

# International Refugee Rights Initiative



## *Refugee Rights News*

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**SPOTLIGHT:**

### *Sudanese Refugees Take to the Streets in Cairo*

A courageous group of Sudanese refugees have taken to the streets to demand better treatment in Cairo. The protest began on September 29 when the refugees took up residence in a plaza near the UNHCR office in Cairo, for a sit in that has now lasted more than a month. As we went to press, a hunger strike had just begun.

The refugees have amassed a list of complaints including objection to the detention of Sudanese asylum seekers and immigrants in Egypt and the failure of UNHCR to individually consider the cases of arriving asylum seekers. It is generally acknowledged that the level of assistance provided to refugees and asylum seekers is less than what would be desired. It is also recognized that Sudanese are often victims of discrimination. The refugees point to even more serious protection concerns—alleging, for example, that some of their fellows have even “disappeared” during their exile in Egypt.

The spark for the protest, however, seems to be changes in the UNHCR’s policy in dealing with Sudanese asylum seekers. Until recently, the UNHCR considered the cases of all Sudanese asylum seekers individually under its refugee status determination procedures. While these procedures were documented to be seriously flawed, they did allow asylum seekers the possibility of being granted refugee status and the promise of resettlement in a third country. Unfortunately, however, many asylum seekers

were not successful in their claims and, once their files were closed, many were trapped without any legal status in Egypt, vulnerable to harassment by the authorities and to forced return.

In June 2004, however, UNHCR decided to suspend all individual status determinations for Sudanese applicants for asylum, issuing all Sudanese asylum seekers with a “yellow card” which offered only temporary protection instead. UNHCR justified its decision by arguing that the yellow card system allows protection to be offered to a larger number of people. Refugees and their advocates, on the other hand, claim that the cards carry little in terms of privilege for those who hold them, offering only permission to reside and providing health care only in situations of extreme emergency, through UNHCR’s implementing partner, CARITAS.

A solution to the crisis has been difficult to negotiate, with refugees and asylum seekers and UNHCR failing to see eye to eye even on a process for the discussions. The refugees’ demands in fact explicitly denounce the two most often pursued “durable solutions” to refugee crises, local integration and repatriation.

The UNHCR insists that it has not forced anyone to return. Considering, however, the change in UNHCR policy in conducting individual interviews and the commencement of repatriation programs to the South in the wake of the signing of the Comprehensive Peace Agreement in January of this year, it is not difficult to imagine why refugees feel squeezed. In addition, given the allegations of disappearances and inadequate assistance, it is easy to see why refugees would perceive safe and successful local integration in Egypt as a remote possibility. That fact that until recently UNHCR had a policy of resettling most successful refugee applicants suggests that UNHCR itself does not consider that local integration in Egypt is a workable solution.

UNHCR, on the other hand, rightly points out that its hands are somewhat tied. While refugees have the right to return and the right to certain standards of treatment in exile, there is no internationally recognized right to resettlement. UNHCR claims that it has not suspended resettlement efforts, but simply that the number of cases meeting the resettlement criteria set by states has decreased. The UNHCR cannot force governments to accept more refugees for resettlement nor can it force donors to provide more funds for assistance in Cairo. This is not to say that the agency’s policies have no effect, certainly its policy of suspending individual status determination is, at a minimum making it more difficult to identify appropriate resettlement cases as its officers delve less deeply into the circumstances for each individual.

The refugees themselves are calling for a “radical solution” or to be relocated to a country where “there is no discrimination.”

The protest by refugees themselves, organizing on their own, is a powerful cry, but time has yet to tell whether it will result in the creative thinking and action that would be required to make such a “radical solution” a reality.

## ACTION AND ADVOCACY:

### ***Annual Refugee Course in Tanzania Trains Advocates***

The Centre for the Study of Forced Migration (CSFM) at the University of Dar Es Salaam has taken an innovative approach to promoting the rights of refugees in East Africa. It convenes an annual East African School on Refugee and Humanitarian Affairs designed to only to enhance the regional knowledge about forced migration, but also to benefit from a regional approach.

The most recent course held from September 3<sup>rd</sup> to 16<sup>th</sup> brought together students from Kenya, Uganda and Tanzania to benefit from the lessons learned by regional and international experts.

This year's course brought together 32 participants and more than ten experts from across the region (the organizers take particular effort to promote the participation of women.) Experts were drawn from civil society, international organizations, academia and government, and they addressed topics ranging from an overview of forced migration today to the challenges of educating refugees. Zachary Lomo, Director of the Refugee Law Project of Uganda, conducted presentations on children in refugee situations and the security implications of refugee movement in Uganda. Laura Kiluli of the International Labor Organization presented on the reproductive rights of refugees, while academics such as Dr. Bonaventure Rutinwa, of the University of Dar es Salaam lectured on refugee law and policy. The government of Tanzania was represented by Mr. Johnson Brahim of the Directorate of Refugee Services, who discussed refugee policy in Tanzania.

The course also drew on international expertise. Erin Mooney, Senior Advisor to the Special Representative of the Secretary General on the Human Rights of IDPs addressed how to use the Guiding Principles on IDPs and emerging issues in IDP protection.

This course, the seventh such course convened by the CSFM, has contributed to developing a core of qualified professionals better equipped to address the challenges of protecting the displaced in East Africa.

### ***The Dutch Council for Refugees Goes International***

*This article was contributed by Ilse Griek, International Policy Officer, of the Dutch Council for Refugees.*

The [Dutch Council for Refugees](#) (DCR), long known for its activism on behalf of refugees and asylum-seekers in the Netherlands, has decided to take its activities to the international stage. Over recent years, the number of asylum seekers in the Netherlands has declined, while the impact of European policy on those countries outside the region has increased, particularly as the EU has intensified its focus on regions of origin and transit.

For the past 25 years, the Dutch Council for Refugees has been active in the Netherlands, providing legal assistance to asylum seekers and helping recognized refugees during their integration process. Furthermore, the DCR has set up a large country of origin information (COI) database and has organized training courses for its volunteers and staff.

Within the Netherlands, the DCR advocates for refugee rights, access to asylum procedures and the integration of refugees in the Netherlands. While its primary focus has been on the Netherlands, the DCR (as one of the most active members of the European Council on Refugees and Exiles - ECRE) has been actively engaged in lobbying at the level of the European Union for years.

### *Making the Work International*

In a context where European policy is becoming increasingly important in determining refugee policy on an international level, the Dutch Council for Refugees has decided that it will be critical to ensure that the voices of refugee assisting organizations (NGOs) are more vigorously brought to the fore in international debates.

To achieve this, DCR wants to build on its existing strengths, as well as developing new areas of focus, and is looking to develop new partnerships in this context. DCR intends to intensify its lobbying and advocacy role at the EU level, working both through ECRE and in collaboration with other national refugee councils on issues such as integration and resettlement. In addition, DCR is now conducting research on the possibilities of expanding this focus beyond Europe.

DCR would like to join initiatives to monitor the effects of EU policy on countries outside Europe, particularly in Africa. While anecdotal evidence suggests that EU policy has a negative impact on refugees in Africa (both for those attempting to reach Europe's shores and more broadly), the lack of consistent information from the region has made advocating for change in Europe difficult.

This year, we have stepped up our international lobby activities and have participated, *inter alia*, in UNHCR's Convention Plus initiative, Standing and Executive Committee meetings, and the Annual Tripartite Consultations on Resettlement. DCR is of the opinion that the interests of refugees must be included within the context of the Millennium Development Goals (MDGs), official development assistance (ODA), and other such programs. We are presently looking for possibilities to secure this inclusion, but such an effort requires global coordination.

### *Capacity Building*

By virtue of being an organization that is evolving from several hundred local independent associations and/or NGOs towards a limited number of regional departments, the DCR has a long history of networking and capacity building.

**A European Refugee Web:** Over the years the DCR as built up an extensive knowledge management system that can be accessed through a database and a telephonic helpdesk. All country of origin information, asylum law, individual case law, etc. is classified, kept up to date, and made available without cost to staff and 9,000 volunteers, while an additional 350 lawyers have a paid subscription to access the database and helpdesk. In Europe, we have noticed that a lot of this work is duplicated. Over 70 European NGOs are searching, analyzing and applying country of origin information (COI) individually. Even though 70-80% of the sources they consult are the same, they do not share their analyses or the information that is unique to their organization or country. In this context, we are currently working on a project for the creation of a "European Refugee Web," which aims to bring existing information and activities together, to increase the amount of COI information available and make accessing it more efficient. We are continuously exploring the possibilities for collaboration in this field - collaboration that should not be confined to Europe only.

**Support for institutional development:** The other area of DCR's capacity building experience revolves around the theme of institutional development within the regional departments and local sections of the Dutch Council for Refugees. There are presently 29 regional departments and 220 local organizations which are supported by the DCR headquarters in financial terms, and by a team of business advisors on all organizational aspects from improving day-to-day operations, to organizational reform and human resource management. This experience, which had focused on networking volunteer organizations within the Netherlands, has now been put to use elsewhere in Europe. DCR is engaged in a number of capacity building projects for sister organizations in Slovenia, Belarus, Ukraine and the Russian Federation in the fields of asylum and human rights law and institutional development.

DCR would like to use its expertise in lobbying and capacity building to work with NGOs in transit regions and countries of origin, in order to strengthen these organizations, their activities in the domain of refugee-assistance, and the protection available to refugees. We believe that building effective refugee organizations both in and outside the EU, and specifically in and around areas of conflict, will be a determining factor for the protection of refugees. Although at this moment, we are still an outsider without any field experience in emergency or humanitarian action, we believe that we can and should play a role in the quest for durable solutions and in bridging the gap between humanitarian action and development assistance.

If you would like to find out more about the Dutch Council for Refugees, please visit their website at: <http://www.vluchtelingenwerk.nl/> or e-mail Ilse at [igriek@dcfr.nl](mailto:igriek@dcfr.nl).

UPDATE:

### ***Charles Taylor: One Step Closer to Justice***

In our [July newsletter](#) we featured the efforts of African advocates to see justice done by seeing Charles Taylor handed over to the Special Court in Sierra Leone, where he has been indicted on 17 counts of crimes against humanity and war crimes.

One such effort was a case that was brought before the Nigerian courts by two Nigerians who were victims of the amputations that became were the hallmark of the rebel violence in Sierra Leone sponsored by Taylor. The plaintiffs sought to have Taylor's refugee status revoked and Taylor himself handed over to the Special Court for Sierra Leone.

The trial has been a stirring display of the courage of victims in pursuing justice. The two plaintiffs appeared in Court on the first day of the trial showing the stumps of their severed limbs as gruesome evidence of their complaint. Even the opposing government lawyer was shaken.

Despite his shock, however, the government lawyer pressed the case of the Nigerian government, seeking to have the case thrown out on various grounds. First, the government argued that the plaintiffs lacked the legal standing to bring the Court, and that only the Special Court of Sierra Leone could sue for Taylor's surrender. Second, they argued that the case violated a procedural requirement in Nigerian law that challenges to administrative decisions made by public officials be filed within three months. The plaintiffs lawyers, however, argued that this case fell under an exception to that law which allowed cases after the three month deadline where the violation was continuing. In this case, they argued, the violation continued as long as Taylor continued to enjoy asylum. Third, they argued that the grant of asylum was a political act not suitable for judicial review and last that a cause for action has not been disclosed.

The judge in the case dismissed each of these objections, describing them as "misconceived." While he stopped short of granting the remedies requested by the plaintiffs, deferring this stage of the proceedings until December, his dismissal of the government's objections is a crucial first step in achieving justice. It is a tribute to the efforts of organizations like the Open Society Justice Initiative and the private lawyers from the firm Aluko & Oyebo as well as the victims themselves.

FEATURES AND ANALYSIS:

### ***Liberian Elections Exclude IDPs***

On October 11, 2005, Liberia held its first elections since 1997. This election has spurred many refugees and internally displaced persons (IDPs) to return to their homes in order to vote for their future leaders. Unfortunately, however, the way that the involvement of returnees in the elections was facilitated by the National Election Commission (NEC) left many without the opportunity to vote for their local parliamentarian. This resultant

disenfranchisement could threaten efforts to reintegrate this population as well as the overall effort to build a representative and stable government in Liberia.

### *The Legacy of Charles Taylor and Background to Elections*

In Liberia's last election in 1997, Charles Taylor, a rebel warlord, won the elections and used his power to terrorize the country and fuel regional instability, including through his backing of the Sierra Leonean Revolutionary United Front (RUF) rebels. His exit from power in 2003 paved the way for a comprehensive peace agreement and the return of thousands of his countrymen. Since then Liberia has been governed by Gyude Bryant, the president of a temporary power-sharing government, further to a peace was negotiated with Liberian rebels.

However, even as those who fled his regime are now being encouraged to return home, from his base in Calabar, Nigeria, Taylor has allegedly continued to meddle in Liberian politics, funneling money to political candidates. Since his removal from power in 2003 Taylor has enjoyed protection in Nigeria, sheltered from prosecution for his crimes despite the existence of a warrant for his arrest issued by the Special Court for Sierra Leone.

The October 11 elections marked the first elections since the 14-year civil war ended. Voters cast their ballots for 22 presidential candidates in addition to candidates for the two houses of the legislature, the Senate and the House of Representatives. The presidential race ultimately favored Ellen Johnson-Sirleaf, following a run off with soccer star George Weah and tension following allegations from Weah of fraud.

### *Repatriation Efforts*

According to UNHCR, half a million Liberians fled the country during Taylor's rule, while another half a million were displaced within Liberia. It is reported that thousands of refugees from Cote d'Ivoire, Sierra Leone, Ghana and Guinea returned to Liberia to participate in the elections. In addition UNHCR reported that by July 9, 2005, approximately 190,000 IDPs who had fled the fighting but stayed within the borders of Liberia had managed to return home to their areas of origin. For those IDPs who could not return home to their part of the country in time for the elections (whether as a result of downpours which flooded Liberia's dirt roads or a lack of funding to facilitate return) special polling places were established. According to the NEC in Liberia, approximately 61,000 IDPs registered to vote in the election.

IDPs were only permitted to vote for presidential candidates. It was argued by the NEC that lack of residence in their home areas disqualified IDPs unable to return by the elections from voting for local parliamentary representatives. At the same time the NEC also refused to consider IDPs as voters in the areas where their camps were located. Despite initial threats by IDPs in camps throughout Liberia that they would boycott the elections if denied full voting rights, most did exercise their right to vote for a presidential candidate.

### *Implications of Restricting Voting Rights*

Both the refusal of full voting rights to IDPs coupled with a continuing population of Liberian refugees unable to return home to cast their ballots may have been significant factors in allowing Taylor's supporters to regain power and secure a large number Senatorial seats in those counties from which many people had fled during the war.. It is likely that if refugees and IDPs had been allowed to vote they would have cast their ballots *against* the former warlords who terrorized their families and communities and forced their flight.

According to the NEC, Taylor's wife, Mrs. Jewel Howard-Taylor, secured 50,452 votes and a seat in the Senate, in Bong Country, accounting for 28.4% of the total votes tallied. In Margibi County, Roland Kaine, an ex-warlord under Taylor and formerly a member of Taylor's National Patriotic Party (NPP), ran on the Congress for Democratic Change (CDC) Party ticket, and maintained his seat in the Senate. Prince Johnson, another ex-warlord under Taylor who participated in the faction that murdered Liberia's previous president Doe, secured the most votes in Nimba County, with 81,820 votes, comprising 33.8% of the total, for a seat in the Senate. The other senatorial seat in this county went to ex-warlord Saye-Taayor Adolphus Dolo, now of the Coalition for Transformation of Liberia (COTOL), who came in second with 17.4% of the vote and 42,229 votes.

Not only does the re-election of Taylor's supporters raise questions about the return of IDPs and refugees to their homes of origin, the very fact that IDPs were prevented from voting for the senators who will govern them when they are repatriated could compromise the legitimacy of the new government, and present an obstacle to the willingness of this group to return to their homes. Further, as Liberia forms a new government, the parliament will play a crucial role in countering the historically over-powerful executive and ensuring that Liberia's trajectory for development is unhampered by further civil strife and the interference of exiled Charles Taylor. The presence of Taylor's supporters in the legislature could threaten the future development of Liberia by allowing Taylor to wield power over the government by proxy from Nigeria.

Lastly, the presence of Taylor's peers in Senate may serve as an obstacle to bringing him to justice. Despite the fierce advocacy of many across Africa (see our previous article, "Is Charles Taylor's Time Up?" in our [July newsletter](#), and our update in this issue), Nigeria has stated that it will not hand over Taylor, who faces 17 indictments for crimes against humanity and war crimes by the UN-backed Special Court of Sierra Leone, unless a democratically-elected Liberian government requests his surrender. The presence of these senators is likely to hinder efforts to bring Taylor to trial and render justice to the Liberian victims of one of Africa's most despotic rulers.

## *Abandoned at Europe's Door*

Every year thousands of Africans seek to enter Europe, seeking a better life. Some of these are refugees, seeking a safe haven to guard them against the persecution that they have found at home. Others flee in hopes of breaking out of desperate poverty and underdevelopment. Increasingly tight immigrations controls in Europe are pushing them to ever more desperate measures, and ever more are attempting the dangerous trek across the Sahara to try to force their way into any tiny piece of Europe they can find.

These people are often forgotten, but for a few weeks in October their plight gained international attention as an estimated two thousand migrants attempted to storm their way into the Spanish territorial cities of Ceuta and Melilla, located on the northern coast of Morocco, approximately 300 km apart. At least 11 were killed, some shot by soldiers defending the border and others crushed by the crowd.

This was not the first such occurrence. Immigrants from Africa had attempted to storm the fences of these cities four times in late August and September.

These cities have formidable security, so the risk of crossing the crossing the fences is quite high. The border of Melilla is surrounded by a 10.5 km double fence—the inner fence 3.5 meters high and the outer up to 6 meters. Both are topped with barbed wire. This security system is reinforced by fixed video camera surveillance, microphones, and infrared surveillance. Currently, there are 331 policemen and 676 Guardia Civil officers deployed in Melilla. Ceuta also has a double fence surrounding its land, 7.8 km long, equipped with a similar security system.

For those who manage to traverse the formidable border of Ceuta or Melilla, Spanish security is on the lookout to return immigrants to Morocco. Under pressure from the Spanish, Morocco tries its best to prevent any infiltration at the border and goes to great lengths to discourage further attempts of travel in Morocco.

Drawing particular criticism was the treatment of many of the immigrants after being returned to Morocco. Many report that they were mistreated or robbed en route back to their countries. Worse, *Medecins Sans Frontieres* reportedly found more than 500 migrants abandoned by Moroccan authorities in a desert area with no provision for access to food or water.

This fiasco has led many to re-examine the situation of refugees and asylum seekers in both Spain and Morocco. Spanish officials of Ceuta and Melilla claim that these cities are already overcrowded and cannot tolerate the influx of illegal immigrants. Melilla, itself, is faced with the issue of over-saturation. This enclave is built for 480 people, but 1500 reside within the fence. Morocco is also understandably concerned with keeping its prosperous neighbor to the north happy by keeping African immigrants from using its territory as a launching pad to enter Europe.

Human Rights Watch reports inadequate provision on the part of the Spanish government for detained immigrants who experience overcrowding, unsanitary conditions, extortion, theft, poor medical care and physical attacks in detention centers located in Ceuta, Melilla and the Canary Islands. Spain is also seeking to reactivate a 1992 agreement with Morocco that allows Spain to deport illegal immigrants who entered Spain via Morocco, a return to Morocco.

Human rights groups have denounced these moves. In the words of Alioune Tine of RADDHO:

We are extremely troubled by these events, troubled by these unspeakable, cruel, degrading attacks on human rights, by people treated like trash, left with no water or food, dumped like garbage.

Not only do deportations in such conditions violate the rights of migrants to food and shelter, as well as due process, they also erode the rights of refugees. While most experts, including the UNHCR, agree that asylum seekers are only a minority of those seeking to enter Europe, their rights must not be trampled under foot as populations are transferred. All States must undertake to uphold the right of non-refoulement, or the right of individuals not to be deported to countries where they would face persecution or other serious harm. In order to uphold this principle, countries must screen arriving immigrants individually to assess any claims for protection that they might have and provide information about asylum procedures where necessary.

However, an increasingly complex web of bi-lateral return agreements and political pressures are muddying the waters in which asylum seekers, immigrants and their advocates move. In the wake of the crisis, Morocco called for a joint African-European effort to combat illegal immigration. However, in the wake of the human rights violations exposed by this most recent crisis, there is a demonstrated need for a corresponding collaboration of European and African NGOs to monitor the human rights impacts of these efforts and to advocate for systems of managing migration which respect the rights of individuals.

### ***The Beginnings of Reconciliation, but Little Truth in Algeria***

Algeria has been undergoing a long process of stabilization, since the rampant civil strife in that country began to taper off in 1998. Given the greatly improved security situation, the Bouteflika government launched a campaign this summer to encourage return of the estimated 1 to 1.5 million internally displaced persons to the villages which were deserted or left half-empty as a result of mass flight during the height of the conflict. As yet, this campaign has had little effect, and the vast majority of the displaced remain congregated in cities, either in make-shift shelters or with relatives.

There are many possible reasons for this reluctance to return to the villages, among them, a lack of economic development in the countryside, and new roots established in the

cities as some former farmers have turned into shopkeepers. Another obstacle, however, is that there is also reason to fear that the current peace may not last.

The Bouteflika government has been reluctant to address the root causes of the conflict, and has relied instead on a rhetoric of “peace and national reconciliation.” This tends to brush history under the carpet, while granting easy amnesties to the very militants who formerly ravaged the countryside.

Without a full investigation into past crimes, and justice for the family members of victims, there is no guarantee that the country will not erupt again into violence, and that the villages will not be ravaged once again.

The conflict in Algeria began in January of 1992, when the government cancelled national elections which the Islamic Salvation Front (*Front Islamique du Salut*, FIS) was set to win. These were the first pluralistic elections in the country since the National Liberation Front (*Front National de Liberation*, FLN) came into power in 1965, and an FIS victory would have meant the end of the FLN’s uninterrupted rule. Faced with this possibility, the army staged a coup and established a military leadership, forcing the resignation of then-president Bendjadid. The FIS and all other opposition groups were outlawed, and thousands of suspected FIS members were arrested. The government also began pursuing a policy of “disappearances.” According to the current government’s own conservative estimate, upwards of 6,000 people were disappeared during the conflict.

The armed branch of FIS, the Islamic Salvation Army (*Armee Islamique du Salut*, AIS), retaliated with a series of massacres and mass rapes. At first the AIS targeted those sympathetic to the government, but this distinction quickly broke down and civilians with no political leaning were caught up in the violence. Splinter militant groups formed, and Islamists fought against each other as well as against government forces. Civilians were frequently caught in the middle and used as pawns by all sides. The bulk of the fighting took place in the countryside, depopulating these areas and driving over a million people to the cities.

The exact number of internally displaced persons (IDP’s) has not been established, in part because many of them are living with relatives or friends, although many of them also live in make-shift shanty towns on the outskirts of Algiers. Further complicating matters, some IDP’s have been repeatedly displaced, as outbreaks of violence in the cities drove people back to the countryside, creating a constantly circulating population.

When Bouteflika came into office in 1999, the worst of the violence was over. Bouteflika's stated priority, then and now, has been to "turn the page" on the "national tragedy." Unfortunately, this has often come at the expense of official recognition of the violations which have occurred.

One of Bouteflika's first acts upon coming into power was to enact the Civil Harmony Law, which granted immunity from prosecution to all militants who surrendered their arms and confessed to their crimes. Those who confessed to the “serious crimes” of

murder, rape, or bombing public places were to be given reduced sentences. In 2000, a blanket amnesty was granted to all members of FIS and of the Islamic League for Prayer and Jihad (*Ligue Islamique pour le Da'wa et le Djihad*, LIDD). The amnesty process has been conducted out of the public eye, and the government has not given any account of how many people are being pardoned. The militants' confessions have not been made public, nor has any public investigation been conducted into the nature of their crimes or of the fates and the names of their victims.

This is a fatal omission. In order for peace and reconciliation to have any meaning, there must be a full and transparent recounting of the past. Victims' relatives deserve to know what happened to their family members. Likewise, in order to feel truly secure, every Algerian deserves to know that criminals have been and will be brought to justice. If amnesties are to be granted, then they must be accompanied by public confession, in the name of national catharsis, as in the Truth and Reconciliation Commissions of South Africa, Chile, and Argentina, to name but a few examples. More pragmatically, there is also a very real danger that amnestied militants will resort to violence again in the future. Human Rights Watch notes that there have in fact been reports of recidivist militants, although these reports have not been substantiated.

Recently, Bouteflika has been able to claim that his policies are succeeding, as his Charter for Peace and National Reconciliation was overwhelmingly approved in a referendum on September 29. This is a questionable triumph, though, achieved by a general lack of public debate and by allowing the shortest period legally possible between the Charter's announcement and the referendum vote.

The Charter itself is still more questionable. In effect, it gives the gift of impunity to most of the actors in the long conflict, with only the perpetrators of "serious crimes" excluded from amnesty and with no promise of open investigations into those excluded crimes. The Charter not only has the effect of extending existing amnesties for militant Islamists; it also implicitly grants immunity to government actors. Bouteflika will be mandated to "seek the pardon" of all Algerians for the "national tragedy," but he will not be mandated to reveal any of the facts. Most ominous of all, the Charter includes a clause hinting that open discussion of the civil strife will be punishable:

...the Algerian people affirm that no one in Algeria or abroad is empowered to use or to instrumentalize the wounds of the national tragedy to harm the institutions of the Democratic and Popular Republic of Algeria, to weaken the State, to undermine the honor of all its agents who served with dignity, or to tarnish the reputation of Algeria internationally.

Such language may serve only to intimidate those reluctant to jump onto the Bouteflika bandwagon and ride away from a whitewashed past into a fuzzy, uncertain future.

Already the militants, unreformed, are coming back home to warm welcomes. Most recently Anouar Haddam, the self-proclaimed parliamentary delegate of FIS, confessedly responsible for massacres of intellectuals and for a 1995 bombing in Algiers

which killed 38 people and left over 200 wounded, has left his American exile and arrived in Algiers. At the same time, while militants are being pardoned, Algerian justice has been cracking down on human rights activists. Two members of the Algerian League for Human Rights were arrested in Ghardaia on November 7 and accused, on no evidence, of the murder of an unknown man. They are currently being held in detention.

In this atmosphere, it is hard to blame IDPs for not returning to the villages that they have fled. However impoverished their lives are in the city, the country, remote and unsecured, has born the brunt of every conflict. Many villages also lack clean water, gas, and instruments of communication. The government has announced plans to rebuild houses, revitalize and modernize agriculture, and even to pay each person who agrees to move back to the villages. However, these plans have yet to be realized, as an immense bureaucracy slows the diffusion of funds and, on the other hand, rampant corruption means that the wealthy and powerful are likelier to get whatever money does materialize. Meanwhile, village after village remains deserted; the land goes fallow, and the cities are crowded with people who cannot find work.

*This article was contributed by Katherine Prengel, a Masters' Candidate at University College London.*

## LAW AND POLICY DEVELOPMENTS

### ***AU Protocol on Women Enters Into Force***

On October 26, Togo ratified the [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women](#) in Africa. It was a momentous occasion, not only for women in Togo, but throughout the continent. With Togo's ratification, the Protocol has acquired the requisite 15 ratifications,<sup>1</sup> and it will now enter into force 30 days from the date of that Togo's instrument of accession is deposited with the AU.

Advocates for the rights of women can now point to a new binding instrument for their protection. Refugee advocates should be aware that not only does the Protocol offer some very progressive rights protections, it also provides specifically for refugee women.

#### *What is new in the Protocol?*

One area in which the Protocol includes particularly strong protections is the in field of sexual and reproductive rights. The Protocol contains the first explicit prohibition of female genital mutilation in international law as well as specific provisions relating to women's right to health.

For example, where the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) only provides that states take measures to ensure that women are able to access health care services, "including those related to family planning" on a

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<sup>1</sup> The previous ratifications of the Protocol had been made by Benin, Cape Verde, Comoros, Djibouti, the Gambia, Libya, Lesotho, Mali, Malawi, Namibia, Nigeria, Rwanda, Senegal, and South Africa.

basis of equality, the Protocol spells out women's rights in much more detail. The Protocol refers specifically to women's "right to control their fertility" and "to use any method of contraception" and to abortion in cases where pregnancy is the result of rape.

### *Displaced Women and the Protocol*

The particular needs and capacities of displaced women are also recognized in the Protocol. The Protocol for example, recognizes the right of women to be involved in promoting peace, specifically recognizing the capacities of women in this area. The Protocol also calls on states to take particular measures to ensure that internally displaced women are protected. Although those rights have already been recognized in other instruments, the Protocol provides recognition of the special needs of women in this area.

The Protocol also recognizes the capacity of women to craft solutions to displacement, requiring that states "*take all appropriate measures*" to involve women at both national and international level in crafting responses to displacement and protecting refugees. The Protocol also encourages the involvement of women in structures "*for the management of camps and asylum areas.*" While the importance of women has long been recognized by many actors, including UNHCR, as crucial to ensuring the protection of women, it is too often not implemented in practice. The recognition provided in the Protocol provides an additional weapon in the arsenal of advocates fighting to make such representation a reality.

### *Implementing the Protocol*

As with any instrument, the key to using the Protocol effectively is to ensure that it is implemented on the local, regional, and national levels. The entry into force of the Protocol is, in many ways, a tribute to the hard work of advocates across the continent, many of them working in unison through the Solidarity for African Women's Rights, a coalition devoted to promoting the protocol coordinated by [Equality Now](#).

There is even greater work for advocates ahead. Not only have most African countries still not ratified the protocol, there is still a long way to go in ensuring that its provisions are enforced in those countries that have ratified. Much of the focus of the next stage of activism will undoubtedly focus on adoption of appropriate national implementing legislation and advocacy with national governments to ensure that they abide by their new commitments.

It may also be useful to note that some monitoring and implementation mechanisms are built into the convention. States are required to report on their efforts to ensure implementation of the Convention to the African Commission on Human and Peoples' Rights as part of their regular reporting duties. Experience has shown that the involvement of NGOs and coalitions of NGOs can make this type of review process more effective. The Protocol also refers questions regarding implementation to the African Court on Human and Peoples' Rights. Because the Court is not yet functioning, it is

difficult to gauge the potential of the Court to encourage better compliance with the new Protocol.

The struggle for equality for African women has a long way to go, but the entry into force of the Protocol is a milestone. The challenge now is to figure out how to use the tool now to the best possible effect.

### ***Publications***

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

Robert Chamberlain, [Stories of a Nation: Historical Narratives and Visions of the Future in Saharawi Refugee Camps](#), Refugee Studies Centre Working Paper No. 29, September 2005.

Forced Migration Review, [Special Issue: Protecting and assisting the internally displaced: the way forward](#), October 2005.

Human Rights Watch, [Living in the Margins: Inadequate Protection for Refugees and Asylum Seekers in Johannesburg](#), November 2005.

Human Rights Watch, [Justice in Motion the Trial Phase of the Special Court for Sierra Leone](#), November 2005.

International Crisis Group, [CrisisWatch](#), November 1, 2005.

Martin, Susan, [The Uprooted: Improving Humanitarian Responses to Forced Migration](#), Lexington Books, July 2005.

Bill O'Neill, [Protecting Two Million Internally Displaced: The Successes and Shortcomings of the African Union in Darfur](#), November 2005.

Pineteh, Ernest, [Memories of Home and Exile: Narratives of Cameroonian Asylum Seekers in Johannesburg](#), Migration Studies Working Paper Series #20, Forced Migration Studies Programme, University of Witwatersrand, October 2005.

Rusu, Sharon, [Evaluation of the Department of International Protection's Protection Information Section \(PIS\)](#), UNHCR Evaluation and Policy Analysis Unit, October 2005.

South African Ministry of Home Affairs, *Ministerial Committee of Inquiry into Recent Deaths at Lindela Holding Facility*, October 2005.

David Turton, [The Meaning of a Place in a World of Movement: Lessons from Long-term Field Research in Southern Ethiopia](#), Journal of Refugee Studies, September 2005.

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