

International Refugee Rights Initiative



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SPOTLIGHT:

Slipping at the Edges: The Darfur Crisis Expanding

In late January 2006, Antonio Guterres, the United Nations High Commissioner for Refugees addressed the United Nations Security Council on the work of his agency. In those remarks Guterres identified the crisis in Darfur and the refugee movements to Chad as “probably the largest and most complex humanitarian problem on the globe.” As bad as the situation was, however, the High Commissioner warned that thing might get much worse: “if there is no physical protection for those in need of aid, the risk is a much greater calamity than what we have seen so far.”

The space for protection in the region is indeed being eroded. In the two years since the conflict has exploded, millions have been forced to flee their homes in search of safety. The majority have been huddled in camps for the internally displaced which were never quite safe. The camps in Darfur, intended to be a safe haven, have themselves been attacked repeatedly.

And things are getting worse. UNHCR reports that there have been 3,000 new arrivals in Chad since the beginning of 2006, and that one-third of these, approximately a thousand refugees, have in fact fled twice over, having most recently been forced out of internally displaced

persons camps in western and southern Darfur.

For those who do manage to cross the border into Chad safety is not guaranteed. Suffering from its own weakness and instability, the Chadian government has recently

deployed its security apparatus against internal opposition, leaving large swathes of territory, with refugees and Chadians along it alike, unprotected. As a result, Sudanese-based janjaweed have become increasingly brazen in their attacks, even reportedly striking targets as much as 40 kilometers inside the Chadian border.

This increased insecurity has caused further displacement. Many refugees have moved further inland while an estimated 30,000 Chadians have reportedly fled alongside them.

The attacks in Chad have continued the pattern of ethnic discrimination that has been observed in Darfur, polarizing an environment as ethnically diverse as Darfur itself. As non-Arabs have fled further into Chad to avoid attacks, there has also been movement in the other direction. UNHCR staff in West Darfur has reported that spontaneous camps of eight to ten thousand people, an unknown percentage of whom are Chadian, have grown up recently near the city of El-Geneina. UNHCR has said that it is considering the Chadian as persons of concern pending a fuller assessment of their cases. Many have speculated that this movement is made up of Chadian Arabs fearing retaliatory attacks.

The fear may not be ill-placed. Abandoned by their government, Chadian villagers near the border have reportedly begun to build up their own militias to defend themselves. Meanwhile the governments of Chad and Sudan are trading accusations of supporting one another's rebels.

The crisis in Darfur is often compared to the genocide in Rwanda, but the situation in Chad is now taking on characteristics of the situation in Zaire. Ethnic tensions are high

Canadian Council for Refugees Conference

The Canadian Council for Refugees, an umbrella NGO, with some 180 member organizations in Canada committed to promoting the protection of refugees in Canada and around the world, will be holding an international refugee rights conference 17-19 June 2006 in Toronto.

Goal of the conference

The conference is intended to bring together representatives of NGOs committed to refugee protection from around the world, including the Global South, to examine the state of refugee protection and the role being played by NGOs. The goal is to leave the conference having agreed on strategies to ensure that NGOs work together more effectively across borders to protect the rights of refugees. Non-NGOs that are supportive of the work of NGOs are also welcome to attend.

Planned workshop topics include Interdiction and access to protection, Detention of asylum seekers, Voluntary repatriation, Resettlement, Internally displaced persons, Effective protection, Refugee determination issues, Gender violence and refugees, Causes of displacement, Trafficking in persons, Statelessness, Combating negative public opinion/Promoting positive attitude, Palestinian refugees, Family reunification, Economic and social rights of refugees, Gender-based approach to settlement, Refugee children, Survivors of torture, Integration of resettled refugees + more.

Involving you

CCR is actively seeking broad NGO involvement for this session. They have developed a short questionnaire designed to solicit suggestions about what should be included and what organizations are able to contribute. Limited financial assistance for travel is available, but the deadline for applying for travel subsidies is March 10.

For more information, see <http://www.web.ca/ccr/intconf.htm>

and diverse groups are arming themselves and greater conflict is brewing. Chadian rebels are seeking to exploit the confusion to push the regime of Idriss Deby from power and are operating, it is claimed, from inside Sudan. Seeking a third term at the helm of a country which Transparency International reported in its Corruption Perceptions Index 2005 was seen as one of the most corrupt in the world, does Idriss Deby resemble Mobutu in Zaire? Might this ethnic violence herald the beginning of another regional war in Africa?

ACTION AND ADVOCACY:

When Going Home is a Tough Choice

Burundi is slowly coming out of the political nightmare that wrecked the country with decades of fighting. Thousands of refugees who had fled to neighboring countries have now begun returning home. But what kind of home will they find, how will they settle and rebuild a life that remains far from perfect.

Anna Mecagni, a humanitarian worker in Burundi, reflects on the paradox of return to a country with immense challenges.

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Bumping along the dusty road traveling from Tanzania back to Burundi, my home away from home, my mind was consumed by three questions: (1) where will they fit? (2) why isn't the money following? (3) how can the international community aid better?

I was returning from a cross-border mission, having spent a few days visiting some of the large refugee camps near Kibondo, Tanzania. The Tanzanian camps along the border with Burundi have been the temporary home, for about the past twelve years, to approximately 500,000 Burundian asylum seekers. Starting in 1993, they fled the most recent period of violent civil conflict that engulfed Burundi. However, the violence has been recently quelled in many areas of Burundi, and there has been a mass return of returnees. However, many questions, like those listed above, remain unanswered.

Where will they fit?

The big question, that looming elephant in the corner, is about land. Over 90% of the Burundian population is dependent on subsistence agriculture. In general, the Burundian environmental context is gloomy: deforestation, degradation of soil caused by years of slash and burn agriculture, and climate change seemingly the cause of shifting rainy and dry seasons. This year, in the north and east, there are reports of food insecurity.

Over the past couple of years, UNHCR has assisted approximately 200,000 former asylum seekers in Tanzania to repatriate back to Burundi. Tensions between repatriates from Tanzania (from the 1993 and 1972 conflicts), internally displaced persons, and non-displaced Burundians have been rising over land issues, particularly in fertile areas. Some experts cite conflict over land as one of the main root causes of the continuing conflict in Burundi. With at least 300,000 potential repatriates to return to Burundi in the

next couple of years, really, where will they fit? The government seemingly does not have a plan for land re-distribution or a national approach to land dispute resolution. Looking ahead, if land issues go unresolved, will they spark the next wave of violence in Burundi?

Why isn't the money following?

I was surprised to see that there were on-going construction projects in the Tanzanian refugee camps such as a new ward being built in one of the camp's hospital. This struck me as somewhat bizarre. As noted above, about 200,000 Burundian asylum seekers have returned home. It is assumed that a large number of others will follow in 2006, particularly after the recent improvements in security in rural provinces like Bururi, from which many Burundians fled in 1993. If Burundians are leaving Tanzania voluntarily (although some might argue the "encouragement" from the Tanzanian government contributes to their decision to leave) why is money being spent on construction projects for a departing population?

Now, I would certainly not advocate for NGOs in Tanzania to close up shop, as there are still significant and serious needs in the camps. However, if one compares the level of level of social services – health, water, education – in the camps and in the rural provinces of Burundi, where most repatriates are returning, one finds that the basics standards tend to be lower in Burundi. In a very simplified sense, maybe the money is going to the wrong place. Refugees are considered an international responsibility and returnees are considered a national responsibility. However, if returnees' needs are not met, will they just turn around, re-cross the border, and become refugees again? Should the international community shift their allocation of funding from one side of the border to the other, to follow the wave of migration? Would this, in turn, aid the positive reintegration of repatriates back into society?

How can the international community aid better?

There was a small child in a hospital that I visited in one of the refugee camps. Her skin was wrinkled and saggy, like it was tired and just couldn't hold on any longer. A doctor, who was teaching medical staff to look for typical signs of malnutrition, pointed out this child and said "This child is from a nearby Tanzanian village. 90% of our malnutrition cases are Tanzanian." It was a shock to me that a Tanzanian child, suffering from malnutrition, was being treated in a camp for Burundian refugees.

The way the system categorizes different populations and discriminates in its aid delivery is sometimes infuriating. Refugees have the 1951 Convention and UNHCR, while IDPs sitting just across the border only have the Guiding Principles to hang onto (although discussions are on the table for an IDP protocol in the region). Numbers of returnees are supposedly rising but UNHCR's funding will decrease by 20% in 2006. In Burundi, it is often the non-displaced, who stayed put and suffered through the war, that tend to be the worst off of all conflict-affected groups.

The solutions are hard to find, and I do not purport to have any answers or innovative approaches. And, yes, some organizations are reducing the lines between populations and working on geographic rather than refugee-only programs. But, in general, how the international community can more equitable in their definitions, support and assistance to populations affected by conflict? Can NGOs, which work with different populations across borders, frame the debate? How, really, can the international community aid better?

Building Safer Organizations: A Response to Sexual Abuse and Exploitation?

In 2002 a report on sexual abuse and exploitation by humanitarian workers published by UNHCR and Save the Children focused the world's attention on the abuse and exploitation of refugees and other vulnerable populations by the very persons charged with their care. The report identified numerous allegations of sexual abuse and exploitation in West Africa and suggested that such abuse was pervasive. One adolescent was quoted as saying, *"It's difficult to escape the trap of those (NGO) people: they use food as bait to get you to sex with them."*

The initial allegations gained widespread attention, both through the mainstream media and through NGOs. Much less attention, however, has been paid since to efforts to address the problem. One such effort is the Building Safer Organizations project, an initiative hosted by the International Council of Voluntary Agencies (ICVA) and devoted to increasing awareness of standards relating to how NGOs can appropriately respond to allegations of sexual abuse and exploitation and develop institutional capacity to conduct investigations.

The Building Safer Organizations project builds on the follow up work and recommendations of the Inter-Agency Standing Committee (IASC) of the United Nations. In the aftermath of the original report and an official investigation undertaken by the Office of Internal Oversight Services (OIOS), IASC formed a task-force which worked with the UN Secretary-General to develop his Bulletin (see below) as well as terms of reference for in country focal points and networks.

The UN Addresses Sexual Exploitation

Following the UNHCR/Save the Children report, the UN's Office of Internal Oversight Services (OIOS) was tasked with carrying out an investigation. The OIOS mandate, however, was carefully circumscribed. It was limited to consideration of the situation of refugees in three countries in West Africa, it excluded internally displaced persons from its consideration, and focused on abuse by UN staff, rather than that of NGO workers.

The report concluded that while most of the allegations in the report could not be substantiated (for example, because the individuals involved could not be located or because they were based on second hand or misconstrued information), the problem of sexual abuse and exploitation was a serious one. Numerous new cases were identified. Although the OIOS report stressed that many of the allegations in the original report were

overstated, it also pointed out that conditions in the camps facilitated sexual abuse and exploitation. It recommended that NGOs and UN agencies review their distribution procedures to discourage exploitation, increase visibility and monitoring in the camps and define common codes of conduct and reporting mechanisms.

The UN Secretary-General's Bulletin on "Special measures for protection from sexual exploitation and sexual abuse," issued in October 2003, was an attempt to respond to the recommendations of the OIOS and to elaborate a code of conduct for the entire UN system. The Bulletin was designed to set out the UN's policy towards its own staff, contractors and partner agencies with respect to sexual abuse and exploitation. It clarifies the definitions of sexual abuse and exploitation and unambiguously declares that this behavior constitutes misconduct within the UN system. It may constitute grounds for disciplinary action, including summary dismissal.

The Secretary-General's Bulletin in particular prohibits sexual activity by UN staff with individuals under the age of 18, regardless of how the age of consent or majority is defined locally. It also forbids the exchange of money, employment, goods or services for sex. The Bulletin further discourages any relationship between beneficiaries and UN staff, pointing out that these relationships are based on inherently unequal power relationships and therefore undermine the credibility of the institution. These standards extend to all NGOs and their staff working in contractual relationships with the UN.

Bringing Common Standards and Practices to the NGO Community

The definition of common standards within the UN and their replication in the codes of conduct of some NGOs is a commendable step towards a creating a common framework for understanding and responding to the problem. The Building Safer Organizations project, however, recognizes that once these standards are embraced by NGOs in addition to UN agencies, they need to be reinforced through appropriate enforcement mechanisms. This need was also clearly recognized by the OIOS report, which recommended that UNHCR and its implementing partners put in place clear procedures and guidelines for the investigation of sexual exploitation of refugees and other related conduct.

The Building Safer Organizations project has therefore focused on helping to develop internal complaints mechanisms and enhancing the capacity of NGOs to investigate and respond to allegations of abuse by members of their own staff. The project has created learning programs for investigators and their managers with a view to setting common standards for investigations. Course materials (which will be translated from English into French and Arabic by May 2006) are also available. A handbook on investigations will also be made available in both printed form and on the ICVA website (www.icva.ch).

The materials created by the project have been developed through ongoing collaboration with NGOs, and "field-testing" in a series of trainings for NGO staff investigators and managers. The project has already convened workshops in four countries (Kenya, Senegal, Thailand and Egypt) which included more than 130 participants from over 40 NGOs.

In the next phase of the project, the focus will turn on disseminating the materials and creating mechanisms to institutionalize the work of the project within all those organizations working on the ground.

For more information, contact Ms. Katharina Samara-Wickrama at katharina@icva.ch.

FEATURES AND ANALYSIS:

Refugees or Illegal Immigrants? Rwandan Asylum Seekers in Burundi

In June 2005, the Rwandan and Burundian governments met and reached an agreement which had the effect of declaring that all citizens of Rwanda should be given refugee protection and resulted in the forcible repatriation of approximately 5,000 asylum seekers. (See [Rwanda, Burundi Refugee Deportation Causes Uproar](#), in *Refugee Rights News*, July 2005).

Despite this agreement, over 20,000 Rwandans in the northern Burundian provinces of Ngozi, Kirundo, Kayanza and Muyinga are still desperately hoping to be accepted as refugees in Burundi, whether newly arrived, or returned freshly from Rwanda.

Some of these individuals were able to evade the forced repatriation, either by hiding within Burundian communities, or by bribing officials to avoid deportation. The majority were, however originally repatriated and crossed back again to Burundi since June seeking safety.

Uncertain Refuge

The asylum seekers are now caught in another web of confusion and uncertainty marked by accusations and counter-accusations from the Rwanda government and the asylum seekers. Rwanda suggests that those who have fled have done so in response to exaggerated rumors of potential persecution or, worse, to shield themselves from prosecution for their own roles in the 1994 genocide. On the other hand, many of the asylum seekers see the government's *gacaca* trials, which started formally functioning in March 2005, as little more than a witch hunt aimed at persecuting innocent Hutus.

This tension between a country of origin and her citizens, is an example of the need for a clear and principled independent arbitrator which focuses on the protection of vulnerable populations when it comes to return.

Conference on Peacekeeping, Reconstruction and Stability in Africa

The International Quality and Productivity Center is holding a conference entitled Peacekeeping, Reconstruction and Stability Operations in Africa in Johannesburg in March 2006. The event will bring together parliaments from European, African and North American countries, representatives of governments, and the military from all three continents and international and non-governmental organizations. It will also seek to provide a forum for a detailed discussion of past and present peacekeeping operations in Africa.

For more information, see the ICPQ website <http://www.iqpc.co.za/cgi-bin/templates/document.html?topic=228&event=9198&document=66998&slauID=3&>

When the Rwandans arrived in Burundi some for the first time, the legacy of the June agreement was unclear. Would these new arrivals be automatically considered “illegal immigrants” and returned? Or would they be considered as new asylum seekers, untainted by the June accord. The uncertainty was a particular source of tension for asylum seekers when the Rwandan and Burundian governments met again on October 17, 2005. Was a second forcible repatriation in the works? Ultimately the meeting did not brand the new asylum seekers “illegal,” but it recognized a need to “sensitize” the refugees to return.

While the pressure from the Rwandan side to return the refugees continues, the response from the Burundian government appears to be now more principled than it was last June.

While their fate was being discussed, Rwandan asylum seekers relied on the generosity of their Burundian neighbors; many found accommodation with Burundian families. These families not only strained their own economic resources hosting the refugees: they also risked their own security in protecting the Rwandans.

Other Rwandans made their own makeshift camps. Temporary homes constructed with branches and leaves provided little protection from the elements. Food distributions were carried out by the World Food Program, but these were erratic, and the asylum seekers were often left without food for weeks at a time. Security was an additional concern for the newly arrived asylum seekers. The refugees are located less than 50 kilometers from the Rwandan border, sparking fears of cross-border actions by Rwandan authorities and rumors of espionage.

What Future?

The situation of Rwandan asylum seekers in Burundi seems to be slowly stabilizing. The Burundian government has declared the population to be asylum seekers and has set up a refugee screening process in collaboration with UNHCR. The process had processed about 500 individuals by January 24. This is a welcome development as it affords asylum seekers the opportunity to present their cases for refugee status fully and holds out the promise of a legalized status to those who are successful. Security concerns have been addressed by ensuring that Burundian police are deployed to all areas which host refugees.

The efforts of the Burundian government and ordinary Burundians in extending a cautious welcome to Rwandan asylum seekers are to be applauded. But the continuing tension is another example of the need to develop stable systems for refugee status determination. Clear and credible information about the current situation in Rwanda must be made available, particularly as it relates to the reasons for the ongoing flight of Rwandans. Otherwise decisions will rely solely on speculation. There must also be the creation of a political space for fair status determination procedures to operate and a rights-respecting approach to assistance. Every effort must be made to ensure that adequate security and assistance are provided to all asylum seekers while their claims are considered. Once determinations are made, refugees must be able to establish themselves

with dignity, either as refugees in Burundi or as returnees in Rwanda. The ongoing flight of Rwandans to Burundi is also an indication of the need for sustained monitoring and attention to the human rights situation in Rwanda overall.

Refugees Killed in Cairo Protest

In the wee hours of December 30 last year, Egyptian riot police moved to disperse a group of approximately two thousand of Sudanese asylum seekers and refugee protesters who had been camped in a central Cairo square since late September. The operation quickly turned violent and a large number of refugees were killed and injured in the resulting melee.

No one expected the peaceful demonstration would have turned that deadly and ugly. But it did. Chaos reigned and by all accounts tens of refugees were killed. The number of deaths reported, however, varied; the Egyptian government put the death toll at 27 while the Sudan People's Liberation Movement in Cairo said to 265 died.

The genesis of Cairo protests was in late September when the refugees took to the streets to protest the "intolerable conditions" in which they said they were being forced to live (See "[Sudanese Refugees Take to the Streets in Cairo](#)," in the November 2005 edition of *Refugee Rights News*.)

The government of Egypt claimed that the forced dispersal of the protest was a response to the deteriorating humanitarian conditions in the camp; "[t]he disastrous situation in the square where they stayed needed an immediate attention." It stated that it had received a number of urgent requests from UNHCR to "take appropriate measures to resolve the situation."

Confusion and Outrage

In contrast to the view of the Egyptian government that "extreme tolerance" was used in the dispersal operation, eyewitness reports indicated that there was unwarranted use of force and violence. Apparently the demonstrators were doused many times with water cannons before they were pulled one by one from the crowd and forced to board public

CALL FOR INFORMATION

Protests by refugees taking place outside of UNHCR offices are not new. In Cairo, we recently saw a sit-in demonstration in the Park outside UNHCR's office from September 28 to December 30 2005.

Leigh Sylvan and Barbara Harrell-Bond are planning to write an academic article on this and other such protests. They would be interested in hearing about other refugee protests from anywhere in the world and would be grateful for reports or leads to other persons who can tell us about them.

Any help received will be credited unless the source of information requests anonymity.

If you have information, please contact:
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buses that transported them to detention centers outside the city. Many were beaten and trampled in the melee.

The incident drew huge criticism from both national and international human rights organizations.

A coalition of Egyptian NGOs including the El Nadim Center for the Management and Rehabilitation of Victims of Violence asked the United Nations High Commissioner for Human Rights to conduct an investigation into the incident. The call for an independent investigation was supported by a number of international organizations including the International Refugee Rights Initiative, Human Rights Watch, the Refugee Council USA and the Ethiopian Community Development Council.

Amnesty International called on the Egyptian government to invite the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to participate in the investigation. Other organizations focused on the need to bring to book members of the police and security forces found to have behaved improperly or to have used excessive force to account for their actions. Some Egyptian NGOs sought the resignation of the Minister of the Interior Habib el Adly, whom they called to resign as a result of the incident.

Detention and Status Assessment

Between 2,000 and 2,500 refugees were detained by Egyptian police in the wake of the incident. Initially there were fears that some of the protesters would be deported, and there were reports that 100 refugees were summarily sent home. NGOs and UNHCR swung into action to prevent a mass deportation. The International Refugee Rights Initiative was among the NGOs who called for the UNHCR and the International Red Cross to be given access to the detainees. Ultimately many of the documented 1,500 refugees were released and UNHCR was given access to the detention facilities to assess the needs of the detainees.

On January 8, the Cairo office of Africa and Middle East Refugee Assistance (AMERA) while welcoming the fact that UNHCR had been given access to the detainees, expressed concern about the lack of information and uncertainty about the situation of the detainees. The organization pointed out that the 72 hours allowed to UNHCR was too short a time to assess the needs of so many refugees. AMERA called on UNHCR to extend interim protection to all those in need of assistance, contending that there were many complicated legal issues which required time to explore. It argued that the interim protection should be seen as in interim injunction.

AMERA also pointed out that all Sudanese nationals possessed rights to residency in Egypt under the Four Freedoms Agreement which had come into effect in September 2004. They argued that these rights should also be considered in deciding whether or not to deport individuals.

In fact, several extensions of the deadline were granted and UNHCR was able to complete interviews with all the detainees. By January 11, UNHCR was able to verify the identities of 164 registered refugees who did not have their documentation when they were arrested or whose documentation had been lost or destroyed during the police operation. A week later, a humanitarian release was granted for all women, children and natives of the crisis region of Darfur.

By the end of the screening on January 26, UNHCR was able to identify an additional 14 persons, verified as asylum seekers or refugees. The agency recommended that these individuals be released immediately and that the remaining detainees, who had been found not to be in need of international protection, not be deported. Several days later, on January 30, the Egyptian Ministry of Foreign Affairs guaranteed that none of the remaining detainees would be deported, paving the way for the release of the final 156 detainees on February 11.

While the immediate situation of those refugees and asylum seekers who survived the forced dispersal of the protest is now resolved, there are still many who have not yet been permitted to bury their loved ones. Many bodies have still not been released by the authorities, and return to Sudan has not been permitted. Second, the long term framework for the protection of refugees in Cairo, including the dynamic between the key actors which created the conditions for this horrific disaster, must be addressed. The first step is an independent investigation of the incident which will identify those responsible for how the tragedy unfolded, both at the

ASYLUM ACCESS: CALL FOR LETTERS OF INTEREST

DUE 10 MARCH 2006

Asylum Access, a U.S. organization whose mission is to make refugee rights a reality in the global south, expects to offer one or more small (\$3,000 to \$10,000) grants to enhance provision of legal services to refugees in Africa, Asia or Latin America. To that end, Asylum Access seeks letters of interest (LOIs) from refugee legal advocacy organizations operating in the global south.

No funding is guaranteed. The purpose of this request for LOIs is to enhance Asylum Access's knowledge of organizations engaged in refugee legal advocacy in the global south, and to explore the possibility of collaborative partnerships with one or more of these organizations. Based on the letters received and the funds available, Asylum Access may invite one or more of the organizations that has submitted a LOI to apply for a grant from Asylum Access. The objective of Asylum Access's anticipated grant or grants is to partner with local nongovernmental organizations in the global south to offer enhanced legal services to refugees. Asylum Access does not expect funds to be available before June 30, 2006.

The LOI should describe the organization's legal advocacy on behalf of refugees and identify a *specific project or area* in which a one-time grant of \$3,000 to \$10,000 could significantly improve the organization's legal services to refugees. The LOI should specify the amount requested and explain how the work funded by the grant would enhance refugee legal services. If ongoing funding will be necessary to continue providing enhanced legal services to refugees, the LOI should identify potential sources of ongoing funding. The LOI should also briefly describe the organization's overall activities, the percentage of time and budget spent on refugee legal advocacy, and any track record of providing legal services to refugees.

LOIs will be reviewed by Asylum Access's Grants Committee, comprised of all members of the Board of Directors who do not have a conflict of interest according to Asylum Access's Conflict of Interest Policy (electronic copy available on request). LOIs should be no longer than 2 pages, and **must be received by 10 March 2006**. LOIs may be sent to Executive Director Emily E. Arnold-Fernandez by email at emily@asylumaccess.com, or by post at P.O. Box 14205, San Francisco, CA 94114.

level of the State authorities and of UNHCR. While it is clear that the deaths which resulted on the night of 30th December were as a direct result of a police operation, there are a raft of outstanding questions about the nature of UNHCR's response to the protest as a whole, its cumulative approach and attitude to the refugee communities. UNHCR's Office of Internal Oversight must engage to review whether the acts and omissions of individuals contributed to the violent outcome.

LAW AND POLICY

Internal Flight in Sudan: UNHCR issues new policy guidance

Earlier this month the UNHCR issued new guidelines to states on the situation of Darfurian and other Sudanese asylum seekers (the Guidelines). The previous set of guidelines issued by UNHCR on Sudan had been published in 2001—considerably out of date in the light of the major changes which have occurred within Sudan and the region since that time.

The Situation in Darfur

Qualification of the situation in Darfur is at the heart of the Guidelines: the Guidelines conclude that the security situation in Darfur has noticeably deteriorated since August 2005 and that “the absence of effective protection by the authorities has further exacerbated threats to the physical safety of Darfurians.” The Guidelines recommend that “States provide international protection to Sudanese asylum-seekers from Darfur of “non-Arab” ethnic background through according them recognition as refugees.” Further, even where a state feels unable to grant refugee status under the law, the Guidelines urge that “non-Arab Sudanese originating from Darfur should not be forcibly returned until such time as there is a significant improvement in the security situation.”

The Guidelines go on to clarify, however, that “while UNHCR's recommendation that a presumption of eligibility to refugee status [...] applies to non-Arab Darfurians, asylum claims submitted by Darfurians of Arab origin shall be considered on their individual merits.”

There have been some comments and questions about this formulation and reference to “non-Arab Sudanese”: IIRI seeks the views of colleagues on this characterization.

Need for Protection beyond Darfur

Call for research projects on migration

The Commission's Directorate General for Research and Technological Development has issued a call for proposals for research on migration in its programme “Scientific Support to Policies”. Projects will be funded that carry out comparative research into the “factors underlying migration and refugee flows, including illegal immigration and trafficking in human beings”. The research should develop “better knowledge of legal and illegal migration flows towards the EU and the transition paths of migrant communities from irregularity into regularity and vice versa”. The call was published on 22 December 2005, the deadline for submissions is 22 March 2006 and the budget €77 million.

To apply see:

http://fp6.cordis.lu/index.cfm?fuseaction=UserSite.FP6DetailsCallPage&call_id=268

Although the document containing the Guidelines is entitled “*UNHCR’s position on Sudanese asylum seekers from Darfur*,” the Guidelines do recognize that “certain categories of Sudanese” from other regions in Sudan outside Darfur may also have a need for international protection. In particular they recognize that “young men of fighting age who are regularly singled out for detention and interrogation” may be of concern. Further, persons who have been abroad for a period are recognized as possible subjects of investigation, under security legislation in force in the country.

It is worth mentioning that the Guidelines also call for “due attention” to be paid to the application of the exclusion clause when determining the status of Sudanese and Darfurian asylum seekers. The mechanism of exclusion provides that persons who otherwise qualify for refugee status may not be so recognized if there are strong reasons for considering that they have committed a serious crime.

The Situation of IDPs in Sudan

The Guidelines are particularly welcome for the approach which they take to the need to consider the level of protection enjoyed by internally displaced persons (IDPs) in the country of origin when examining the requirement for international protection.

Further, the Guidelines explicitly link the debate surrounding the question of whether the option of internal flight can serve to negate a refugee claim, with the characterization of the dynamics of the conflict in Darfur. UNHCR identifies an important principled position in this regard: “where internal displacement is a result of ‘ethnic cleansing’ policies, denying refugee status on the basis of the internal flight or relocation concept could be interpreted as condoning the resulting situation on the ground and therefore raises additional concerns.”

The focus on internal flight and the plight of the internally displaced in Sudan were the subject of a landmark appeal in the UK House of Lords last month. In fact, the new Guidelines were issued hot on the heels of formal intervention by UNHCR in this case, which was brought by three Darfurian asylum seekers. The Darfurians challenged a decision which had found that, despite the existence of a real risk of exposure of the asylum seekers to harm if they were sent back to Darfur, “there was not a significant risk of persecution on return to the Khartoum area and it would not be unduly harsh for the respective appellants to relocate there.”

Internal Flight and the House of Lords

UNHCR’s amicus submission in the case of *Hamid, Gaafar and Mohamed v. the Secretary of State for the Home Department*, was wide ranging, with the agency taking the opportunity to seek authoritative rulings from the House of Lords on a number of key issues relating to the interpretation of the 1951 UN Convention. In respect of internal flight UNHCR’s brief viewed the concept as raising two questions: (1) whether there was a “specific area of the country where there is no risk of persecution” (relevance) and (2)

whether “given the particular circumstances of the case, the individual could reasonably be expected to establish him- or herself in that area and live a normal life” (reasonableness).

With respect to “relevance” UNHCR argued that where “the persecution feared emanates from, or is condoned or tolerated by State agents and where the State authority exercises control over the whole country, internal flight or relocation is normally neither relevant nor applicable.”

With respect to “reasonableness” UNHCR indicated that one of the central questions was whether, basic civil, political and socio-economic human rights, as expressed in the 1951 Refugee Convention and other major human rights instruments, would be protected in the proposed area of relocation.

Finally, as a general contextual condition, UNHCR noted that the Guiding Principles on Internal Displacement specifically affirm in Principle 2(2) that they should not be interpreted as “restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law” and in particular, they are “without prejudice to the right to seek and enjoy asylum in other countries.”

The ruling of the House of Lords is awaited with interest.

For more information, see UNHCR’s [Position on Sudanese Asylum Seekers from Darfur](#), and the [Petition for the Intervention of UNHCR in Hamid, Gafaar, and Mohammed v. the Secretary of State for the Home Department](#).

PUBLICATIONS

The following is a selection of recent publications relating to refugee issues in Africa. Please let us know of any publications which may be of interest to readers.

<p>Amisi, Baruti Bahati, “An Exploration of the Livelihood Strategies of Durban Congolese Refugees.” New Issues in Refugee Research Working Paper 123, February 2006.</p> <p>Amnesty International, “Eritrea: Religious Persecution.” December 2005.</p> <p>Cairo Community Interpreters Project Newsletter, October-November 2005.</p> <p>Campbell, E.H., “Urban Refugees in Nairobi: Protection, Survival and Integration.” December 2005.</p>	<p>Human Rights Watch, “Evicted and Forsaken.” December 2005.</p> <p>Lawyers for Human Rights, “Court Order on Asylum Procedures.” November 2005.</p> <p>Le Blanc, Hubert, and Robert Herrmann, “Joint Evaluation by the Government of Canada and the UNHCR of the Deployment of RCMP Officers to Refugee Camps in Guinea.” UNHCR Research and Evaluation Policy Unit, November 2005.</p> <p>Napier-Moore, Rebecca, “Entrenched Relations and the Permanence of long-term refugee camp situations.” 2005.</p>
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<p>Coulter, Chris, "The Post War Moment: Female Fighters in Sierra Leone," November 2005.</p> <p>Ditshwanelo, "Press Statement Following a Workshop on Rights of Minority Groups," February 2006.</p> <p>Forced Migration Review, "Special Issue: Sudan Prospects for Peace," November 2005.</p> <p>Human Rights Watch, "Darfur Bleeds: Recent Cross-Border Violence in Chad," February 2006.</p> <p>Human Rights Watch, "Entrenching Impunity: Government Responsibility for International Crimes in Darfur," December 2005.</p>	<p>D'Orsi, Cristiano, "La Définition de 'Réfugié' Dans Les Législations Africaines: Une Analyse Comparative Critique," New Issues in Refugee Research Working Paper 121, February 2006.</p> <p>Refugee Law Project, "There Are No Refugees in this Area: Self-settled Refugees in Koboko," November 2005.</p> <p>UNHCR, UNHCR's Strategy and Activities Concerning refugee Children, October 2005</p> <p>Wigley, Barb, "The State of UNHCR's Organisation Culture: What now?," January 2006.</p>
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