Mr. Niels Harild, Chief, Reintegration and Local Settlement Section, Division of Operational Support, UNHCR Headquarters*

**B**oth the Agenda for Protection and the High Commissioner's Convention Plus Initiative are intended to assist host countries and the broader international community find durable solutions for refugee problems through concrete burden and responsibility sharing arrangements.

The search for permanent solutions to refugee problems is an integral part of UNHCR's mandate of providing international protection to refugees.

In 2003, UNHCR devised the Framework for Durable Solutions. It has three principal components:

- Development Assistance for Refugees (DAR)
- Repatriation, Reintegration, Rehabilitation and Reconstruction (4Rs)
- Development through Local Integration (DLI)

**Voluntary Repatriation:** In post-conflict situations in countries of origin, UNHCR and its partners are promoting an integrated approach known as "Repatriation, Reintegration, Rehabilitation and Reconstruction (4Rs)". This approach brings together humanitarian and development actors and funds. The aim is to ensure that more resources are allocated to create an environment inside the countries of origin conducive to facilitating sustainable repatriation while preventing the recurrence of mass outflows.

**Local Integration:** In cases where local integration of refugees in countries of asylum is a viable option, the High Commissioner has proposed a strategy called "Development through Local Integration (DLI)". In situations where the State opts to provide opportunities for gradual integration of refugees, this approach solicits additional development assistance to attain a durable solution. Central to the

success of this strategy is the attitude of the host government and the local authorities, as well as a commitment on the part of the donor community to provide additional assistance.

Resettlement to a third country: UNHCR aims to use to use resettlement more effectively as a tool of burden sharing. The goal of resettlement is to achieve a more equitable sharing of burdens and responsibilities, to build capacities for receiving and protecting refugees and to resolve the plight of refugees on a durable basis. Within the Convention Plus initiative, resettlement should progressively provide a viable durable solution for larger number of refugees, including groups. Newly negotiated understandings regarding the more strategic use of resettlement will result in more opportunities for refugee resettlement out of Africa and more flexible resettlement criteria.

Camp life, with its inevitable dependency on humanitarian assistance, is not a dignified form of life. Refugees are fellow human beings and, as such, have a basic right to be allowed to work towards individual betterment and growth. Refugees also have a duty to take advantage of opportunities to earn their own living and therefore benefit themselves and the host society.

*Mr. Peter Mumba, Permanent Secretary, Ministry of Home Affairs, Zambia*

The government of Zambia recognizes that refugees bring human and material assets and resources. If empowered for self-reliance within an environment that allows socio-economic interactions with the local host population, refugees can become agents of local development, ultimately contributing to human security in the region. Therefore, when voluntary repatriation is neither possible nor viable for refugees, a comprehensive durable solution strategy for local integration and self-reliance in the pursuit of durable solutions is particularly important to resolve protracted refugees situations. This requires a concerted effort between refugee-hosting governments, developmental and humanitarian actors, the private sector, UNHCR and co-operating partners.

It is in this context that the Zambian government developed the Zambia Initiative.

The Zambia Initiative is about building on the positive aspects of refugees to achieve social integration, peace, security and stability with the local population in areas hosting refugees. It aims to reduce poverty through community reconstruction, increase of food production, fighting environmental degradation and improvement of basic social services and living standards. It aims to alleviate poverty by intervening in the following sectors: Agriculture; Health; Education and Skills development (including vocational training), and Infrastructure and Natural resource management, in their order of priority.



UNHCR/L. Taylor

The initiative also aims to create opportunities for refugees to become productive members of the community. This would lead to peaceful co-existence and prevention of conflict amongst refugees and the hosting communities, resulting in greater regional stability and local integration. The Zambia Initiative development agenda is thus regarded as an instrument of Zambia's own Poverty Reduction Strategy Paper (PRSP) and has been incorporated in the Country's Transitional National Development Plan 2002-2008.

The Zambia Initiative aims to develop refugee-hosting areas by using the bottom-up-participatory approach that fully employs the local beneficiaries and refugees in planning and managing their local development in order to alleviate poverty and also to break the habitual dependency syndrome. Zambia sees this as an effective way of phasing out the protracted refugee care and maintenance by the UNHCR and the international community, thereby reducing the perpetual dependence of refugees and their local host communities on international relief aid.

*Mr. José Riera, Special Policy Advisor, Convention Plus Unit, UNHCR Headquarters*

Convention Plus is premised on the understanding that refugee problems can no longer be considered narrowly with a focus on the humanitarian dimension alone. They should be approached, instead, from a more holistic and comprehensive perspective that includes the development and migration dimensions of refugee flows. They also require close cooperation amongst all affected States, as well as with the broader international community.

Convention Plus is not just a process of consultations. As understandings are reached about the more strategic use of resettlement, better targeting of development aid and addressing secondary movements, we shall apply these understandings in concrete arrangements to resolve particular refugee situations. Comprehensive arrangements will be put into place to address specific refugee situations. While each situation is, by nature, unique and will require tailored responses, the understandings reached in the Convention Plus framework will provide ready-made undertakings and principles that can be drawn upon to define the most appropriate collective response and facilitate the preparation of comprehensive plans of action. The “Plus” is therefore about enhancing the international refugee regime through better international cooperation.

*Mr. Bruno Geddo, Senior Legal Advisor, Office of the Director, Regional Bureau for Africa, UNHCR Headquarters*

NGOs and other partners in civil society (e.g. national parliaments, educational institutions, churches, the media, etc.) have an important role to play in the fulfilment of UNHCR’s responsibilities towards refugees.

As far as NGOs are concerned, NGO partners in civil society are essential in many respects to the fulfilment of UNHCR’s responsibilities towards refugees, particularly in an environment of limited government capacity and shrinking UNHCR resources.



Reputable NGOs with the appropriate mandate should be tapped to complement UNHCR and governments, especially in the following areas:

- Active involvement at various stages of refugee status determination procedures;
- Legal and social counselling to refugees and asylum-seekers ("legal clinics");
- Public information and sensitization campaigns to foster understanding of refugee issues and combat xenophobia;
- Advocacy and lobbying with the executive and legislative branches of government, to contribute to the development of national policies vis-à-vis refugees;
- Litigation on behalf of refugees/asylum-seekers, to ensure respect for their rights when needed, feasible and appropriate;
- Monitoring the safety and security of refugee camps and settlements (physical protection);
- Implementation of micro-credit schemes to enable refugees to attain a measure of self-reliance and improve the quality of asylum;
- Provision of vocational and skills training to empower refugees and improve the quality of asylum;
- Identification of deserving cases for possible resettlement, and referral to UNHCR for further processing;
- Joint training for implementing and operational partners, including governments.

Additionally, partnerships with civil society could include the following:

- Partnerships with primary and secondary schools, to promote the introduction of a specific component on refugees in civic education curricula. This would foster understanding of refugee issues by learners and hopefully encourage a more favourable attitude towards their refugee peers and more tolerance amongst future generations.
- Reaching out to academia to encourage the introduction of refugee law courses as part of the curricula offered by faculties of law at national universities. This would increase knowledge of refugee law and understanding of refugee movements amongst future leaders, and create a pool of expertise from which government and NGO capacity can be drawn.

On the topic of combating xenophobia, most countries in Africa have traditionally shown generous hospitality toward incoming refugees. However, in times of conflict or economic difficulty such hospitality may easily become eroded. Refugees and asylum-seekers crystallise tensions or even hatred in so far as they represent the “outsiders”, or the “foreign” element.

In this regard, an increasing number of African countries tend to reproduce the negative “European model”, whereby preconceived ideas and the scapegoating of refugees for anything that goes wrong in the country are reported in the press and conveyed in public speeches on a daily basis. Refugees, in this sense, are easily targeted as “scapegoats” since they have no constituency to defend them.

To tackle the problem of xenophobia, UNHCR starts from the assumption that ignorance breeds hostility and rejection, whereas understanding fosters tolerance and acceptance.

This means that information and sensitization campaigns to educate and raise awareness among government officials, operational partners, civil society organizations and the public at large are key to any effort at combating xenophobia. At a minimum, any such campaigns would have to include the following subjects: who are refugees, why are they here, why they cannot return home, what are their rights and duties, the plight of refugees in the host country, the

difference between a refugee and an economic migrant, the contribution refugees can make to their host communities if they are allowed to become economically productive, what is the host government supposed to do for refugees, what is UNHCR supposed to do for refugees.

*Mr. Jacob Van Garderen, Lawyers for Human Rights, South Africa*

**E**ffective refugee protection can only succeed if the effort is collaborative, involving all stakeholders and actors, particularly parliamentarians and civil society organizations.

Despite South Africa's relatively progressive refugee legislation, the government had neither the resources nor the capacity to handle the number of asylum applications. Shortly after the introduction of the new Act, the government found itself unable to deal with the huge administrative backlog of asylum applications, resulting in long delays in the decision-making process.

To assist the government in dealing with its resource and skills shortage, UNHCR and the National Consortium for Refugee Affairs offered to aid the government in reducing the backlog of applications. The objective of the programme was not only to reduce the backlog to a manageable size but also, more importantly, to develop the technical capacity of the Department of Home Affairs to adjudicate asylum claims more effectively. Although the project was only moderately successful in achieving the second goal, it highlighted the potential of civil society and government collaboration.

In 1998, the South African Human Rights Commission, National Consortium for Refugee Affairs and UNHCR launched a public awareness campaign entitled "Roll Back Xenophobia". One of the primary goals of the campaign was to send out a strong message that irrational prejudice and hostility towards non-nationals is not acceptable.

Together with the South African Human Rights Commission, the campaign ensured that the issue of xenophobia figured as a central theme during the National Conference Against Racism in 2001.

Aside from the campaign, civil society organisations are making a measurable contribution through targeted training and capacity interventions. Such programmes provide officials with the knowledge and skills to understand their protection duties and to perform their functions professionally and efficiently.

In this regard, there are number of examples worth mentioning:

- Police training programme: In a joint programme facilitated by the South African Human Rights Commission, the South African Police Service and human rights organisations, police officers from inner-city police stations and border patrol units are trained to be sensitive to the protection needs of refugees. Currently, the South African National Defence Force is developing a similar programme.
- Immigration officials: Since 1999, Lawyers for Human Rights has collaborated with UNHCR in presenting regular training programmes to immigration officers involved in refugee status determination.
- Migration and policy management: The University of the Witwatersrand, in collaboration with the Southern African Migration Project, offers specialist courses to senior immigration officials from African countries. The courses focus on the sometimes complex issues of migration management as well as policy development and implementation.
- Social workers: Through a collaborative programme between Lawyers for Human Rights and UNHCR, 500 social workers from around the across the country are trained to protect and assist refugee children and foreign unaccompanied minors.

On the subject on human rights monitoring, it is a common misconception that NGOs hold the sole propriety over the function of human rights monitoring. Parliaments, by their very nature, have an inherent mandate to oversee and monitor the performance of the executive branch of government. In order to fulfil this function, parliamentarians rely on reports from government departments. Accordingly, it is also crucial to elicit regular reports and information

from civil society and the UNHCR to provide an objective and balanced view of the situation.

## **Highlights from the Workshop on preserving the civilian and humanitarian character of asylum and physical protection of refugees**

*Ms. Joyce Mends-Cole, Special Advisor, UNHCR Headquarters*

**V**iolence is “any act of violence which creates or threatens to create physical, sexual or psychological harm to women or girls, whether occurring in private or public life.” Violence against women is a form of gender-based violence and includes sexual violence. The UN Declaration on the Elimination of Violence against Women states that violence against women is a “manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men”. It is important to remember that violence against women is not ‘natural’ or ‘inevitable’.



UNHCR uses an expanded definition of Sexual and Gender Based Violence (SGBV). “SGBV is any form of violence directed against a person on the basis of gender or sex. It includes any act which inflicts physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty... While men and boys can be victims of gender-based violence, women and girls are the main victims.

The Code of Conduct is a document which all UNHCR staff are asked to sign and to which they must subscribe. The Code recognizes that the nature of UNHCR’s work often places staff in a position of power with respect to refugees. The Code highlights that staff should not take advantage of or abuse this power by requesting

favours in return for assistance or affording preferential treatment to certain people. Three parts of the Code relate to SGBV :

- Section 1 – Treat all refugees and asylum-seekers fairly, with respect and dignity;
- Section 7 – Prevent, oppose and combat all exploitation and abuse of refugees and other persons of concern; and
- Section 9 – Refrain from any form of harassment, discrimination, physical or verbal abuse, intimidation or favouritism in the workplace.

Some Lessons Learned: The oldest SGBV programme for refugees in Africa began in 1993 in Daadaab camp in Kenya. It was started by refugee women, after their initial efforts to get UNHCR to pay attention failed. The women showed UNHCR that it was possible to address the issues they were raising, despite cultural constraints. The programme in Kakuma, also in Kenya, benefited from the earlier experiences of the Daadaab programme. The launch of the programme was facilitated by the change in attitude and approach of UNHCR – UNHCR was a full partner from the beginning, unlike the first programme. Originally called the Women in Development Programme, it is now known as the Gender Equality and Human Rights Unit.

*Mr. Iain Hall, Senior Refugee and Returnee Security Officer, Emergency and Security Service, UNHCR Headquarters:*

**W**hile the primary responsibility for ensuring refugee security and national security unquestionably lies with the State, it is just as important to underline the responsibilities of refugees themselves.

Refugees should be informed and/or educated on their duties to the host community and other refugees, particularly their duty to refrain from military or other activities likely to jeopardize the safety of the refugee community or the host country, while they enjoy asylum.

The security of refugees must be addressed from a broad perspective. All too often, much emphasis is placed on the separation of military elements within refugee populations, while forgetting the overarching imperative of ensuring the general physical security of refugees and the maintenance of law and order within refugee camps.

The following are measures which can help maintain law and order in camps and preserve the physical security of refugees:

- The use of early-warning systems and technical assessment missions to provide reliable information on the socio-political and security situation on the ground;
- Suiting camp particulars to the operational environment (e.g. the size, layout, and location of camps away from the border and/or conflict areas);
- Rapid deployment of humanitarian and government personnel to establish an early presence in camps and along main points of entry;
- Establishing a dedicated police presence in and around the camps;
- Empowerment of refugees by supporting refugee leaders, camp administrators and refugee guards;
- Recognising the special role of women refugees (and women in host communities) in helping to maintain community peace;
- An appropriate gender distribution in camp management, representation and security mechanisms;
- Establishing a fair and accessible judicial structure;
- The use of cooperation programmes, such as security packages, to help host countries build and sustain capacity;

- The use of statements of intent and multilateral agreements to formalise rights and responsibilities in partnerships;
- Ensuring that refugees are adequately occupied by allowing refugees to work, farm or manage small businesses, providing access to education facilities, vocational training programmes, cultural activities, market days, sporting and religious activities, etc.;
- Ensuring refugees are registered and possess appropriate documentation;
- The use of a Code of Conduct for all individuals working with refugees;
- The use of environmental guards; and
- Providing for status determination and exclusion from the benefits of the 1951 Refugee Convention on specified grounds.

A refugee's vulnerability as an uprooted foreigner, often with few resources and no documentation, and who does not enjoy the protection of his or her government, aggravates threats to their personal security. For a refugee, their traditional structure of family, clan and common community will have been disrupted, increasing their vulnerability. Already obliged to flee violence or human rights abuses in their own country, many refugees face further danger en route to a place of asylum and sanctuary.

Refugees are sometimes perceived not simply as the victims of persecution or conflict (and thereby deserving of refuge), but also as threats to national security in times of complex internal and transnational upheaval. The potential presence of armed elements, combatants and economic migrants in refugee populations fuel characterizations of refugees as "threats" or as "undeserving of welcome".

Where refugee questions are increasingly conflated with questions of security, it is important to recall that refugees are themselves victims of human rights violations. By strict application of the definition of the



refugee under international law, persons who have committed serious crimes cannot be considered as refugees. Protecting refugees and ensuring security are thus opposing objectives. Therefore, refugee protection can be viewed as an integral and necessary part of state security.

The security of refugees requires responses tailored to the specific situation on the ground. The problem of security in refugee-populated areas should be regarded as an issue where a multiplicity of actors share responsibility, including refugees themselves, local populations, countries of origin, countries of asylum, donor states and regional organizations, UNHCR and its operational partners, as well as components of the UN system such as the Department of Political Affairs (DPA) and the Department of Peace Keeping Operations (DPKO).

Dealing with issues relating to the security of refugees and threats posed by armed elements, a number of principles must be respected. First, everything possible must be done to encourage and assist host States in assuming their responsibility for refugee security. In this respect, burden sharing and capacity building through various actions, including training, play an essential role. Second, the primary emphasis must remain on preventive approaches and actions. Third, an integrated and comprehensive approach that allows for flexible responses to the diverse situations of refugee insecurity is necessary, along with a more holistic understanding of the inter-linked issues and actions.

*Mr. René Bayo Kamano, Security Advisor, Ministry of Local Government and Decentralisation, Republic of Guinea*

**T**he purpose of this humanitarian contingent was to cover the entire operation of transfer to and relocation of refugees at new sites provided by the Government of Guinea. This contingent of 250 men and women had initially received the required training in international humanitarian law and other aspects to ensure effectively and efficiently the security of convoys. Agencies, humanitarian NGOs and their goods were deployed as part of this transfer operation. It is worth noting that the Memorandum of Understanding spelt out the

responsibilities of each party signatory. To this end, there is a National Coordinator with UNHCR and all administrative, political and security authorities concerned by this transfer operation.

It was therefore possible to transfer nearly 100,000 refugees safely with maximum precaution because of the security situation prevailing at that time in Guinea Forest area which faced with many incursions of armed gangs from Liberia and Sierra Leone.

The infiltration of ex-combatants in the refugee camps made it necessary to take strictly into account obligations assumed by all institutions involved in the protection of refugees, namely: the 1951 Geneva Convention, the 1969 OAU Convention and the 1966 Convention on Civil and Political Rights.

On the topic of separation, after identification, the armed elements should be transferred to the separation camp upon authorisation duly signed by the Ministry of Local Government and Decentralisation.

The persons having thus been separated can enjoy all the rights inherent in the individual with the exception, however, of freedom of movement for security reasons. Additionally, assistance for food and non-food items including health care will be made available to them.

The transfer of persons who have been separated as well as the administration of the separation camps are effected by the Guinean Government.

*Ms. Emanuela-Chiara Gillard, International Committee of the Red Cross*

**H**ow to ensure the civilian and humanitarian character of asylum in situations of mixed refugee flows is a question of great practical importance, that many of us here today – states, regional organisations, UNHCR and the International Committee of the Red Cross (“ICRC”) - have had to address on the ground. For many of the persons affected, it can be a question of life and death.

I have been asked to present part of the pertinent legal framework. As I said, the topic lies at the interface between the law of neutrality, refugee law and international humanitarian law (IHL). It is essential that this rather complex legal framework be properly understood.

Recognising the inherent difficulties in the practical application of these criteria, humanitarian law provides that, in case of doubt, a person is to be considered a civilian. This approach is justified by the adverse consequences of being considered a combatant: one becomes a legitimate target.

Two points must be made. First, although a reference to IHL is appropriate in the present discussion because it lays down criteria for determining who is a combatant, it must be understood that IHL does not apply per se in the neutral host state to which refugees have fled. IHL only applies in times of armed conflict. If the host state is not a party to a conflict, IHL will not be applicable. Instead, the obligations of these states are to be found in the law of neutrality and refugee law.

Second, the definitions given above have been developed to determine who can be legitimately attacked in armed conflict. While there are common elements, it is by no means automatic that an identical definition should be applied to determine which persons, because of their involvement in military operations or political activities, could put civilians in a refugee camp at risk. For example, persons engaged in violent propaganda advocating the overthrow of the government are unlikely to be considered combatants under IHL. Their presence in refugee camps may, however, cause the camp to be targeted. In order to maximise the protection of refugees the category of persons to be separated and interned may have to be interpreted more broadly than warranted by IHL.

While the legal framework is clear, its application in practice raises many operational challenges. For example, on the basis of what indicators are persons crossing the border in mixed refugee flows to be identified as “fighters”? It is only on very rare occasions that they will be wearing military uniform.

The actual management of internment camps also raises complex issues: attention should be given to internal security, as they are

likely to host both combatants and those who have abandoned arms. Consideration should also be given to the special needs of any women and child soldiers who may be among the internees.

How long should fighters who do not wish to renounce their military activities be interned? Applicable law and the rationale underlying the law of neutrality would indicate that they should be interned until the end of hostilities in their state of origin. But is this a realistic approach, particularly in view of the prolonged nature of many modern conflicts?

*Mr. Kanja Sesay, Commissioner, National Commission for Social Action (NaCSA), The Government of Sierra Leone*

The Sierra Leone example has been an excellent case of inter agency cooperation and support between international and national institutions, and a testament to the dedication of the security forces. We encouraged participatory planning and implementation by the various actors and drew on the competencies of each institution. A Task Force made use of the mandates of all the agencies and institutions.



UNHCR / N. Behring

Sierra Leone: Tamba, a former teenage combatant, talks to a UNHCR staff member at an internment camp for Liberian ex-combatants.

In the second place governments need to be sensitised to the gravity of the issue of recycling mercenaries within regions that are prone to conflict and the fact that that they can put the necessary instruments in place to intern ex-combatants and support regional approaches to disarmament. This way the political and diplomatic issues will be as high on the agenda as is the provision of maintenance and care for internees.

Third, the maintenance of the civilian character of refugee camps is a major concern for UNHCR and the humanitarian community. The mandate of UNHCR and other agencies, such as the ICRC or the

Department for Peace Keeping Operations (DPKO), could be expanded to help governments establish and maintain internment camps. Better still, a flexible funding mechanism could be developed to allow UNHCR and other donors to build the capacity of governments to provide both adequate and timely maintenance and care for internees. Other entities within the UN family, the European Union or other agencies could then join to address other long term issues such as boredom, reintegration, and host community relationships.

Finally, although the process is still ongoing, it is absolutely critical to put the political and diplomatic issues on the agenda of the Task Force. This would enable the launch of strategies to address the regional dimension of disarmament, amnesty for deserters, nationality, reciprocity, the return to civilian life for ex-combatants, timeframes and criteria for repatriation, linkage with the disarmament, demobilization, and reintegration processes in country of origin, etc.

Solutions, strategies and approaches may not and need not be the same since each case has unique features. I am proud to say that, with the support of the above-named partners, Sierra Leone has had a very successful experience and we are always willing to put ourselves at the disposal of the rest of Africa to share our experience.

*Mr. Bruno Geddo, Senior Legal Advisor, Office of the Director, Regional Bureau for Africa, UNHCR Headquarters*

**P**hysical protection of refugees requires that their safety and security be maintained at all times. Field-based NGOs monitoring the protection situation of refugees when UNHCR cannot be present will help maintain peace and security. Security of refugees should be interpreted in a broad manner. Too often, the discussion has focused only on the separation of military elements from the civilian population. Threats to the safety and security of refugees may take several forms:

- Minor criminal acts and disputes within the refugee community and with the host community (theft, violence, assault, cattle rustling, etc.);

- Serious criminal acts (rape and sexual assault, murder, human trafficking, child abuse and prostitution, etc.); and
- Serious violations of human rights and humanitarian law (torture, war crimes, militarization of refugee camps, forced military conscription, etc.)

The 1969 OAU Refugee Convention acknowledges that refugee problems raise both humanitarian and security concerns. The presence of refugees can affect international relations if refugee camps are infiltrated by armed elements pursuing a political agenda. This is incompatible with the civilian and humanitarian character of asylum. Such infiltration may also endanger the physical safety of refugees (who may be subjected to forced military recruitment, threats, harassment, physical assault, sexual abuse, diversion of assistance, extortion, theft), the security of refugee camps (which may become the target of military attacks) and the safety and security of host communities (due to military activity and crime and insecurity).

Physical protection requires, first and foremost, the presence of UNHCR in refugee camps and settlements and, at a minimum, such presence should be strengthened through longer and more regular field visits, as well as better communication with refugee communities.

Although the scope of involvement will vary depending on the extent of UNHCR's presence on the ground, a new standard practice should be established whereby field-based NGOs will complement UNHCR's protection mandate in situations where the Office cannot have a permanent presence.