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*University of Oxford*



*Refugee  
Studies  
Centre*

**DEVELOPING DFID'S POLICY APPROACH TO  
REFUGEES AND INTERNALLY DISPLACED PERSONS**

**Volume II:**

**Commissioned Papers**

A Research Consultancy by the Refugee Studies Centre  
for the Conflict and Humanitarian Affairs Department,  
Department For International Development

**February 2005**

Queen Elizabeth House  
Department of International Development  
University of Oxford



## **INTRODUCTION**

The Refugee Studies Centre (RSC) at the University of Oxford was contracted by the Conflict and Humanitarian Affairs Department of the Department for International Development (DFID), UK to conduct a broad-ranging study to assist DFID in defining a coherent policy position to inform its dealings with and on behalf of refugees, internally displaced persons (IDPs) and asylum seekers.

As part of the project approach a number of experts were approached to produce a collection of specialist papers focussing on key thematic and regional issues. Recognising that it is impossible to cover all aspects of the broad theme of forced migration and humanitarian action this volume, which accompanies the main consultancy report, brings together the five thematic and three regional papers which deal with a selected range of the most important issues and areas.

The opinions expressed in these papers are those of the author/s and should not be attributed to the overall project consultants, the RSC, the University of Oxford or DFID.

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Dr Heaven Crawley, Asylum, Migration, Race and Equalities Consulting (AMRE), UK.

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Dr Anne Hammerstad, South African Institute of International Affairs, University of Witwatersrand, South Africa.

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Professor Gil Loescher, Senior Research Fellow, Centre for International Studies and Research Associate, Refugee Studies Centre, University of Oxford and James Milner, Queen Elizabeth House, Oxford, UK.

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Dr Sarah Collinson, Independent Consultant, UK.

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Dr Khoti Kamanga, Centre for the Study of Forced Migration, University of Dar es Salaam, Tanzania.

#### **II. South Asia**

Prof. Choudhury Abrar, Refugee and Migratory Movement Research Unit, Dhaka University, Bangladesh.

#### **III. Middle East and North Africa**

Dr Anita Fabos, University of East London, with Dr. Nadjé Al Ali, Institute of Arabic and Islamic Studies, University of Exeter and Oroub el Obeid, Palestine/Jordan



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## Thematic Paper I: The International Forced Migration Regime

**Prof. Charles B. Keely**

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## ABSTRACT

This paper analyses the origin of refugee flows and the reasons for and timing of the development of the international refugee regime. It follows the development of that regime, especially during the period after World War II. There is particular analysis of recent challenges that have led to the realization that forced migrants, beyond refugees as defined in international legal instruments, are and ought to be of concern to the international community. The paper describes the main actors in the international forced migration regime. Six current tensions are analysed with proposals to address rethinking assumptions and steps to take to alter the regime. Particular stress is put on the relationship between relief and development assistance. Finally, the paper analyses initiatives of the current forced migration regime: the Agenda for Protection, Convention Plus and the Standing Committee Work Program. The paper concludes that the current regime is inadequate to address forced migration globally, particularly regarding internally displaced persons, and requires action by states to alter doctrine, policy, and programs.

## 1. INTRODUCTION

The global regime that addresses forced migration is not up to the task. This paper reviews the evolution of that regime from its origins after World War I and follows the development to the present with particular attention to the post World War II period. The narrative indicates how the development of the regime, especially in the Cold War and in the post Cold War period of the last decade and a half have led to the widespread recognition of the regime's inadequacies.<sup>1</sup>

The paper continues with a description of the main players in the international refugee regime. The following section analyses the major tensions in the international system to address forced migrants and provides suggestions about steps needed to bring about meaningful change.

The next sections address aspects of the Agenda for Protection, the Convention Plus initiative, and the Standing Committee Work Plan. The paper ends with a set of conclusions and suggestions for DFID.

## 2. THE GENESIS AND EVOLUTION OF THE FORCED MIGRATION REGIME

### 2.1. Why Are There Refugees?

The word refugees was first applied to the Huguenots. At the time, the dominant economic theory was mercantilism and the demographic policy could be summarised as to rule is to

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1. Much of the analysis and narrative in this paper is drawn from a collaborative research program funded by the MacArthur Foundation and led by the Institute for the Study of International Migration in the Walsh School of Foreign Service of Georgetown University. Collaborating institution in the project are: the Refugee Studies Centre of Oxford University; the Brookings-SAIS Project on Internal Displacement; The Centre for Development Research in Denmark; the Centre for Forced Migration Studies at the University of Dar Es Salaam; and the Regional Centre for Strategic Studies in Colombo, Sri Lanka. The results will be published in Martin et al. (forthcoming).



populate. The expulsion of religious dissidents was seen only as a necessary evil. Generally sovereigns were interested in prohibiting exit, especially of valuable citizens with commercial or trade skills. (Keely, 1996)

In the period after the Treaties of Westphalia, the development of the nation state increasingly gave weight to the notion that a people, a nation provided the legitimacy of the state. By the end of World War I, with the end of European empire, divine right and sheer military force were no longer considered legitimators of claims to sovereignty.

The "nation" in the nation state system can best be described by the analytic tool of the ideal type: a collection of the characteristics of concrete examples of a social construction like a bureaucracy of a state. A nation can be roughly described as a relatively homogeneous, self-reproducing group rooted in shared values, with a sense of its own uniqueness and importance that are worth saving, with a history, sense of shared fate, elements of a shared culture, and a territorial referent that figures in its identity and history. The elements of culture can vary including a shared language and religion. Not every nation shares all the elements. Roma, for example, have a tenuous territorial aspect to their identity.

Broadly this describes what the members of a state should be. It justifies that nationality group's claim to a territory, a control over membership, and sovereignty, the right to rule within their territory without external interference.

There are two major sorts of nations, ethnic and civic. An ethnic nation traces its origins to a common founder and a purported or real shared genetic heritage provides the basis for shared identity and culture. A civic nation is grounded in shared political beliefs that provide the basis for shared interests and culture. Civic nations emerged out of the Enlightenment-induced revolutions, especially in France and the United States. The adoption of democratic political institutions introduced aspects of civic identity even in ethnic nations.

Over time some civic nations have taken on beliefs of an ethnic similarity and identity. In France, the Dreyfus Affair and current social uncertainties about the capacity to assimilate large numbers of North Africans into French society indicate that there is some element of assumption about who can be French. In the United States, the claim that it is a European nation overlooks the history of slavery, Asian Americans, Native Americans, and the realities of 19<sup>th</sup> and early 20<sup>th</sup> century immigration debates.

The distinction between ethnic and civic nations has important implications, especially regarding immigration and integration of foreigners. Civic nations generally have an easier time of it. An American of Irish background can never be Japanese because he is not Japanese. But to say a Japanese could never be an American does not make the same sense.

The nation state system is premised on the idea that the nation legitimates the claim to a state. Unfortunately for the theory and doctrine of nation state political structure around the globe, most states are multinational. Societies and political regimes in states address the issue of creating and fostering national identity and loyalty in four ways. Some have generally addressed the problem of multinational realities by creating a super-national identity like British, French, Indonesian or Kenyan out of regional nationalities. A second mode has been for one nationality to dominate and try to destroy other cultures. Some in

Canada claim this was the aim of Anglo policy for much of Canada's history. Attempts to destroy indigenous cultures in North America and Australia is another example. Sovietization can be seen as a thin veil for Russification. A third mode has been confederation. Switzerland is the longest existing example, but one can add Belgium, Canada, the former Czechoslovakia, and former Yugoslavia. Finally, some states have addressed multi-nationality by expulsion or genocide.

All of these attempts at creating a dominant national identity have the possibility of resulting in violent conflict and producing refugees.

Refugees have also resulted from attempts at social transformation (revolution) for ideological reasons. The 20<sup>th</sup> century saw attempts from the left (Marxist and Maoist), the right (various forms of fascism and national socialism), and religion (especially and continually related to fundamentalist interpretations of Islam). It should be noted that in early modern European history it was Christianity that produced refugees due to persecution and murder of religious dissidents.

Refugees are also produced by state failure or terminal state weakness making operation of state institutions and apparatus virtually impossible. Finally, interstate wars have produced refugees fleeing for safety.

Refugee production in the modern nation state, therefore, is a political phenomenon related to the failure of the state system to operate. A state erupts into violent conflict due to projects to develop national identity, due to violence over ideological difference on social organization, or because of state failure. Note that economic or social issues are not the direct cause of refugee production. They must take on political salience to the point of violent conflict to change or defend the status quo or because there is no state apparatus or because power brokers (barons, war lords, thugs - depending on viewpoint) vie to develop new political and social order. Many poor states do not produce forced migrants and forced migrants have regularly been a feature of relatively prosperous states in the last century.

Refugees and internally displaced persons from internal violent conflicts in states are the result of systematic and often prolonged human rights violations. Given the ubiquity of refugees and internally displaced persons (IDPs) due to political reasons, as well as the destabilising potential for the international community, perhaps it is time to rethink whether human rights is a third or fourth order international relations issue. From the most hard headed *real politik* point of view, human rights perhaps deserves another look not just as a humanitarian issue but also as a threat to global political order.

## **2.2. Why Do States React Collectively and Why Did They Only Begin To Do So in the 1920s?**

Why did states only take collective action to a systemic threat such as refugees in the early 20<sup>th</sup> century? Until the 19<sup>th</sup> century, mercantilism held sway. Sovereigns focused on controlling exit. The pro-population growth ideology began to be questioned. The Rev. Thomas Malthus raised the spectre of overpopulation due to the imbalance between population growth rates (exponential) and resource growth, particularly agriculture (arithmetic). In the mid 19<sup>th</sup> century Marx contributed the idea of surplus labour. Social Darwinism, within the context of the 19<sup>th</sup> century's focus on nationalism, led to the idea of undesirable aliens. By the end of the 19<sup>th</sup> century, mercantilism had been pushed aside for a

tendency to adopt liberal economics and the demographic doctrine held that there could be too many people, too many workers, and too many of the wrong kind. According to nation state doctrine, people belonged in their own state, under their government's protection and states had an obligation and right to control entry. By the time of the Universal Declaration of Human Rights in 1948, the world's states supported the notion in the Declaration that a person had the right to leave a country and to return to his or her country of citizenship. The doctrine of sovereignty had shifted 180 degrees in practice from an assertion of a sovereign right of the state to control exit to a right of a citizen to leave. In practice immigration control replaced emigration control.

### **2.3. The Origins of the Refugee Regime: The Inter-War Years**

After World War I, the number of Russians in Germany overwhelmed private charity and status of the émigré was perilous. (Holborn, 1975) They had no right of residence, work, or travel documents. At the request of private relief agencies, the International Committee of the Red Cross (ICRC) petitioned the League of Nations to take action. In 1921, the League appointed Fridtjof Nansen, the Norwegian explorer and organizer of prisoner exchanges after the Great War, as High Commissioner to organize protection and international assistance. Greek and Turkish population exchanges were added to his mandate in 1923, followed shortly afterwards by Armenian refugees. One of Nansen's innovations was the Nansen passport, a document indicating a person under the High Commissioner's protection that was accepted as valid travel papers.

In 1924 the International Labour Organization established a refugee office to address the work needs of refugees to complement Nansen's protection and relief efforts.

After Nansen's death in 1929, the High Commissioner's work was established under what became known as the Nansen Office. A High Commissioner for Refugees from Germany was established in 1933. At the Evian refugee conference in 1938, the Intergovernmental Committee on Refugees (IGCR) was established, which had little support and accomplished little given the lack of resettlement opportunities.

With the end of the war in sight, the Allies met at the Bermuda Conference in 1943 and established the United Nations Relief and Rehabilitation Agency (UNRRA) to carry out repatriation of the displaced persons (DPs) in Europe after the war.

UNRRA repatriated over five million DPs, when a dispute broke out among the Allies over forced repatriation. Many DPs refused to return to the Soviet Union and other states with communist governments, some even committing suicide. Many relief agencies and other parts of Western countries' constituencies opposed forced repatriation. UNRRA was dissolved and replaced by the International Refugee Organization with the objective of emptying the DP camps and settling the inhabitants in Europe or overseas. (Holborn, 1956)

The period after World War II saw the establishment in 1950 of the UN Relief and Works Agency for Palestine Refugees in the Near East, which still operates. The UN Korean Reconstruction Agency operated for 10 years between 1950 and 1960. There were no UN agencies established to address refugees from the People's Republic of China or assist in the population transfers on the Indian subcontinent following the separation of Pakistan and India into two countries.

#### **2.4. Office of the United Nations High Commissioner for Refugees, the Convention, and Statute**

Negotiations for the creation of the Office of the United Nations High Commissioner for Refugees (UNHCR) began in 1948. (Holborn, 1975; Keely, 1981; Loescher, 2001) The Soviets absented themselves from the discussions claiming refugees were not produced by socialist states and, reflecting disagreements about forced repatriation, held that all persons should be returned to their home country and not be settled elsewhere. The office was created as a temporary one requiring renewal of authority. The UNHCR was to be non-operational in regard to humanitarian assistance. It was to coordinate collection of funds and work through governments and non-governmental organizations. The definition in the Convention contained a clause limiting the Convention's protection to those who became refugees due to events taking place prior to 1951 and also allowed signatories to limit their obligations only to refugees in Europe. The Statute contained no such time and geographical limits. The Protocol on the Status of Refugees of 1967 removed the temporal referent and disallowed a reservation to cover only refugees in Europe. The office was set up as a separate agency with the High Commissioner elected by the General Assembly.

#### **2.5. Characteristics of the Refugee Agencies Under the League and United Nations**

This brief recitation of the origins of international collective actions on refugees reveals a number of characteristics that continue to influence thinking to this day. All of the attempts at action through the League and UN have assumed that refugees were and are a temporary phenomenon that needs addressing and solution in a limited time frame. Until the Statute and Convention - one could even argue until the Protocol - refugees were defined as groups and mandates defined members of groups based on nationality, ethnicity and so on who were affected by events in a specific time frame. The Convention introduced the individual definition and the notion of an individual determination about persecution under the Convention definition, as opposed to a determination that one was a member of a specified group. The UNHCR and cooperating agencies were to provide humanitarian aid to meet immediate critical needs and to sustain life during a period of displacement. Humanitarian aid was not seen as part of development aid. The rebuilding of Europe, for example, after the Second World War was perceived as a separate process from emptying the displaced persons (DP) camps. The regime's main concerns were affording state-like protection, humanitarian assistance, and permanent settlement. The emptying of camps, however, was part of European development. It was meant to remove excess population that might exacerbate post-war unemployment and recovery. It was meant to remove a potential source of political opposition that might lead to communist electoral victories in countries such as Italy, France, and Germany. Assisting, protecting, and resettling DPs was part of European development to help create sustainable economies and democratic societies and, therefore, contribute to political stability and economic prosperity for the interstate system.

An unspoken assumption was the maintenance of a doctrine of sovereignty that saw sovereignty as integral: a state was sovereign or it was not. Any breach of sovereignty was a threat to sovereignty itself. The international community was concerned with those outside their own country. Internally displaced people in Europe and elsewhere were the concern of their own government. Likewise, UN agencies entered countries only with permission or under Security Council authority.

Finally, all the initiatives focused on forced migrants who were affected by political events including boundary redrawing and persecution for reasons that one could not change (race,

nationality, membership in certain social groups, e.g., one's family) or for reasons one should not be forced to change (religion, political beliefs). The definition of a refugee did not include those fleeing the generalised danger of war or insurrection. It did not include those displaced by natural disaster or government plans (whether for development or population relocation). The initiatives for collective international action were premised on an assumption of a political failure of the political structure. A state did not act like a state should and as a result its citizens were outside its borders without its protection or not wanting its protection for the good reason that they had a well-founded fear of being persecuted if they found themselves under that state's control. Refugee protection and assistance by the international community, in other words, was premised on a breakdown of the political structure of the state system. The preferred solution was repatriation in safety, which presumed the offending state has changed its ways, if not its offending regime.

## 2.6. The Cold War

The original focus of UNHCR was on Europe. It did not garner great political or financial support, and was financially rescued by a grant from the Ford Foundation in the early 1950s. It proved useful in a number of European problems during the 1950s. The concept of the High Commissioner's "good offices" was developed to allow UNHCR to assist in the Algerian refugee flow, without calling the participants refugees. In 1956, the UNHCR assisted in the Hungarian flows, after it was determined that the displacement was traceable to events that predated 1951.

In 1962, UNHCR opened its first office outside Europe (except for an office in the Crown Colony of Hong Kong) in Burundi. Under the leadership of Sadrudin Aga Khan, UNHCR focused on the large number of refugees in the developing world due to civil war. Thereafter, UNHCR became very much an agency working in the South. There developed, as a result, a dual refugee regime. (Keely, 2000)

The Southern refugee regime developed around UNHCR providing protection and assistance in ways similar to earlier European behaviour. Refugees were put in camps or lived among the populace in an asylum country and were registered with UNHCR. The preferred objective touted like a mantra was still repatriation. Assistance was seen as an emergency measure. When people stayed in camps or registered as refugees for long periods, efforts were made to address ways to assist refugees to become self-sufficient. There developed what has become the perennial gap between relief and development. Problems with "too much" assistance to refugees to the detriment of local populations were addressed. But inclusion of refugee populations in development plans carried a political liability for national leaders and in effect meant that repatriation was a meaningless goal. Further, problems of coordination, mandate, and "turf" among UN agencies inhibited successful integration of assistance and development programs. For insiders, friction between UNDP and UNHCR in the early 1980s approached the scandalous, if not the ridiculous.

Many of the wars and revolutions that UNHCR programs got caught up in were proxy conflicts of the Cold War. Indochina, Somalia, Ethiopia, Angola, and so on up through Afghanistan, frequently had an element of East-West rivalry. Clients were aided, often just enough to keep the conflict going but never rising to the level of risking a direct confrontation between superpowers.

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Meanwhile, after the DP camps were emptied and with the strong rebound of economic growth in Europe, there developed a Northern refugee regime, also caught up in the Cold War. In Europe states developed and ran an asylum regime, with little help from an atrophied UNHCR European office, that welcomed and resettled those escaping from the East. These numbers were not inconsiderable in Central Europe, especially into Germany before the Berlin Wall in 1960. After that, the system bent over backward to give asylum to those from the East. Living under communism was persecution enough. Generous benefits were provided during settlement. There was no thought of repatriation. The Soviet hegemonic system would be with us indefinitely. With the Wall the flows were small, with periodic pulses, like the Czech Spring.

In North America and Australia, with the United States taking the lead, a system of resettlement of those from communist governments was developed. A share of Hungarians, Cubans, Indochinese, and occasional defectors were all given permanent settlement.

This system had a very different logic from the Southern system and earlier League and UN efforts in Europe. This regime was not organized to deal with a failure of the state system that resulted in unwanted migration of people without state protection. The Northern system was meant to encourage migration, although an important factor that made the system viable in the West was that the numbers would be limited by totalitarian governments' policies of no exit. Repatriation was not the preferred solution. The goal was not to bring stability back to a system where citizens fled their government but to induce instability or at least embarrassment and encourage migration. The refugee flows had the domestic political function in Western countries of reinforcing anti-communist containment policy. The costs of resettlement were a small price to maintain political support for a cornerstone foreign policy.

In 1984, the Northern system began to show strains. The number of asylum seekers started to rise precipitously and they were now coming from places other than the European East. Iranians coming through Turkey were among the first to garner notice. Thus began what is now a two-decade old discussion in Europe about asylum policy. Increases in asylum seekers from the South spread to North America and Australia sparking political discussions in those regions.

One reaction was the creation of the Intergovernmental Consultations on Asylum, Refugees, and Migration in Europe, North America, and Australia; more typically referred to in its earlier days as "The Informal Consultations" and more recently the Intergovernmental Consultations (IGC). (Russell, Keely, and Christian, 2001) It was within the IGC and related forums in the EU and Schengen that ideas like safe third countries, safe areas, carrier sanctions, targeted development to address the root causes of migration, and so on were discussed and allowed to mature before appearing in many guises in national and regional policies. One result was a general push by governments to retire the Cold War asylum and resettlement systems and emphasise a Convention-based asylum system. In effect, governments wanted to contain migration flows in their region of origin (giving new meaning to a policy of containment), to deter false asylum claims, to require individual proof of meeting the Convention definition, and to re-emphasise repatriation as the preferred solution. While many constituents agreed, many did not. It is safe to say that asylum policy remains contentious and unsettled.

One of the anomalies of the dual refugee regimes during the Cold War was that the

Northern nations, who often championed the idea of country of first asylum and repatriation, generally either had no legal basis or did not act as countries of first asylum. They generally accepted for permanent settlement, not for the provision of safe haven with an eye to eventual repatriation. Only with the large flows from former Yugoslavia did some countries develop programs of first asylum and repatriation. Some European countries and the United States gave permanent status even to those admitted from former Yugoslavia, many of whom have returned anyway.

## **2.7. The 1990s: New Dimensions to Forced Migration**

Since the end of the Cold War, a number of developments have widened the scope of forced migration policy discussions.<sup>2</sup> As of January 2002, the UNHCR estimated that 20 million persons were under its mandate, about 12 million of whom were refugees and the rest other categories of forced migrant, including about 6 million IDPs. The Norwegian Refugee Council's Global IDP Project estimates that there are about 25 million IDPs worldwide. (Martin et al, forthcoming) The 12 million refugees represents a decline from prior high levels, but now the attention to the destabilising effects and need for international attention to IDPs leavens any positive reaction to refugee decline. In numerical terms alone, IDPs represent the greater challenge. In terms of doctrine, policy, and programs of protection and assistance, the international community flounders, leaving people without protection and assistance and contributing to international tensions and instability.

The refugee decline has been accomplished partially by large-scale returns in Africa, notably Angola, Burundi, Eritrea, Ethiopia, Liberia, Mali, Mozambique, Namibia, Rwanda, and Somalia. Elsewhere in the world notable repatriations took place to Afghanistan, Cambodia, El Salvador, Guatemala, Nicaragua, and Bosnia-Herzegovina.

Some natural disasters, environmental degradation, and development projects produce forced migrant moving inside and outside their countries. Not all such forced migrants are of concern to the international community, especially requiring a need for state-like protection, when their own state has procedures, programs, and capacities to respond. Sometimes what is needed is assistance with materiel and logistics in an overwhelming crisis, but state capacity kicks in to appropriately address protection and assistance needs of citizens. In other cases, however, states are not capable of carrying out responsibilities toward internally and externally displaced citizens or are unwilling to assist because of race, religion, nationality or political opinion. These situations may differ little from politically-induced forced migration in their results.

The 1990s has witnessed a rise in virulent forms of nationalism, perhaps as a reaction to globalising tendencies. One also sees states splitting into component national groupings (Czech and Slovak) and then negotiating entrance into larger regional groupings such as the EU and NATO.

The concept of sovereignty, so central to the UNHCR-centred refugee regime as it emerged after World War II and developed in the Cold War, has been questioned in the form of humanitarian interventions from food drops by air to military force, with mixed results, in Sudan, Iraq, Bosnia, Somalia, Haiti, Kosovo, East Timor, and Afghanistan. The willingness of states under UN and other auspices to intervene on behalf of war-affected populations,

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<sup>2</sup> This section draws heavily from Martin et al. (forthcoming), Chapter 1.

including the internally displaced, is a major development. Behaviour by states that could result in mass flight is recognised as a threat to international security. The UN is rethinking its role, in the words of the Secretary General, Kofi Annan: "...not only at keeping the peace but also protecting civilian populations, monitoring human rights violations, facilitating delivery of needed humanitarian assistance, and promoting lasting solutions that include reintegration, development, and transitions to democracy." (Martin et al., forthcoming)

## 2.8. Forced Migration, Development, and Security: The Liberal Peace

Meanwhile, these changes in perception and action concerning forced migration are also part of a larger picture affecting concepts and programs aimed at development and at building a new international political order to replace the Cold War bipolar framework. John Ikenberry in his book, *After Victory*, has analysed the process by which victors develop a new international order after major international struggles, such as the Congress of Vienna after the Napoleonic Wars, and the post world war treaties in the 20<sup>th</sup> century with their quite different approaches to building a new international political order. Currently, the state system is engaged in a prolonged process of redefinition.

One result has been the linking of development to security in a new and quite up front fashion. There is no security without development and no development without security. Mark Duffield has dubbed this the liberal peace, characterised by a model of development that posits the objective of developing states that are democratic, have liberal, market-based economies, adopt human rights in the Enlightenment mode, and are organized politically to embrace pluralism and tolerance, giving no privilege to one nation, ethnic, racial, or religious group, or, conversely, excluding for those reasons. A more conservative analyst and commentator, Michael Mandelbaum has written about *The Ideas that Changed the World: Peace, Democracy, and Free Markets* laying out the need for a program similar to that which Duffield says currently dominates development thinking.

Within this neoliberal paradigm, there should be a reduction of forced migration, and especially politically motivated forced migration. States struggling to develop a democratic, market-based, society with a rule of law squarely incorporating human rights and a pluralist tolerance by definition do not produce refugees. People may migrate and even leave but they are economic migrants seeking brighter horizons. The role of international development assistance is to encourage the institution building that will allow sustained economic growth in a society where all citizens can pursue a better life. Any state that refuses to pursue the model of the state proposed will be isolated. Refugees should not be encouraged to leave but stay in place as a moderate opposition to allow political change (such as in Nicaragua). There may still be occasional small groups of political elites accepted as refugees, but their numbers should be minimal.

The neoliberal policies related to development dovetail well with current regionalizing objectives of Western forced migration policies. The attempts to reduce asylum seeking and the reductions in third country resettlement in developed countries are complemented by strategies to reproduce a neoliberal conception of what a developed state should be. The current attempts to regionalize refugees by keeping them close to their source countries fit in with these development and forced migration resettlement policies. Countries and even the UNHCR have developed policies and initiatives that emphasise keeping people in their region of origin.



The difficulty with the neoliberal model of development is the disconnect with facts on the ground. The recent rise of violent nationalism raises the question of whether democratic, pluralist societies, embracing Enlightenment notions of human rights with their heavy emphasis on individual rights trumping group rights just may not be embraced by many societies. Large segments (the bulk) of many economies are dominated by grey or black markets outside the regulation of commercial law. Such economic activity is not characterised by competition so much as by a tendency toward monopoly, eliminating competition (sometimes violently) and fixing prices. As Amy Chua (2004) has pointed out, small ethnic minorities, such as the Chinese in her native Philippines, dominate many developing economies. Economic restructuring would require spread of ownership. Current state policy in Zimbabwe is an example of distribution of ownership by force to a wider group of the citizenry from a racially/ethnically different ownership group.

In short, elements of the economic, social, and political goals of the current dominant model of development may prove impractical for the foreseeable future, however beneficial they have been in the developed world and many parts of the developing world. The result will most probably be continued forced migration for political reasons enumerated in the Refugee Convention and for other politically related reasons not covered by international refugee law. Forced migrants of all stripes, most notably IDPs, will continue to appear with regularity on the world scene.

The next section provides an overview of the major actors in the current regime dealing with forced migrants. The following section will present a set of conclusions and proposals to address failures in the regime and the thinking that undergirds current policy on forced migrants as a problem in themselves and as they affect development planning and practice.

### **3. MAIN ACTORS<sup>3</sup>**

#### **3.1. The UNHCR**

The UNHCR was established by a 1950 Statute passed by the General Assembly. The Statute, the 1951 Convention, and the 1967 Protocol on the Status of Refugees established UNHCR's mandate. UNHCR is tasked with protection of refugees, coordinating and facilitating assistance, and working toward durable solutions to refugee situations. The High Commissioner is elected by the General Assembly and reports annually through the Economic and Social Council (ECOSOC). The Office has an Executive Committee (EXCOM) numbering 58 states. The EXCOM is not a governing body but oversees and advises on the work program and budget, finances and administration and the exercise of the High Commissioner's protection function.

The concept of good offices, alluded to above, was formalised by the General Assembly in a 1959 Resolution (G.A. Res. 1388 (XIV) 841<sup>st</sup> plenary Mtg. 1959). This allows the UNHCR, with General Assembly approval, to deal with non-Convention refugees. The fact

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3. This section is based on Chapter 3 of Martin et al. (forthcoming).

that 6 of the estimated 25 or so million internally displaced are of concern to the UNHCR currently indicates the ad hoc nature of the mandated power. UNHCR has worked inside countries to deal specifically with internally displaced, such as in Sudan in the 1970s and in Cyprus acting as the Secretary General's Special Representative. The March 2000 position paper of the office indicated an interest and some level of responsibility to advocate and mobilize support for IDPs and even take a lead to protect and assist in certain situations (when told to do so by the Secretary General or UN body and with funding). The High Commissioner did not take operational responsibility and set out six requirements for involvement. (Martin et al., forthcoming) UNHCR has collaborated with other UN agencies such as UN Development Program (UNDP) and the UN Office for the Coordination of Humanitarian Affairs (OCHA) on IDP issues. This is because such agencies do not have a protection mandate and lack expertise. UNHCR seems to have taken the position that it will not take the initiative on taking up IDP issues but will do so only if given a mandate and the funding. One could envision a leadership position to "push the envelope" and pressure the international community by taking action when possible on IDP issues, possibly encouraging an implicit or explicit widening of its protection mandate. Agency culture, the issue of funding, and capacity concerns seems to have militated against such a policy stance.

UNHCR has also emphasised prevention activities under the prior High Commissioner, Sagato Ogata. These are mostly confined to educational programs to combat xenophobia, to promote tolerance, respect human rights, advance the rule of law and legal capacity building, and strengthening civil society. UNHCR generally outsources funds to cooperating partners but in some cases it declares it has no option but to deliver assistance.

### **3.2. International Committee of the Red Cross (ICRC)**

Founded in 1863, ICRC describes itself as an impartial, neutral, and independent organization with a humanitarian mission to protect and assist victims of war and internal violence. It directs and coordinates assistance in conflict situations and promotes the adherence to international humanitarian law. The ICRC derives its current authority from the 1949 Geneva Conventions and Protocols. It serves as a neutral arbiter in negotiations to promote cease-fires and to end hostilities. Since many conflicts today are civil wars or insurrections within states, Article 3 common to all four of the Geneva Conventions places ICRC in an important humanitarian position acting on behalf of the international community. The Conventions and the mandate of the ICRC refer to all civilians affected by violent conflict, not only those forced to move. The Geneva Conventions apply to armed conflicts. They do not apply, and the ICRC's mandate does not extend to civil strife or repression that do not rise to the level of armed conflict.

### **3.3. International Organization for Migration (IOM)**

IOM is involved in many aspects of complex emergencies, including technical expertise in health, transportation and other services. IOM has played a prominent role in post-conflict situations, not only in resettlement but also in institution building and strengthening to reconstruct and develop an atmosphere of return to normalcy and peace. Their programming covers a wide range of activities from assistance to vulnerable returnees, family tracing, support of micro-economic activities, and reinsertion of demobilized combatants.

IOM's mandate is not defined in an international convention and it, like every other international organization in the forced migration field with the exception of UNHCR, does not have a direct protection mandate. It frequently happens that states need assistance with migration related issues, including forced migration issues. IOM has been called upon to carry out a wide variety of specific tasks. The organization also has had leadership that has been on the look out for missions to provide continuity and legitimacy for the organization, whose roots trace back to resettlement of European DPs after World War II. There are times when IOM comes in for criticism for some of its activities, such as doing screening in Haiti for refugee visas and recently assisting Australia in its "Pacific Solution" to asylum seeking.

### **3.4. UN Office for the Coordination of Humanitarian Affairs (OCHA)**

OCHA was established in 1997 to replace the Department of Humanitarian Affairs (DHA) and the Coordinator is an Under-Secretary General for Humanitarian Affairs and the Emergency Relief Coordinator (ERC). As ERC, the Coordinator chairs the Interagency Standing Committee (IASC) that brings together all the humanitarian, development and human rights groups. The Coordinator is the Secretary General's principal advisor on humanitarian affairs. As such he is the Convener of the Executive Committee for Humanitarian Affairs (ECHA), as well as chairing the IASC. ECHA allows the humanitarian community and the peace keeping and political departments to discuss humanitarian issues and crises. Resident in-country humanitarian coordinators report to the ERC. (One job involves five roles: Under-Secretary, Coordinator, Chair, Principal Advisor, and Convener. Coordination issues will loom large in the analysis below.)

OCHA is supposed to monitor so that humanitarian issues do not slip through cracks in mandates. A particular focus has been on IDPs. An IDP unit was developed in OCHA but was generally seen as not having the "clout" to carry out a coordinating mandate. The unit was upgraded to a Division in July 2004, under the leadership of Dennis McNamara, highly regarded as a strong civil servant in regard to protection matters. Perhaps the leadership can produce useful results. The change is too recent to tell. However, the fact remains that the IDP Division still lacks the authority to compel other agencies to carry out tasks. Without new authorities the structure is still one of collaboration with all the weaknesses of a mandate without authority or control over resources to compel activity and cooperation.

OCHA since 1998 has helped develop the Consolidated Appeals Process (CAP) for individual and regional emergencies. Almost all the appeals affect countries in conflict or the immediate post conflict stages of rehabilitation, reconstruction, and reconciliation. Many beneficiaries are IDPs.

### **3.5. Other United Nations Agencies**

The Office of the High Commissioner for Human Rights is a recent addition to the roster of UN agencies concerned with forced migrants. Through monitoring and its field offices, it promotes the rights and safety of refugees and IDPs. It supports the Secretary General's Representative on Internally Displaced Persons and Special Rapporteurs on issues like population transfers, freedom of movement, and forced evictions. The Office has sponsored a number of workshops in countries to introduce and discuss the *Guiding Principles on Internal Displacement*, a compilation of existing international human rights and humanitarian law, to get recognition of the framework as a means to protect IDPs.

The UN Children's Fund (UNICEF) has assisted forced migrants and affirmed its commitment to provide emergency assistance to refugee and displaced women and children. Its mandate is grounded in Conventions on the Rights of the Child and on the Elimination of All Forms of Discrimination against Women.

UN Development Program (UNDP) claims the roles of prevention, coping and recovery regarding forced migrations. It attempts to sustain development in crises and reinforce development activities as soon as possible in the post conflict situation. Donor funding strategies and other issues continue to foster gaps in transitions from relief to development. The UNDP representative is often the coordinator of efforts on behalf of IDPs. As mentioned, UNHCR is sometimes called in to assist with expert help in protection matters because UNDP is not a protection agency.

The World Food Program (WFP) emphasised adequate food as a basic human right. It seeks to provide food and build food self reliance. WFP analyses situations of vulnerability, plans for appropriate inputs in emergency situations, and tries to improve management for delivery, including decentralised operations.

The UN Department of Peacekeeping Operations (DPKO) at times helps protect forced migrants (e.g., Rwanda and former Yugoslavia) and protect the assistance activities of UN and other agencies (e.g., Somalia and former Yugoslavia). Some operations, such as UNIFIL in southern Lebanon, have provided humanitarian assistance. Mine clearance is another vital activity performed by peacekeepers.

### **3.6. Regional Organizations**

A variety of regional organizations have played important roles in law and programs affecting forced migrants. The Organization of Africa Unity (OAU, now the African Union, AU) adopted its own convention that broadened the definition of refugee to include those displaced by war or internal strife. Thus, those displaced outside their country by the general devastation and dangers of war were to be included in the refugee category for signatory states.

Sub-regional bodies such as ECOWAS have been involved in disputes in Liberia and Sierra Leone. The Inter-American Commission on Human Rights appointed a special rapporteur on IDPs. In 2002, the Council of Europe also appointed a special rapporteur on internal displacement in Europe. The Organization for Security and Cooperation in Europe has had a number of activities on displacement in the Commonwealth of Independent States. The Organisation for Economic Co-operation and Development (OECD) has distributed the *Guiding Principles on Internal Displacement*.

### **3.7. International Financial Agencies**

The World Bank has taken initiatives to address development-induced forced migration, stemming from its own lending for such projects. The Bank has developed a wide-ranging protocol about induced forced migration, including a human rights audit to make sure minorities are not targeted for undue burdens from development projects.

The Bank and the International Monetary Fund have also pooled funding in some cases on

development projects that include the Bank's focus on addressing the effects of development induced forced migration.

### **3.8. Other Actors**

Note should be taken of states as actors. States have the principal obligation to protect all their citizens and residents. States have obligations regarding granting asylum under international law. States can offer important services to returning citizens forced to migrate abroad or within the country.

States, of course, are the largest donors to the forced migration regime, multilaterally, bilaterally, or both.

Regional donors that represent state members such as Humanitarian Aid Office of the European Commission (ECHO) are also major funders of CAP appeals. Like states, they respond to the appeals. A criticism has been that the time it takes money pledged to flow is inordinately long. This complaint deserves analysis and addressing to determine the reasons for delay, if true, and to develop means to quicken response time from pledge to flow of funds.

There is a huge array of non-governmental organizations that do the lion's share of assistance activities in cooperation with UN and bilateral donors on behalf of forced migrants. These assistance activities cover both emergency and more development-oriented activities in post conflict situations. As with UN agencies and donors in the humanitarian assistance and development fields, NGOs also bring a variety of viewpoints, funding strategies, and objectives.

Finally, forced migrants themselves are in the mix. Often they are not best perceived as victims but as partners in righting a situation in which they find themselves immersed. Nevertheless, despite repeating this truism, forced migrants are generally excluded from inter-agency coordination at all levels and in all sectors, donor groups, international organizations, NGOs, etc.

## **4. CURRENT TENSIONS**

There are six areas of tension in the current international forced migration regime that make it inadequate to address contemporary forced migration flows. The inadequacies run the gamut from the political determinants of forced migration, through addressing the humanitarian needs of the migrants, to dealing with the consequences of the flows. The inadequacies exist on many levels from conceptualisation, to agency structure, coordination, legal definitions, funding, insecurity, and access issues for migrants and humanitarian and development agencies.

The six specific tension areas are:

1. lack of coordination among humanitarian agencies and a persistence of what seems by now to be the perennial gap between emergency assistance and development;
2. inadequate legal definitions and mandates to cover the range of forced migrants of interest to the international community because of their threat to stability and peace;

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3. inconsistencies in responses to different categories of forced migrants in different regions that impede efforts to comprehensive responses to humanitarian emergencies;
4. under funding and maldistribution of funding due to conceptualisation of mandates and donor preferences that harm efforts to address forced migration and its consequences;
5. prolonged insecurity that endangers migrants and assistance agencies and lack of access to forced migrants in need of assistance; and
6. failure to reach durable solutions that prevents return and reintegration.

#### 4.1. Coordination

The coordination issues exist on two levels: coordination among humanitarian organizations in emergency situations and coordination between relief and development efforts.

The often slow responses of the UN to emergencies and their *ad hoc* nature have led to a number of efforts to coordinate reactions. These include appointment of a lead agency, regional coordination approaches, and systemic arrangements to facilitate coordination.

In the case of Bangladesh, two lead agencies operated, the UNHCR as the focal point for refugees and UN East Pakistan Relief Operation for IDPs. In the Thai-Cambodian border case, a number of *ad hoc* organizing mechanisms to work in Thailand and inside Cambodia developed eventually into the UN Border Relief Operation (UMBRO) which ran the camps and UNHCR took the lead in repatriation of the border population. This arrangement was due to deep political divisions in the international community about the Cambodian regime, the rebels, and UNHCR's capacity and willingness to carry out donor wishes. In Bosnia, UNHCR was the lead agency, coordinating up to 250 organizations and agencies, with ICRC the only major agency operating independently of UNHCR.

Regionally based efforts at coordination have included the Office of Emergency Operation in Africa (OEOA), the Comprehensive Plan of Action (CPA) for Southeast Asia, the Conference on Refugees, Displaced Persons and Returnees in Central America (CIREFCA), and the CIS Conference for the former Soviet Union. Some of the plans addressed forced migration after years of migration, exile and internal displacement. The CIS Conference was meant to prevent migration or allow early and quick response to mass movements.

In 1990 the Secretary General engaged Jacques Cuenod, a senior civil servant with long experience in UNHCR to prepare a report on coordination. The Cuenod report recommended a permanent coordinating mechanism. The result was the Department of Humanitarian Affairs created by the General Assembly. The same resolution (G.A. Res. 46/182 in 1991) established the Inter-Agency Standing Committee (IASC). DHA's performance was not up to expectations and even received scathing criticism. The Secretary general proposed reinvigorating the DHA system and established OCHA, with a major activity being the Coordinated Appeals Process (CAP).

This mere listing of approaches at coordination with no single approach or a set of criteria to indicate what might be an appropriate method under different circumstances points to the

fairly universal conclusion that coordination seems an elusive goal, sometimes better accomplished than at other times. Part of the blame lies at the feet of donors, especially bilateral donors, each with their regional and sometimes sectoral interests driving their funding strategies. Those strategies may or may not align with humanitarian or development needs as outlined in the CAP.

As discussed below, this also leads to inconsistencies in funding and treatment of forced migrants in different regions and in different categories having more to do with foreign policies, funding strategies, and agency interests than humanitarian need or strategic efforts to create or maintain stability and peace.

The second dimension of coordination refers to the perennial problem of the gap between relief and development. (Keely, 1981) One of the fundamental problems in this regard is conceptual.

The UNHCR Draft Paper on Targeting Assistance of June 2004 confidently states on page 5, paragraph 17:

“Relief and development therefore are different processes. This helps to explain much of the ‘gap’ between humanitarian and development aid ...”

Are they? Does it? The same document state on page 6, paragraph 19:

“Not only donors but also the UN system and NGOs tend to see humanitarian and development as two distinct processes, planning and implementing humanitarian and development operations in isolation. The Framework for Durable Solutions advocated integration planning by all stakeholders - the UNCTs, the World Bank, NGOs, bilateral agencies and governments - from the outset of an operation providing exit and entry strategies for humanitarian and development actors respectively.” (UNHCR, 2004)

Perhaps the two processes have more in common that conventional wisdom allows. In some respects, humanitarian and development assistance do the same thing and the conceptual, funding, and operational separation owe more to history and tradition than reality on the ground.

To make such a suggestion is not to spell out possible convergences and similarities, with their implications for conceptual analysis, planning, programming, and funding. Because the “gap” is by this time perennial and not about to disappear, perhaps a radical rethinking is necessary. This idea is not entirely new. (Keely, 1981) But its acceptance and testing would be novel. What does it mean to make forced migration assistance a development-oriented task?

One aspect would be to rethink the issue of migration and development generally. Most development theory and more so practice deals with migration as a form of deviance that gets in the way of planning, especially a planning process that is linear. Some programming even has attempted development schemes to keep people from moving. Some thinking on the part of governments to address the root causes of international migration and especially abusive asylum seeking has focused on projects to head off potential migrants. Very infrequently has the idea been built into development planning that development will bring

about economic changes that will induce migration, requiring at least some feed back into plans. Economic change and social mobility are very often mirrored in geographical mobility. It is by now generally accepted from experience that economic development will lead to increased migration in the short to medium term and a reduction occurs only eventually when opportunities at home and the costs of migration make staying put or moving within one's own country more attractive. Poverty reduction increases migration in development settings.

If persons have been refugees or IDPs, is it surprising that many will not end up back at their old home on return? Many may not want to return "home", may have been introduced to new ideas, skills, and so on. Since most refugees and IDPs do not live in camps, they have lived often in urban areas, observing new and different ways, perhaps participating in an urban, non-agricultural economy, perhaps for the first time.

The gap between relief and development may be an artefact of conceptualisation. And the role of migration in development may be underappreciated and misanalysed. Migration rather than being an inhibitor of development may be an indicator of it. The issue is not to stop it but to harness it in ways that increase access to wealth, contribute to sustainable growth, and increase income and wealth equality among all sectors of a society.

#### **4.2. Legal Definitions**

Although this paper has not engaged in a detailed legal analysis on international refugee and humanitarian law, it is clear that current laws and mandates affecting the international regime for forced migration do not cover all groups that contribute to instability and cover some groups in a spotty and inconsistent way. The Convention definition does not cover those fleeing the general devastation of war. The OAU Convention does, as does the Cartagena Declaration in the Western Hemisphere, a non-binding document nevertheless invoked to request international help for assistance and protection of forced migrants. The good offices of UNHCR are permissive and invoked for a variety of reasons. Internally displaced are of concern to UNHCR to some degree under Security Council or General Assembly mandates or as lead agency in some situations. The number under UNHCR protection is a fourth of the total estimated in the world today. Environmental, disaster, and developmental forced migrants fit nowhere in the international system specifically, although, as the *Guidelines on Displaced Persons* makes clear, their own governments have considerable responsibilities. As discussed below, the Protection Plus initiative does not address this issue adequately. Further, this is not merely a matter of reassembling UN agencies. It touches fundamental doctrines like sovereignty and balancing sovereignty as a meaningful concept while not making it a shield of impunity regardless of violation of basic values and endangering stability of the state system by rogue regimes.

#### **4.3. Inconsistencies in the Treatment of Forced Migrants**

In the 1990s, awareness emerged that threats to individuals who do not receive international protection, but are in similar situations to Convention refugees may be a threat to the international system. Halting steps at remedies have resulted. Different sorts of forced migrants receive inconsistent treatment, not because they are in meaningfully different categories of need or systemic threat, but because of past practices and legal norms. Some of the inconsistency is due merely to which region of the world they live in. Sometimes it is the result of the foreign policy interests of a powerful state or set of states.



Rethinking forced migration is a threatening activity. It conjures up images of tinkering with the Convention and UNHCR Statute. It threatens set ways of thinking and doing things in some agencies and threatens others who may think that another agency will get more “turf” and funding if their mandate is widened. The current inadequacies of the forced migration regime are palpable. But change is costly.

One way to rethink forced migration regimes, although not palatable to all, especially those concerned primarily with human rights, is to analyse the potential for destabilisation of the international system of the different sorts of forced migrants. If one recognises that the refugee regime was developed and supported for reasons of state stability (Keely, 1996), then it makes sense to start an analysis there. This is not incompatible with human rights reasons for addressing new groups of forced migrants by the international community, but such rethinking is not primarily motivated or guided by human rights concerns or doctrines. “Addressing” need not mean changing the Convention or a race to the bottom. International action may or may not be justified on humanitarian grounds but it should certainly be justified on the basis of the reasons states have to garner international support for the extension of law and programs to address contemporary threats to stability by forced migrants beyond traditional refugee flows.

#### **4.4. Funding Issues**

Complaints about underfunding are usual in analyses of humanitarian assistance and development. Staying with a problem and being in for the long haul are commonplace recommendations. Academics’ repeating of them has no particular effect because these are political issues solved by political processes in donor countries.

What perhaps can be changed, at least marginally, are the conceptualisation of relief as a separate process from development and the persistence of independence in funding strategies among donors. Coordinated funding through the European Union helps decrease the separateness, but introduces another strong player. Various countries and their separate agencies sometimes adopt differing objectives, not necessarily contradictory but not necessarily reinforcing either. While ultimately such issues are political, there is perhaps more room for expert suggestion and planning to influence policy or to allow room for wider initiative by senior civil servants. Realistically, however, one should expect a large measure of pluralism in approaches, regional interests, sectoral preferences, and so on from different governments and perhaps change in country priorities as governments change.

Because budget priorities change for all sorts of reasons, and funding issues are never “solved” once and for all. They require a thick skin, but constant honest attention to do better when possible.

#### **4.5. Security in Relief Operations**

Security issues have emerged in the last decade as a major concern of humanitarian relief workers and development workers by extension. Humanitarian relief personnel have been expressly targeted, such as the ICRC medical personnel in Chechnya. Combatants deliberately fired on UN relief workers in the former Yugoslavia. Insurgents blew up UN headquarters in Iraq killing the head of the UN mission and many colleagues and visitors. Security extends far beyond fear of a convoy ambush by a rogue insurgent group not under

proper control.

A change has taken place in contemporary war so that it is difficult to take an impartial and neutral stance to do humanitarian work. Part of the reason is that combatants do not accept the idea that any help to opponents is impartial or neutral. To help my enemy is to become my enemy. Therefore, targeting relief workers and no longer respecting red crosses or crescents or UN insignia are commonplace. Agencies also face a dilemma that may feed into the questioning of neutrality. Should humanitarian agencies denounce egregious human rights violations? Should they remain impartial when combatants commit war crimes or crimes against humanity?

Further, there is decreasing practical ability to gain access to populations in need because of war or insurrection. Forced migrants are often in isolated places difficult to access or controlled by militias of some sort. This makes access difficult or possible only at the price of "taxes" that support further violence.

One small step may be to encourage the civil society sector, especially religious groups, to examine their traditions about the right of access to help those in need. Small steps like days of tranquillity to allow vaccination of children may reinforce ideas about right of access and a rebuilding of norms about the legitimacy of humanitarian assistance.

Regardless, rethinking security in relief operations perhaps should not turn too quickly to assembling more guards and more guns. That will only reinforce convictions that humanitarian assistance is only war by another name and that nobody with guns is impartial or neutral.

The word security also rears up in other areas of concern, notably state security and security of forced migrants. This section has focused on the new challenge of the security of relief operations themselves because it questions and perhaps undermines the possibility and in some minds the legitimacy of neutral humanitarian assistance. This strikes at the root of relief work in complex humanitarian emergencies. A renewed consensus that influences behaviour of parties to such conflicts needs to be reinvigorated. The very enterprise's legitimacy is currently under attack and responses to date are inadequate.

#### **4.6. Durable Solutions**

The Cold War proxy wars led to the so-called long stayers among refugee groups. They were refugees for years and decades. Generations were born refugees. In addition, many refugee groups harboured or were controlled by military combatants, often with the collusion and support of the major power backers. Afghans in Pakistan are but one example.

The past follows us, aided by fundamentalist nationalism and religious interpretations. The Dayton Accords envisioned returns that would not reinforce ethnic cleansing but that has not happened for the most part. Ethnic unmixing as ethnic cleansing or internationally sanctioned population transfers may be a permanent feature of the nation state system, however much decried in current political discourse.

Therefore, repatriation and settlement in first asylum countries may be inhibited for ethnic/political reasons, as well as economic/developmental reasons. Resettlement

countries of the North have moved away from third country resettlement and there seem to be no indicators that it will revive to former levels. While there will continue to be settlement of some asylum seekers and third country resettlement of some under UN protection, the drift is definitely toward regional containment. Regardless of trends in resettlement policy, the world's refugees, much less all forced migrants, could not by any stretch of the imagination be accommodated by a third country resettlement policy.

## **5. AGENDA FOR PROTECTION**

The UNHCR Excom approved the Agenda for Protection in June 2002. It has six goals:

1. strengthening implementation of the Convention and Protocol;
2. protecting refugees within wider migration;
3. burden sharing and increasing capacity to be first asylum countries;
4. security issues;
5. durable solutions; and
6. women and children.

### **5.1. Strengthening the Implementation of the Convention and Protocol**

The first goal covers twelve individual objectives. They are generally stated and many focus on better operational outcomes for current practice. In general, they propose doing better what is now done.

The fundamental question of addressing forced migration in a way that is consistent across groups that threaten stability and that resemble Convention refugees except for being still within their own country is not addressed.

### **5.2. Protecting Refugees within Broader Migration**

This goal has seven objectives, again with an emphasis on better carrying out current activities. Two goals are notable. The first call for actions that would reinforce the tendency to regionally contain asylum seekers and refugees by reducing irregular migration to other countries beyond one in which protection has been granted. The second calls for improved performance on return policy of those rejected for asylum or refugee status. The document supports some of the policy thrusts on refugees of the developed states related to containment and methods to reduce asylum-seeking abuses. The language reflects discourse and interests particularly of European states. These goals, however, are not placed in context of a wider and franker discussion of the role of refugee protection, the re-emphasis on repatriation, or the policy of regional containment. These all result from events related to asylum seeking and refugee flows of the last quarter century. They have important domestic political implications, as mentioned above. While one should not realistically expect such an official document to be so transparent about context, a policy analysis should. The goals listed reflect shifts in policy emphases without spelling out further implications.

There is no mention of protection and assistance to forced migrants beyond refugees or recognition of such needs. While this may be expected in a document of this sort from

UNHCR, it underscores the inadequacy of the current regime.

### **5.3. Burden Sharing and Building Capacity to be First Asylum Countries**

The goal complements the previous one by emphasising the obligations of first asylum and urging developed countries to help developing countries perform this obligation. A notable feature is the call for integrating refugee assistance and protection into development plans and a call for development programming in areas or regions of first asylum countries that host refugees. The objective does not make clear whether this development effort is meant to be a prelude to permanent resettlement or whether it is assumed that such programming will not be affected whether the refugees are repatriated or not.

### **5.4. Security**

The objective under the security goals do not acknowledge the major changes in security concerns for humanitarian assistance such as direct targeting of humanitarian personnel and targeting UN assets, such as the attack on UN mission headquarters in Iraq. Nor is there discussion of the establishment of an international policing capacity to protect humanitarian personnel in appropriate circumstances or of the mandates of peace keepers. (A bullet under objective one may refer to peace-keeper mandates but in language so guarded as to require casuistry kills of a high order.)

### **5.5. Redoubling Effort at Durable Solutions**

The title of this goal indicates that it calls for due attention to each of the durable solutions and doing them better. The final objective, however, calls on states, UNHCR, and development agencies to plan to help in the development of areas impacted by departed refugees. This, of course, assumes that development aid to such areas was scarce or nonexistent while refugees were present or that even if it were there, was not adequate to reduce the negative impacts of the refugees' presence. The objective is laudable but its inclusion, especially after the call for development aid to areas with refugees being given asylum, underscores the lack of consistent planning or action to date on this issue and a lack of clarity about objectives of development aid to refugee-impacted areas while they are there.

### **5.6. Protection Needs of Women and Children**

Recent evaluations of the impact of policies to integrate the needs of women and children into UNHCR operations concluded that they left much to be desired. There are complaints that, as the list of items to be mainstreamed grows, the interest and capacity to change wanes. There is no doubt that women and children have needs different from adult men. Care should be taken to address women's and children's needs, especially when they expose them to additional harm and danger beyond being forced to migrate.

### **5.7. Discussion**

The Agenda for Protection is a document with a narrow perspective, focused on UNHCR operations to a large extent. It is not a document that discusses the contemporary challenges of forced migration. It does not provide a vision or a framework to discuss changes in operations, mandates, structures, or legal norms to address new realities and challenges.

The Agenda has useful suggestions in interpretation of the Convention and in technical matters related to process to reach goals for improvement. It does not tackle the fundamental sources for the inadequacy of the forced migration regime. Discussion and proposals to make improvements along the lines suggested by the objectives listed under the six goals can be valuable. However, they are interim steps necessary perhaps while the larger and more fundamental questions are addressed. Doing business pretty much as usual, even if better, is not adequate in the current forced migration environment around the world.

The Agenda provides a framework for UNHCR to report its activities and something of a yardstick against which to measure its year's work. In the 2003 "Update on the Implementation of the Agenda for Protection" and the 2004 "Note on International Protection," each presented to the Executive Committee of UNHCR in their respective years, there is an impressive array of activities and accomplishments listed under each of the six goals. The Agenda and these reports are not intended to provide bold new thinking to address new challenges, changes in geopolitical facts on the ground since the end of the Cold War, or even the new face of war, including terror tactics and a general disregard for the Geneva Conventions by many combatants. And so they do not. The conclusion is not that UNHCR or the Agenda are failures. They are not on their own terms.

UNHCR, the only agency with a mandate for protection of certain forced migrants, focuses primarily on refugees. They are an important group but not the current major challenge to the international community. It is the global refugee regime that has not been able to step up to the new challenge, and that is internally displaced people. If refugees were the sole forced migration issue, one could say that UNHCR and collaborators have been doing a reasonably good job, better in some instances and even very good at times. Always with room for improvement, the issue would not be called a crisis but a continuing challenge. That is not the rhetoric or the state of play.

It would be surprising if the Agenda or the UNHCR were the source of the bold political initiatives and probably path-breaking initiatives that are needed to address not only IDPs and other forced migrant issues, but the complex problems of sorting through old mandates, habits and relationships that developed in the past but are now in place and perhaps less than functional. One might more reasonably look in the direction of states and non governmental organizations for both fresh thinking and the ability to take the lead in novel directions and garner the support of key followers to fashion adequate responses to prevention of forced migration and protection and assistance for forced migrants when needed.

## **6. CONVENTION PLUS**

### **6.1. Migration and Development**

As discussed above, migration has been inadequately addressed in development thinking. Migration is inherent to development, not an anomaly. Further, forced migration, even if a kind of deviancy from the point of view of political doctrine about how states should work, nevertheless seems a permanent aspect of the nation state system. (Keely, 1996, 2000)

Further, the conceptual, planning, funding, and programmatic separation of development

and forced migration relief assistance needs rethinking. If forced migration in the form of refugees, IDPs, environmental and development project migrants are going to be with us, along with voluntary migrants thrown up by economic changes in the development process, then migratory behaviour needs to be integrated into development planning. Migration presents opportunities. Examples include remittance flows into countries from émigrés including in many instances from refugees and asylum seekers, and the circulation of skills within countries as those adjusting to economic changes seek new work opportunities. To be sure migration presents problems in the form of rapid urban growth, overcrowding, service provision, and so on. Migration, however, is integral to development and has its positive aspects.

## **6.2. Reaction to Convention Plus by US Government**

The US government, and particularly the Bureau of Population, Refugees and Migration in the State Department and USAID are in accord with the goals of Convention Plus and supportive. However, Convention Plus is seen as a document and initiative that speaks to a European framing of issues and that region's concerns. This is not at all surprising given UNHCR's headquarters' location and staffing. There is less resonance in the US with the idea that migration and development linkages will have much impact on migration pressures. Neither agency seems to think that Convention Plus heralds any major development.

## **6.3. Poverty Reduction**

A major objective of many actors in economic development funding and activities (including DFID) is poverty reduction. The reduction of absolute levels of poverty is not adequate if development is meant to address economic root causes of forced migration. Income and wealth distribution must also take place to narrow gaps with a population. Relative poverty, in the form of wide disparities in income and wealth between the majority of a population and small elites are perhaps more destabilising than absolute poverty itself. Extremes of relative inequality are multiplied in their destabilising capacity when they align along other fault lines in a society, such as race, nationality, and religion.

## **6.4. Relief and Development**

The issue of relief and development has been discussed above. It is rementioned here because of its prominence in the Convention Plus documents. The point is underscored that the accepted wisdom of relief and development being separate processes, even with interacting effects and some temporal overlap, needs to be rethought. The processes have much in common in attempts to develop new "normalcies" in response to economic, environmental, and other changes. Even repatriation is not a return to a *status quo*. The economic, social, and political situations after forced migration are not the same as previously. New institutions, technologies, networks, and other elements of a normal social life that is satisfying and sustainable are required. In this regard much that is done in development is similar, although not exactly the same as in complex emergencies. This paper is not meant to lay out a more integrated view in detail. The first hurdle is to question received truth.

## **6.5. Aid to Poor Performers**

A dominant guide to funding recently is to provide aid to good performers. In the area of

relief and development aid, perhaps poor performers need some attention. Poor performers in this context may be the very countries that will produce forced migrants unless given particular attention at improving performance. The point, of course, is not to reward the recalcitrant but to assist those who try but fail. That failure in economic or other performance due to weak institutions or other systemic causes may deserve more rather than less assistance and attention. Poor performers may be the most likely source of forced migrants when there exists the right mix of ethnic, religious or other characteristics conducive to violent political conflict. Instability in the form of forced migrants in and from poor performers may be more threatening to stability and more costly than not neglecting them in favour of good performers.

## **7. STANDING COMMITTEE WORK PROGRAM**

### **7.1. Right of Access**

An addition to the work program of the Standing Committee should be the issue of right of access of humanitarian personnel. This issue can be taken up at the highest levels of the UN and among states. Practical methods to increase access and provide security to make access real in practice need attention.

The issue of access is intimately tied to the issue of security of forced migrants and relief assistance personnel. The security issue is in need of fundamental rethinking and creative programming in the new circumstances of contemporary war. Reaffirmation of the principle of right of access to deliver humanitarian relief is a key component to the realization of an adequate security agenda.

## **8. GLOBAL COMMISSION ON MIGRATION**

### **8.1. The Work Scope of the Global Commission**

The Independent Global Commission on Migration was formally begun in January of 2004 and is to make its report to the Secretary General at the end of June 2005. Although not an organ of the UN and begun and funded to a large extent by Switzerland and Sweden, the Commission will report to the Secretary General in order to highlight the importance of its deliberations.

The Commission was developed with the idea of introducing new language and a more positive framework for discussing migration, a sort of win-win discourse. Initiators and supporting governments saw the discussion deteriorating to the point where migrants were seen only as threats and problems. The benefits and even need of migration for a variety of economic and social needs was underplayed. A high-level group could introduce a discussion less laden with security and negative images.

The Commission is still discussing scope and activities. It is too early in the process to provide concrete outcomes. Speculation at this point can only be uninformed given the early stages of the work.

Forced migration is not the focus of the Commission. However, there are aspects of

migration generally that would inevitably impinge on forced migration issues. The issue of sovereignty as it affects migration policy is one example. Think of negotiations about trade in services and limits they might introduce on state behaviour regarding immigration and integration of non citizens. The concern of the Secretary General about internally displaced and the fact that the Commission will report its finding and recommendations to him could lead them to give some attention to forced migration issues.

## 9. CONCLUDING REMARKS AND RECOMMENDATIONS

### 9.1. Concluding Remarks

This paper began with the observation that the global refugee regime is not up to the task. The regime is the creation of states. It would be unlikely that the regime actors could bring about deep change without the states agreeing wholeheartedly. The hesitancy of states is probably most vividly exemplified by the EU experience. The goals of the Treaty of Rome about the free movement of people are unmet. The Single European Act's goals of harmonised policy by 1982 were unmet. The Amsterdam Treaty's schedule for movement of migration to the first pillar by 1 May 2004 was not met. States retain control over much of migration policy and notably much of asylum policy. There are differences among states and deep differences among constituencies within states about immigration, integration, asylum granting and many other facets of international migration policy.

The discourse in the political arena, in civil society, and in academic literature reflects both division and confusion. For example, as often as the point has been made the refugees are the result of political causes (see, e.g., Crawley's paper for this conference; Hatton and Williamson, 2004; and Keely, 1996), nevertheless one routinely encounters references to poverty and inequality as the root causes of refugee production and calls for poverty reduction as a means to reduce refugee flows. Political salience seems to disappear.

Further, there seems to be almost a talking past one another at times. Those speaking from a state perspective, while making references to foundational documents such as the UN Convention, seem more bent on protecting the state than refugees. Policy makers, however, ought to be expected to make decisions on the basis of welfare considerations for their state and its citizens. The myopia here seems to be not to consider that rigorous protection of citizens of another state may be a boon to state security rather than a burden or humanitarian gesture. As mentioned above, human rights violations, and addressing them by protection, assistance, and helping with solutions to stop violations may be a higher order security issue in today's world than has hitherto been the case.

Supporters of refugees and other forced migrants, for their part also speak past their interlocutors. They often do not acknowledge the claims and obligations of states to security. They sometimes exaggerate the requirements states assume by acceding to international instruments. Of course, every proposal by a state that may technically be legal may not be a good policy. For example, international instruments require a safe return, not always a voluntary return. A strict norm of voluntary would mean that the refugee has the ultimate decision about return and whether it is safe. No state has or would agree to have a non-citizen have absolute veto about removal.

Migration issues are matters of high politics at this point. The issues, however, present



quite thorny problems. IDPs, while a threat to international stability, are not easily addressed in terms of international law and practice or by international agencies designed to protect, assist, or help develop. States see the outcomes of forced migrations and of the issues surrounding them related to doctrine, policy, and programs as quite important for domestic political reasons, for the character of their societies, and for the shape of the geopolitical system. These are not the most immediately worrisome concerns of political leadership, to be sure. But they are hardly trivial. They are hard fought, have high-stakes political implications for democracies and elections, and have been a major stumbling block for international cooperation.

Major changes in international migration policies require decision making at the highest levels of states. The vision, the supporting arguments to garner political support, and the will to move ahead, which inevitably includes some risk taking, are not present.

There are signs of movement on some fronts. The ideas and proposals of the UN Secretary General about IDPs and remarks about sovereignty indicate a certain boldness to look afresh at issues and to acknowledge incapacities of current thinking and political arrangements.

Therefore, expectations about ability to change or adequately address issues from less powerful or independent bases ought to be modest.

## 9.2. Recommendations

The gap between assistance and development has been a perennial issue. There are experiences that have been cited as giving at least some hope and insights. CIREFCA is one example. Currently, there are situations where governments and NGOs use different pots of money from donors to link their assistance and development work. In other cases funding does not allow such “natural experiments.” **DFID could develop and fund research on current experiences in which operatives on the ground fuse assistance and development projects.** Best practices may be able to be developed and funding made to cover proposals that span the assistance and development areas. It may also be worthwhile for some research and think pieces about the similarities and continuities between assistance and development activities that would spur and undergird new thinking for funding strategies.

The Global Commission will provide an opportunity to urge a high-powered group with staff and many collaborators to attack issues afresh. **DFID should itself or through other organs of the UK Government use their access and influence to have the Commission take up some of the issues related to forced migration and development and migration generally.** Some issues have been alluded to already. One is sovereignty and prevention of forced migration. A second is what can be expected from greater coordination or harmonisation of international migration and refugee policy. (Hatton and Williamson, 2004)

**DFID may want to review the experience of success and failures of the Consolidated Appeals Process (CAPs) and the extent to which donor behaviour contributes to successes or failures.** The point here is not just an accounting exercise but to assess to what extent countries or their agencies react favourably to an appeal or take a pass. **DFID might also usefully urge inquiry into whether donors to CAPs have had funds begin to**

**flow in a timely manner and how to reduce unwarranted delays that exist.**

**DFID and perhaps other donors should support evaluations of OCHA and the High Commissioner for Human Rights in the area of forced migration.** Obviously donors and other agencies involved in forced migration issues form opinions constantly from interaction and participation with these UN agencies. What is called for here is whether there is improvement, by what criteria, by what measures from prior UN arrangements. The fundamental issue is, of course, how to address IDP issues and integrate all forced migration that requires international protection into an integrated forced migration regime. The refugee regime is inadequate and preserving it may even be counter productive.

Finally, the new nature of warfare and the challenges to humanitarian assistance need analysis. There are many donors who might underwrite such analysis. While DFID is not specifically recommended to support this work, because there may be other more suitable donors within whose mandate such support clearly falls, the results could be of considerable importance for the agency.

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## Thematic Paper II: The UK, the EU and Forced Migration

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**Thematic Paper II: The UK, the EU and Forced Migration**

## EXECUTIVE SUMMARY

This paper examines UK and EU policy and practice relating to forced migration, including current debates on possible changes in this area. The paper briefly examines the causes of refugee displacements and asylum flows to Europe, focusing on the effects of conflict, political upheaval and economic incentives to migrate. The causes of forced migration are complex and multifaceted but it is clear that indicators of conflict are far more significant than indicators of development as explanatory factors for flows of asylum seekers to the countries of the EU. The paper is therefore underpinned by an assumption that in order to address issues of refugee and asylum seeker flows to the UK and EU it is necessary to develop policies that not only react to these flows but also tackle the underlying causes of forced migration in countries of origin and in neighbouring regions and countries to which the vast majority of people are forced to move.

The recent history of UK policy in relation to asylum and forced migration has been dominated by an overwhelming focus on tackling actual and perceived abuses of the asylum system and is reflected in significant legislative and policy changes over the past decade. The overwhelming majority of recent policy changes have been orientated towards restricting or controlling entry. Tough measures have been introduced to prevent asylum seekers and refugees from entering the UK. This approach is driven principally by the Home Office in response to actual and perceived abuses of the asylum system and a commitment to reducing the number of asylum applications in the UK.

In Europe the past decade has seen the emergence of a raft of policies that reflect the harmonization process that has been underway since the early 1990s but was accelerated considerably in 1999. This period has also seen the emergence of the so-called 'external dimension' or 'preventative approach' in EU co-operation aimed at limiting asylum flows into the EU. The European Union has long recognised that it needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. This requires combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights. However, the High Level Working Group has been largely ineffective as a mechanism for developing and implementing policies which address the root causes of forced migration in any meaningful way. As a result much of the focus has continued to be on European-wide border controls and attempts to manage migration through co-operation with migration sending or transit countries including through the linking of development assistance to the return of illegal entrants and failed asylum seekers.

Early in 2003, the European Council received two proposals, one from the UK Government and one from the UNHCR, each mapping out their ideas for a future European Asylum System. Although not entirely new, the UK proposals provided the catalyst for an intense debate within and outside the EU about the future of the international protection regime. This debate and the subsequent European Commission proposal for new approaches in handling EU asylum claims suggests that a fundamental shift is taking place in approaches to international refugee protection.

The paper also considers the role of UNHCR in shaping the overall context of UK and European asylum policy and in contributing specifically to recent debates about alternative approaches. UNHCR have for many years undertaken efforts to link humanitarian assistance with the development process in less prosperous regions of the world and the organisation has welcomed the EU's efforts to develop a more comprehensive approach to refugee-producing situations. Most recently UNHCR has attempted to establish a comprehensive framework for refugee protection and to address the root causes of forced migration through its Global Consultations on International Protection, and subsequent Agenda for Protection and 'Convention Plus' initiative which focuses on the strategic use of resettlement, measures to address irregular secondary movements of refugees and asylum seekers, and the targeting of development assistance to achieve durable solutions. UNHCR has also attempted to engage directly with the UK and other EU Member States' concerns about the working of the current system of international protection through a 'three-pronged' proposal based on multilateral co-operation and the equitable sharing of burdens and responsibilities but focused specifically on the European context. The so-called 'EU prong' proposes separating out the groups that are clearly misusing the system, and sending them to one or more reception centres somewhere within the EU, where their claims would be rapidly examined by joint EU teams.

In the context of policy development within the UK, Europe and UNHCR over recent years, the paper assesses the extent to which policies in the area of forced migration, asylum, development, trade and foreign policy currently are, or have the potential to be, 'joined-up'. The paper is critical of the seeming failure of proposed new approaches to take a genuinely long-term view of forced migration issues and argues that the most effective and durable solution to the international refugee crisis is to address the root causes of the initial flight. It is also critical of the policy 'gaps' – institutional, financial and conceptual – that have obstructed efforts in this area for the past 50 years. There is still a long way to go in 'joining-up' the different areas of policy that have the potential not to deal simply with the consequences of forced migration but prevent it from happening in the first place. This is due partly to lack of resources, but more importantly to differences in policy objectives and targets, where for instance powerful economic interests stand to lose if human rights and poverty reduction policies are given priority.

Although 'joined-up' policy making in the area of forced migration has proved elusive to date, there is unused potential in mutually supportive policies i.e. in a constructive use of activities and interventions that are common to the migration and development fields and may have positive effects on poverty reduction, development, prevention of violent conflicts, and international mobility. The European Union has a great comparative advantage deriving from its presence in numerous geographical locations, sectors and policy fields and is well positioned to take a lead in the migration-development field.

It is easy to be despondent about the direction of policies relating to forced migration in the UK and EU over recent years but there is also some room for optimism. There is clearly a growing recognition of the connections between the two and of the underlying root causes of forced migration. Recent years have seen an increasing interest from donor states in de-compartmentalising humanitarian and development aid and in incorporating refugee needs in development aid policies. This is reflected in efforts to establish resettlement programmes and to target development assistance, examples of which are given in the paper. This development can be attributed, among other factors,

to a wish by many donor states to have a 'whole-of-government' approach comprising a joint strategic vision shared by different government departments like foreign affairs, justice and home affairs, defence and development co-operation. This change of approach is welcome and should be encouraged.

Achieving 'joined-up' policy on forced migration is not impossible but it will take a significant step-change in thinking and considerably more political will than currently exists. There is a real opportunity on the horizon for the UK, which holds the EU Presidency in 2005, to shift thinking at the EU level about the root causes of forced migration and to develop long-term policy approaches which deliver this step-change in practice. The paper proposes that such a step-change should be based on the following thematic policy approaches:

- Measures to reduce the causes of migration and forced displacement;
- Promoting the reception of refugees in regions of origin; and
- Resettlement schemes to compliment improved in-country asylum processing.

Within this broad framework, specific recommendations are set out in relation to the potential role of the Department for International Development (DFID) in influencing current debates and policy development in this area:

- DFID should promote understanding of the causes of forced migration and demonstrate political leadership on this issue;
- DFID should play a more significant role in 'joining-up' policy at UK and EU levels;
- DFID should support proposals for resettlement from countries and regions of origin;
- DFID should establish effective and meaningful mechanisms for engaging with civil society (including NGOs and diaspora) in the area of forced migration; and
- DFID should extend its capacity building function to situations where there is a risk of forced migration flows and/or internal displacement even where this is not directly related to poverty reduction objectives.



**Thematic Paper II: The UK, the EU and Forced Migration**

## 1. INTRODUCTION

### 1.1. Aims and Objectives of the Paper

The aim of this paper is to examine UK and EU policy and practice relating to forced migration, including current debates on possible changes in this area. The main body of the paper begins with a brief examination of the causes of refugee displacements and asylum flows to Europe, focusing on the effects of conflict, political upheaval and economic incentives to migrate and based in significant part on the analysis presented by Castles, Crawley and Loughna in *States of Conflict: Causes and patterns of forced migration to the EU and policy responses* (2003). The paper then examines the evolution of policies towards asylum seekers in the UK and the EU, and also outlines external responses to these policy developments, most notably by the UNHCR through its Global Consultation, Agenda for Protection, 'Convention Plus' and the so-called 'EU-prong'. The paper looks briefly at the policy positions of other so-called 'refugee-receiving' states in relation to the key policy themes which have emerged over recent years, including EU donor states, Canada and Japan.

It should be noted at the outset that the analysis in this paper is underpinned by the assumption that in order to address issues of refugee and asylum seeker flows to the UK and EU it is necessary to develop policies that not only react to these flows but also tackle the underlying causes of forced migration in countries of origin and in neighbouring regions and countries to which the vast majority of people are forced to move. Given the strength of the evidence base relating to the role of conflict in generating forced migration flows, as well as the role of other policies which generate or ameliorate conflict, it follows that it is important to examine other areas of policy which might have an impact on forced migration. As argued by Loescher and Milner (2003: 596):

“[I]t is important to begin to understand how related areas, such as resettlement programmes, international development, foreign policy and asylum policy, can and should be rooted in a common understanding of the scope and nature of the refugee problem in the sources of refugee origin. It is the way that Western asylum countries, including the UK, may best be able to address the challenge of providing international protection to victims of persecution and respond to their own concerns about asylum.”

Reflecting this broad approach, the paper includes an overall assessment of the extent to which policies within the UK, within the EU and in relation to one another currently are, or have the potential to be, 'joined-up' and, in the light of recent policy developments, concludes by addressing the question of whether greater co-ordination between government (national and EU) departments with responsibility for different areas of policy and improved international coordination could produce better outcomes for refugee-receiving countries and for the refugees themselves. Specific recommendations are set out in relation to the potential role of the Department for International Development (DFID) in influencing current debates and policy development in this area.

## 1.2. Overall Policy Context: A Shifting Paradigm?

Whilst policies in relation to forced migration have always been contentious and politically sensitive, the debate relating to the rights of migrants and the forcibly displaced has become increasingly high profile, controversial and polarized over recent years. Much of this, though not all, can be attributed to the post-Cold War dynamic where geo-political and strategic interests in protecting the rights of nationals of other countries, in particular refugees, have shifted, diminished or, in extreme cases, evaporated. In addition, the past decade has seen the emergence of a raft of policies that reflect the harmonization process that has been underway in Europe since the early 1990s but was considerably accelerated in 1999. At the same time there have been fundamental changes in UK policy and practice arising from two White Papers on asylum and immigration policy reform and four significant pieces of legislation in less than ten years, three of which have been introduced in the last five years. All of this has been set in the context of increasing flows of refugees and IDPs, of increasing globalisation and inter-linkages across policy areas and, most recently, increasing concerns about international security<sup>1</sup>. Responding to this changing international context, UNHCR launched its Global Consultations on International Protection in 1999 and itself contributed to the on-going international debate about the protection framework provided through the 1951 Refugee Convention and the need or otherwise for reform.

The sheer quantity and complexity of policies in relation to forced migration emanating from the UK, Europe and external organisations such as UNHCR can render it very difficult to ascertain the key events in the emergence of this international debate and the role of the different institutional bodies in shaping the current agenda. Figure 1 provides a brief chronology of significant developments in the period 1997 – 2004. This chronology is by no means definitive but identifies the key legislative, policy and contextual events in order that the reader be able to more easily ascertain how these relate to one another. Most significantly for the purposes of this paper it should be noted that early in 2003, the European Council received two proposals, one from the UK Government and one from the UNHCR, each mapping out their ideas for a future European Asylum System. The UK Government's scheme concentrated on extra-territorial processing of asylum claims and proposed that asylum seekers arriving in the EU would be transferred to a Regional Protection Area outside the EU (in a transit country or in the region of origin) where their refugee status would be determined (UK Government, 2003). The UNHCR's proposal, which has received a more favorable reception, was presented as the 'EU prong' of its wider so-called 'Convention Plus' initiative (UNHCR, 2003).

The UK proposals provided the catalyst for an intense debate within and outside the EU about the future of the international protection regime. This debate and the subsequent European Commission proposal for new approaches in handling EU asylum claims has led some to conclude that a fundamental (negative) shift is taking place in approaches to international refugee protection and that the very concept is at a critical turning point. Others suggest that it is simply another phase in the overall process of burden-shifting

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<sup>1</sup> The impact of concerns about terrorism and threats to security in shaping UK and EU policy in relation to forced migration is not explicitly addressed here as it is understood that it is the theme of a separate thematic paper.

or, more positively, that any change in policy approach which begins to take into account the protection needs of the vast majority of refugees and IDPs who remain in countries and regions of origin should be welcomed.

**Figure 1 Chronology of key events 1997 – 2004**

<b>1997</b>	
<b>June</b>	Amsterdam Summit
<b>1998</b>	
<b>July</b>	Publication of UK White Paper <i>Fairer, Faster and Firmer</i>
<b>December</b>	Vienna Action Plan adopted
<b>1999</b>	
<b>February</b>	First reading of UK Asylum and Immigration Act High Level Working Group (HLWG) established
<b>May</b>	Amsterdam Treaty enters into force
<b>October</b>	European Council meeting in Tampere, Finland
<b>November</b>	UK Asylum and Immigration Act receives Royal Assent
<b>2000</b>	
<b>November</b>	Commission publish Communication Towards a Common Asylum Procedure
<b>December</b>	Nice Summit and signing of EU Charter of Fundamental Rights UNHCR launches Global Consultations on International Protection
<b>2001</b>	
<b>July</b>	'Temporary Protection Directive' adopted
<b>August</b>	<i>Tampa</i> crisis in Australia and development of the 'Pacific Solution'
<b>September</b>	Terrorist events in New York
<b>October</b>	UK Home Secretary announces a substantial package of measures to fundamentally overhaul the Government's immigration and asylum policy.
<b>November</b>	UK Anti-Terrorism, Crime and Security Bill introduced
<b>December</b>	Declaration by all states of commitment to 1951 Refugee Convention Laeken Summit conclusions
<b>2002</b>	
<b>February</b>	Publication of the UK White Paper <i>Secure Borders, Safe Haven</i> Nationality, Immigration and Asylum Bill introduced into Parliament.
<b>June</b>	Seville Summit conclusions UNHCR endorses the <i>Agenda for Protection</i> which emerged from the Global Consultations.
<b>September</b>	UNHCR's 'Convention Plus' is announced
<b>November</b>	The Nationality, Immigration and Asylum Act 2002 receives Royal Assent
<b>2003</b>	
<b>January</b>	European 'Reception Directive' formally adopted
<b>February</b>	UK Prime Minister's commitment to reduce number of asylum applications by half UK 'New Vision' proposal leaked and reported in British press
<b>March</b>	European Commission adopted a <i>Communication on the common asylum policy and the Agenda for Protection</i> , which resolves to implement the Agenda for Protection
<b>March</b>	UNHCR proposals for an 'EU prong' presented to the European Commission
<b>June</b>	European Commission publishes its <i>Communication Towards more accessible, equitable and managed asylum systems</i>
<b>September</b>	Dublin II regulation comes into force
<b>2004</b>	
<b>April</b>	'Qualification Directive' adopted and 'general approach' to 'Procedures Directive' agreed
<b>1<sup>st</sup> May</b>	EU enlargement takes place

## 2. THE CAUSES AND SCALE OF FLOWS TO THE UK AND EUROPE

### 2.1. The Scale of Flows

The global refugee population grew from 2.4 million in 1975 to 10.5 million in 1985 and 14.9 million in 1990. A peak was reached after the end of the Cold War with 18.2 million in 1993. By 2000, the global refugee population had declined to 12.1 million (Castles *et al.*, 2003). Both historically and at the current time, the overwhelming majority of these refugees are located in the developing world, close to their countries of origin. There is a strong correlation between the number of refugees that originated in a region and the number who are located within that region (Hatton and Williamson 2004).<sup>2</sup>

In the European context, the number of forced migrants closely reflects the outflows and (subsequent return) of large numbers of people from the former Yugoslavia as well as policy changes in different Member States.<sup>3</sup> After a peak in 1992 of 670,000 applications there were falls in asylum applications following changes in refugee law in Germany (438,200 applications in 1992, but only 127,900 in 1995) and Sweden (84,000 in 1992, 9,000 in 1995). Applications were at a low of 226,000 in 1996, but then increased again, reaching about 450,000 by 2000. The UK had relatively few asylum seekers in the early 1990s, with 32,300 in 1992, but numbers increased at the end of the decade to 55,000 in 1998 and 97,900 in 2000 (Castles *et al.* 2003). The number of asylum seekers in both the UK and across Europe as a whole had fallen in recent years, principally as a result of increasingly restrictive policies to prevent access to procedures for refugee status determination.

It should be noted that a relatively small number of nationalities account for the majority of asylum applicants in the EU. Castles *et al.* (2003) analysed data on flows of asylum seekers to Europe over the period 1990 – 2000 and found that that asylum seekers from just ten countries – the Federal Republic of Yugoslavia (FRY), Romania, Turkey, Iraq, Afghanistan, Bosnia-Herzegovina, Sri Lanka, Iran, Somalia and Democratic Republic of the Congo (DRC) – constituted 59% of all arrivals to the 14 EU states over a period of 11 years. Similar conclusions have been reached by Loescher and Milner (2003).

### 2.2. Causes of Forced Migration to the UK and EU

The causes of forced migration are complex and multifaceted. Although the literature on the causes of migration usually distinguishes between refugee flows and voluntary economic migration, in practice such a distinction is often difficult to sustain (Martin 2000). The factors triggering migration usually comprise a complex mix of political, social and economic conditions, as well as individual psychological factors, and in many cases it makes little sense to ask if movement is voluntary or coerced. Moreover,

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<sup>2</sup> In 2001 49 percent of refugees originated somewhere in Asia or the Middle East and 46 percent were located there, while Africa was the source of a further 30 percent and the host to 27 percent. Eastern Europe was the source of 11 percent of refugees in 2001 and host to 6 percent, some of whom were refugees from outside the region. In 2001 Western Europe hosted 1.7 million refugees from other regions (14 percent of the worldwide total) while a further 646,000 (5 percent) were located in North America.

<sup>3</sup> It should be noted that these figures relate to EU pre-enlargement i.e. 15 Member States as opposed to the current 25 and excluding those countries which joined the Union on the 1<sup>st</sup> May 2004.

some of those who leave for predominantly economic reasons may attempt to secure residence in destination countries through applying for asylum, producing what has been coined 'asylum migration' – a phenomenon which further complicates the distinction between forced and voluntary movement (Boswell and Crisp, 2003).

Nonetheless, when analysing 'push' factors in countries and regions of origin it is possible to distinguish between those related to political and security conditions – including human rights violations, persecution of minority groups, armed conflict and generalised violence - and those related to socio-economic conditions, including poverty, lack of employment opportunities, inadequate welfare support, education or social services, environmental degradation, or demographic growth creating a surplus of labour. Whilst there are difficulties in generalising country conditions across a ten-year period, the evidence presented by Castles *et al.* (2003) suggests that indicators of conflict are far more significant than indicators of development as explanatory factors for flows of asylum seekers to the countries of the EU. Similar conclusions are reached by Collier and Hoeffler (1998) and Loescher and Milner (2003). More recently still, Hatton and Williamson (2004) also examine the causes of refugee displacements and asylum flows, focusing on the effects of conflict, political upheaval and economic incentives to migrate. Looking at the situation in 20 countries of origin of asylum flows to the EU over the period 1999-2001 and analyzing the data from a quantitative perspective using regression analysis, the authors reach virtually identical conclusions to those drawn by Castles *et al.* (2003). A recently published report using updated Home Office data finds that of the just under 50,000 people who applied for asylum in the UK in 2003 (excluding dependents), three-quarters were from countries where conflict is ongoing (Refugee Week Partnership 2004).

### 2.3. Forced Migration and Development

Underdevelopment in itself does not appear to be a major push factor for forced migration. Low income is to be found in only about half the top ten refugee producing countries, while high population density exists in only one. Low life expectancy is only to be found in three of the top ten countries of origin (Castles *et al.* 2003). This undermines the commonly held assumption that the main causal factors behind increased asylum seeking in Europe are economic. However because political upheavals, economic difficulties and conflicts often occur simultaneously, many migrants have multiple motivations for moving. Most importantly for the purposes of this paper, underdevelopment may be a crucial factor in precipitating conflict, which may in turn lead to forced migration. This is in part because underdevelopment is often associated with corrupt and/or undemocratic regimes which are in turn associated with human rights abuses and repression of particular ethnic, religious, political or social groups (Castles *et al.* 2003). This paper does not explore in any detail the complex relationship between migration and development but many analysts agree that there are close links between underdevelopment and conflict, and hence between economic and forced migration<sup>4</sup>. It is clear that this 'migration-asylum nexus' constitutes a major analytical and policy challenge and one which is considerably complicated by a growing body of evidence that indicates that the relationship between conflict, poverty and forced migration is not necessarily straightforward or inevitable (Nyberg-Sørensen *et al.*

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<sup>4</sup> It is understood that a separate thematic paper specifically addresses the relationships between development, poverty, conflict and forced migration.

2002). For example, poverty may be associated with conflict over resources but also simultaneously can inhibit the capacity of people without resources to move.

### **3. RECENT UK POLICY IN RELATION TO ASYLUM AND FORCED MIGRATION**

The recent history of UK policy in relation to asylum and forced migration has been dominated by an overwhelming focus on tackling actual and perceived abuses of the asylum system and is reflected in significant legislative and policy changes over the past seven years (see Figure 1). This section outlines UK policy changes in relation to securing borders and processing asylum claims and examines the overall aims and objectives behind the recent controversial 'new vision' proposals presented to the European Presidency early in 2003.

#### **3.1. Securing Borders and Processing Asylum Claims**

Broadly speaking, policies for dealing with asylum seeking in the UK and EU fall into two main categories: policies designed to restrict or control entry into EU countries; and policies designed to prevent forced migration by addressing causes in the countries and regions from which asylum seekers and refugees originate (Castles *et al.* 2003). In the foreword to the 2002 Home Office White Paper *Secure Borders, Safe Haven*, the Home Secretary David Blunkett acknowledged that:

“There is nothing more controversial, and yet more natural, than men and women from across the world seeking a better life for themselves and their families. Ease of communication and of transportation have transformed the time it takes to move across the globe. This ease of movement has broken down traditional boundaries. *Yet the historic causes of homelessness, hunger or fear – conflict, war and persecution – have not disappeared.* That is why economic migration and the seeking of asylum are as prevalent today as they have been at times of historic trauma” (emphasis added).

The White Paper also explicitly recognised the need to support the efforts of developing countries to promote economic growth and social development, eliminate poverty, improve governance and reduce conflict. Despite this, the overwhelming majority of recent policy changes have been orientated towards restricting or controlling entry to the UK. It is interesting to note for example that whilst 'prevention' is mentioned seven times in the White Paper, this is only in relation to preventing abuse of the asylum system or preventing people smuggling and trafficking in countries of origin. 'War' is mentioned in the Home Secretary's foreword but not in the text of the document other than in relation to war crimes and war criminals. 'Countries of origin' are mentioned only twice – once in relation to organised immigration crime and once in relation to people smuggling and trafficking.

Reflecting this, the Nationality, Immigration and Asylum Act of 2002 and Asylum and Immigration (Treatment of Claimants etc.) Act, which received Royal Assent in July 2004, aim principally to establish speedy and effective asylum processes which will, according to the Home Office, deter unfounded asylum applications, strengthen borders by ensuring that immigration controls exclude those who are an immigration or security

risk, and tackle illegal working, people trafficking and fraud. Tough measures have been introduced to prevent asylum seekers and refugees from entering the UK including the use of airline liaison officers, fines for carries who bring would-be asylum seekers into the UK, and increased use of technology to detect illegal immigrants or potential asylum seekers using false documents<sup>5</sup>.

This approach to asylum policy-making is driven principally by the Home Office and by a perceived need to respond to what has been described as 'the continuing and increasingly sophisticated abuse of the system', and the political difficulties and financial costs associated with increasing numbers of asylum applications. In February 2003 the Prime Minister publicly committed himself to reducing the number of asylum applications by 50% despite instability in the Middle East and a pending war in Iraq. The subsequent decline in applications has been widely reported as a success but does not necessarily reflect a concomitant improvement in world stability or significant reduction in refugee-producing conflicts and human rights abuse leading to forced migration. Although political changes in Iraq and Afghanistan have contributed to an overall reduction of around 14% in the number of asylum applicants in Europe, this does not account for the far more substantial fall in the UK. Meanwhile there is evidence that a significant proportion of initial decisions are incorrect, often due to inaccurate information on the countries from which people originate and an unsophisticated understanding of the complexity of factors contributing to forced migration and shaping the individual migration experience. Around 20% of all initial decisions are subsequently overturned on appeal. This figure is even higher for applications from some other conflict-affected countries including the Democratic Republic of Congo and Colombia, and rises to 38% of appeals from Somali and Sudanese nationals (Refugee Week Partnership 2004).

### 3.2. Proposals for Extra-Territorial Processing

At the end of 2002 and early in 2003 the Cabinet Office and Home Office developed proposals for a 'new vision' of refugee protection, one which is 'fit for the 21st century'. It was against the background of record levels of asylum applications in the UK and the commitment to reduce applications by 50% that in March 2003 the Prime Minister circulated a 'concept paper' entitled *New international approaches to asylum processing and protection* to his European Council colleagues<sup>6</sup>. The premise underlying the proposals was that the current global asylum system is failing because:

- Support for refugees is badly distributed between asylum seekers in Europe and the refugees and other 'persons of concern' around the world supported by UNHCR;
- Between half and three quarters of those claiming asylum in Europe do not meet the criteria of Convention refugees;
- Individual countries experience rapidly fluctuating and unmanaged intakes of asylum seekers and refugees, often resulting in poorly resourced responses; and

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<sup>5</sup> See for example the press release of 15<sup>th</sup> June 2004 on proposed use of IRIS technology at <http://www.ind.homeoffice.gov.uk/news.asp?NewsID=412>

<sup>6</sup> An earlier draft of the 'new vision' paper was leaked to NGOs and the press earlier in the year. The final version is available at [http://www.refugeecouncil.org.uk/downloads/policy\\_briefings/blair\\_newvision\\_report.pdf](http://www.refugeecouncil.org.uk/downloads/policy_briefings/blair_newvision_report.pdf)



- Public support for asylum is falling across the developed world.

The paper proposed a strategy for improving regional management of the asylum process that would, in the UK Government's view, prevent the conditions which cause population movement, ensure better protection and resources in regions, develop managed resettlement arrangements from source regions to Europe on a quota basis and raise awareness and acceptance of State responsibility to accept returns.

In part two of the UK paper, two new approaches are presented. The first of these proposes that Regional Protection Areas (RPAs) should be established in regions of origin. Asylum seekers from certain countries could then be returned to their home regions where 'effective protection' could be offered to them, and where they would be processed with a view to managed resettlement in their home regions or, for some, access to resettlement schemes in Europe. According to the paper, increased processing of applications in the regions would need to be developed in a way which avoided creating a 'pull factor' or attracting people to the camps as an easy way to get to Europe.

In addition to improving protection in regions of origin, the UK paper proposed short-medium term action aimed at deterring those who enter the EU illegally and make unfounded applications. One possibility suggested in the paper is to establish protected zones in third countries, described as Transit Processing Centres (TPCs) along major transit routes into the EU, close to EU borders, to which those asylum seekers arriving spontaneously in the UK or another EU member state would be removed and their claims processed. Those given refugee status could then be resettled in participating Member States whilst others would be returned to their country of origin. According to the UK paper, this approach could act as a deterrent to abuse of the asylum system, while preserving the right to protection for those who are genuinely entitled to it. It was proposed that the centres, which would be located outside the EU, could be managed by the International Organization for Migration with a screening regime approved by UNHCR.

The European Council invited the European Commission to explore the issues raised in the paper and in June 2003, the Commission published a Communication entitled *Towards more accessible, equitable and managed asylum systems* (European Commission, 2003a). Although the Commission broadly endorsed the UK paper's analysis of the deficiencies of the current asylum system and acknowledged the 'growing malaise in public opinion', it concluded that the UK proposals as presented were not workable because unresolved questions remained about whether the TPCs would be located within or outside the EU, whether processing in centres would be compatible with existing EU institutions and legislation, what the concept of 'effective protection' in regions of origin consisted of and whether RPAs and TPCs were intended to be complementary to the existing European system or to entirely replace it. The Commission's own proposals for a way forward and the parallel development of UNHCR's proposals for an 'EU prong' are described in detail in sections 4 and 5 respectively.

The European Union Committee in the House of Lords has recently examined the UK proposal, the Commission's Communication and UNHCR's proposal (House of Lords,

2004b)<sup>7</sup>. Its report warns against EU asylum processing centres and concludes that plans to establish off-shore centres to process asylum applications could create 'formidable difficulties' because of uncertainty about which state would be responsible for the asylum decision. It also warns there would be uncertainty about what legal procedures would apply and concludes there will be practical difficulties of transferring people forcibly to the centres. As an alternative, the report calls for action to improve and accelerate domestic asylum determination procedures.

The concerns expressed by the House of Lords are echoed by both academics and voluntary sector organisations (Amnesty International, 2003; Baldaccini, 2003; ECRE, 2003; Hatton and Williamson, 2004; Human Rights Watch, 2003; Levy, 2004; Loescher and Milner, 2003; Noll, 2003; Refugee Council, 2003). Whilst many of these commentators have welcomed the Government's recognition of the need to address root causes of forced displacement, the value of working with other States and international institutions, and its commitment to resettlement programmes (see below), they are concerned that the proposals fail to address the problems identified, are unworkable and will only serve to throw the system into chaos, further endangering the lives of people fleeing persecution. Experience shows that large-scale refugee camps, wherever they are located, often have their own internal difficulties in terms of both service provision and security, and in some cases lead to instability in the surrounding area. Moreover whilst it is true that the estimated \$10 billion spent each year by the industrialised states on their asylum systems is substantially greater than the \$800 million that UNHCR spends on the 19 million refugees and displaced persons in less prosperous countries around the world (Loescher and Milner 2003)<sup>8</sup>, any new system is likely to be very expensive, particularly if developed in parallel with systems for spontaneous arrivals. These resources could arguably be devoted to more effectively addressing the underlying causes of forced migration.

Perhaps most significantly however, there are concerns that the concept of extra-territorial processing undermines the principles of international protection itself and would spell the end of any meaningful refugee protection in the UK and EU (Hayes, 2004). According to Amnesty International (2003), the 'new vision' proposal 'bears striking similarities to the highly controversial Australian 'Pacific Solution', under which the Australian government persuaded Nauru and Papua New Guinea to permit the establishment of Australian funded detention centres where asylum-seekers were held, pending determination of their status. It is notable that in welcoming the proposal, the current Australian Immigration Minister herself recognised the 'remarkable similarity' between the UK proposal and the Australian scheme<sup>9</sup>. It has been argued by some (for example, Levy, 2004) that the UK proposal is more radical even than the 'Pacific Solution', since it argues for the deportation of asylum seekers already within

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<sup>7</sup> The report can be downloaded at

<http://www.parliament.the-stationery-office.co.uk/pa/ld200304/ldselect/ldcom/74/74.pdf>

<sup>8</sup> \$10 billion is likely to be a considerable underestimate. In the UK alone around £2 billion (i.e. nearly \$4 billion) is spent each year processing asylum and immigration casework, running determination procedures, funding legal challenges, running detention facilities and providing support and welfare to asylum seekers whilst they await a decision. Although this estimate includes the processing of non-asylum cases this is a relatively small proportion of the overall total.

<sup>9</sup> See Minister for Immigration, Multicultural and Indigenous Affairs, Media Release, *UK Asylum Proposals Worth Consideration*, MPS 21/2003, 3 April 2003 available at [http://www.minister.immi.gov.au/media\\_releases/ruddock\\_media03/r03021.htm](http://www.minister.immi.gov.au/media_releases/ruddock_media03/r03021.htm)

the territory of the EU to the TPCs. By contrast the Australian policy is designed precisely to prevent asylum seekers from touching Australian soil and thereby forcing their claims to be heard in country. Moreover given the recent and on-going developments in formulating a common European asylum policy (outlined in section 4) and parallel UNHCR proposals including the Agenda for Protection and Convention Plus (outlined in section 5) it is not clear why this additional set of proposals was needed nor whether the process and chain of events that this then set in motion (the UNHCR counter-proposals and subsequent Commission Communication) has been particularly helpful in taking forward the long-standing commitment in the EU (in theory at least) to addressing the underlying causes of forced migration.

Despite rejection of its proposals at the European level, the Home Office has continued discussions 'behind the scenes' with a number of EU countries (most notably the Netherlands and Denmark) in an attempt to establish a 'coalition of the willing'. In April 2004 the Home Office confirmed that it has now moved away from the idea of zones of protection and is looking to develop 'migration partnerships' with third countries in the region of origin. According to a Home Office statement to the European Standing Committee, the aim of such partnerships would be to reduce the pressure on the asylum system while facilitating UK assistance with refugee caseloads in the partner country<sup>10</sup>. This work is still very much in the development stage, but will compliment other initiatives (such as UNHCR's 'Convention Plus'). Tanzania is the only country with which the Home Office has moved forward but the Government is also involved in projects with the UN which also involve the Netherlands and other countries. These projects involve working on problems in relation to Tanzania, Kenya and two other countries (as yet unnamed), and there is another project on issues relating to Somalia. It has been reported that these proposals may involve repackaged plans to process asylum seekers in their own region of origin in a scheme possibly linked to extra development aid and assistance, but it is not yet clear what any plan might consist of and how it might be implemented.

### 3.3. Resettlement<sup>11</sup>

Although UK asylum policy has focused primarily on securing borders and processing applications quickly, the Home Office accepts that that it is often very difficult for those who have a well-founded fear of persecution to arrive in the UK legally to seek help. In June 2000, Jack Straw, the then Home Secretary, outlined his own vision for the future of EU asylum policy at a European summit in Lisbon and proposed an EU-wide resettlement programme, large enough in scale to have an impact on the number of asylum seekers making their own way to Europe. David Blunkett echoed this commitment in October 2001, and a UK quota resettlement programme of 500 places was established in October 2003. This resettlement programme operates in addition to

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<sup>10</sup> Available at

<http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmstand/eurob/st040421/40421s01.htm>

<sup>11</sup> Resettlement is the selection and transfer of refugees from a country in which they have sought refuge to a safe host country, which has agreed to admit them. Resettled refugees are accorded permanent protection guarantees, including legal residence, allowing them to integrate in the national community. Resettlement is one of three durable solutions to the plight of refugees, the other two being voluntary repatriation to the country of origin, in conditions of safety and dignity, and local integration in the host community. Where neither of these options is possible, resettlement offers both protection and a durable solution.

current asylum determination procedures, and reflects the 'Government's commitment to help develop an effective international protection system' given that 'there will always be some refugees for whom the only durable solution is resettlement in a third country',<sup>12</sup>.

As is discussed later in this paper, resettlement schemes represent an important strategy in ensuring international protection and have been widely developed in other countries both inside and outside the EU. It should be noted however that there are some concerns about the current UK approach to resettlement. Most notable among these are the scale of the programme (currently insufficient to represent a substantial sharing of the global refugee 'burden'), the selection criteria adopted by the Home Office (which explicitly exclude those refugees with severe health needs and who are arguably the most vulnerable)<sup>13</sup>, and the danger that resettlement schemes will become linked in the political and public debate to other initiatives (such as the 'new vision' proposals described above) and in turn undermine the principle of providing a parallel determination process for asylum seekers who arrive in the UK independently. There are concerns that the development of a resettlement programme might be used to justify a political discourse – and ultimately change in policy approach – which distinguishes between 'legitimate' and 'illegitimate' modes of entry to the UK and implies that there is no longer a necessity for asylum seekers to enter illegally or under false pretences because of the existence of an alternative 'gateway', although in reality this is very small and selective. These concerns are based in part on the development of a two-tier system in Australia where those who arrive in an 'unauthorised' manner are detained in remote centres and even if they are eventually granted asylum, are only granted temporary status. In other words, even if a person is recognised as a refugee, they can never enjoy the same rights as someone with an identical claim who arrived on the resettlement programme.

#### 4. DEVELOPMENTS IN EU ASYLUM POLICY

In the context of this paper it is not possible to provide a detailed analysis of the evolution of European policy in relation to forced migration. Such analysis is widely available elsewhere<sup>14</sup>, including in a comprehensive evaluation of the development of minimum standards for refugee protection since Tampere published recently by the

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<sup>12</sup> See press release of October 2003 at

<http://www.ind.homeoffice.gov.uk/news.asp?NewsId=327&SectionId=3>

<sup>13</sup> According to the Home Office, resettlement should not be offered when, in the opinion of the medical examiner, the individual has a disease or illness, which, for the individual's own health, or for public health reasons, currently precludes travel, or requires treatment before travel. Resettlement should not be offered to applicants, or dependants, with HIV/AIDS, Multi-Drug-Resistant-TB, or established renal failure. Further information on the quota resettlement programme and criteria can be found in the Home Office's Asylum Policy Instruction (APIs) Available at

<http://www.ind.homeoffice.gov.uk/default.asp?PageId=4448>

<sup>14</sup> An excellent factual overview of European policies in relation to forced migration as well as the role of all the various EU institutions and external actors is provided in the UNHCR's *Tool Box on EU Asylum Matters*, available at [www.unhcr.ch](http://www.unhcr.ch). A further Tool Box (2) available at

[http://www.unhcr.ch/cgi-bin/texis/vtx/home/+3wwwBmemkZEewxwwwqwwwwwwwhFqhT0yfEtFqnp1xcAFqhT0yFEcFqyBddcaxdLadDa0uaw5Oc1MaMwBBnG5Dzmxwwwwww/opensoc.pdf](http://www.unhcr.ch/cgi-bin/texis/vtx/home/+3wwwBmemkZEewxwwwqwwwwwwwhFqhT0yfEtFqnp1xcAFqhT0yFEcFqyBddcaxdLadDa0uaw5Oc1MaMwBBnG5Dzmxwwwwww/.opendoc.pdf) provides access to all the EU instruments and many of the Commission's Communications referred to in this paper.

European Council on Refugees and Exiles (ECRE, 2004)<sup>15</sup>. Reflecting the overall aims of this paper as outlined in section 1.1, this section examines the emergence of the so-called 'external dimension' or 'preventative approach' in EU co-operation aimed at limiting asylum flows into the EU. This approach is reflected in European-wide border controls and attempts to manage migration through co-operation with migration-sending or transit countries in the integration of migration issues into the EU's external policies and in the Commission's response to the UK's proposals to develop policy mechanisms for extra-territorial processing. Boswell (2003) suggests that policies that externalise asylum procedures have prevailed to the detriment of longer-term strategies of migration management, refugee protection and relations with third countries. This is not because this approach has the greatest potential to meet long-term migration policy goals but because of the institutional context in which policy-making takes place and domestic political electoral pressures<sup>16</sup>.

#### 4.1. The Harmonisation Process

The adoption of the Amsterdam Treaty by the 15 Member States of the European Union in 1997 marked the beginning of a new era for asylum policy-making in Europe by establishing that EU-wide binding minimum rules on asylum and immigration should be developed. This was envisaged as a process with an initial five-year period, beginning in 1999 and ending on 1<sup>st</sup> May 2004, during which time legislation setting out minimum standards for processing, protection and reception would be adopted (ECRE, 2004). Following the Amsterdam Treaty's entry into force in May 1999, the EU's Heads of State or Government held a summit in Tampere, Finland, on 15-16 October 1999, and adopted the political guidelines that constituted the framework in which the EU's policies and legislation on asylum and immigration were to be developed. In building a common asylum system, the Tampere Conclusions adopted a two-staged approach. In the short term, common minimum standards would be adopted, while in the long term, Community rules would go beyond minimum levels of harmonisations and aim for a common asylum procedure and a uniform refugee status valid throughout the Union. Not only did the Tampere Conclusions commit the EU to the obligations of the 1951 Refugee Convention, they also noted the need to develop, as a matter of urgency, a comprehensive approach to migration that provides for greater coherence between the Union's internal and external policies. Underpinning such an approach would be the EU's work towards addressing political, human rights and development issues in countries and regions of origin:

“The European Union needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. This requires combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights, in particular rights of minorities, women and

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<sup>15</sup> See also Hatton and Williamson (2004), Hayes (2004), Levy (2004), Refugee Council (2004) and UK House of Lords (2004), all of which are available online.

<sup>16</sup> Boswell's conclusions are based on a recent in-depth project entitled 'Towards a Comprehensive Strategy on Forced Displacement: Integrating the Refugee Dimension into EU External Relations', details of which can be found at <http://www.core-hamburg.de/english/research/refugee>. The project assessed how far, and with what success, the EU has integrated preventive goals into its relations with third countries. It examined in detail the cases of Kosovo and Morocco, where the European Commission, European Council and Council of Ministers have been engaged in developing preventive approaches.



children. To that end, the Union as well as Member States are united to contribute, within their respective competence under the Treaties, to a greater coherence of internal and external policies of the Union. Partnership with Third Countries concerned will be a key element for the success of such a policy, with a view to promoting co-development.”<sup>17</sup>

In the period since Tampere, the EU has embarked on a long, and often painful, process of policy harmonisation that has resulted in the adoption or partial adoption of a number of Directives, which seek to deliver these objectives<sup>18</sup>. Along the way there have been complex negotiations and changing contexts that have shaped the process and determined its focus. Perhaps most important among these were the Seville Summit Conclusions of June 2002 which called for the process of implementing the Tampere Conclusions to be speeded up and, in the context of growing anxieties among Member States (particularly the UK) about increasing numbers of asylum applications, re-emphasised the need to focus efforts on combating illegal immigration in part through the integration of migration issues into relations with third countries who could then be persuaded through other policy levers (such as development aid) to take back illegal entrants and failed asylum applicants.

The establishment of an Area of Freedom, Justice and Security (AJFS) including a common European asylum and migration policy has been at the top of the EU's political agenda since 1999. Following Tampere, the Commission, at the request of the European Council, drew up a scoreboard to review progress in implementing the political and legislative agenda that had been established<sup>19</sup>. The achievements of the Tampere programme over the period 1999 to 2004 are described in the final six-monthly report that was adopted on 2 June 2004<sup>20</sup>. The European Council of Refugees and Exiles (ECRE) has also produced an assessment of the harmonisation process which has taken place over recent years. Its conclusions are damning:

“The promise of protection delivered by the EU Heads of State at the Tampere Summit in 1999 left many of us full of hope that harmonisation would bring better protection for persons fleeing persecution and better solutions to the problems faced by governments. What we went on to witness was five years of difficult negotiations not driven by the spirit of Tampere, but driven by most European governments' aim to keep the number of asylum seekers arriving as low as possible and by their concerns to tackle perceived abuses of their asylum systems. Countries showed little sense of solidarity and pursued their narrow national agendas at great cost to refugees and to the building of a fair and efficient European protection system. This took place in a generally deteriorating public

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<sup>17</sup> Tampere European Council 15/16 October 1999, Presidency Conclusions, paragraph 4.

<sup>18</sup> The Council of Ministers has adopted four directives which establish minimum standards for refugees and asylum seekers in the EU Member States. These cover temporary protection (2001/55/EC), reception (2003/9/EC), family reunification (2003/86/EC) and qualification (agreed text in 7944/04). A fifth directive on minimum standards for procedures in Member States for granting and withdrawing refugee status – arguably the most important of them all – has yet to be adopted although the ‘general approach’ has been agreed. In addition to these directives the Dublin II regulation establishes the criteria and mechanisms for determining the Member States responsible for examining an asylum applications lodged in one of the Member States by a third-country national.

<sup>19</sup> This so-called Scoreboard was introduced by the Commission for the first time in March 2000 and has since been updated bi-annually.

<sup>20</sup> Available at [http://europa.eu.int/comm/justice\\_home/doc\\_centre/intro/docs/bilan\\_tampere\\_en.pdf](http://europa.eu.int/comm/justice_home/doc_centre/intro/docs/bilan_tampere_en.pdf)

climate of growing hostility towards asylum seekers and refugees, and widespread irresponsible media reporting compounded by a lack of political leadership at national level” (ECRE, 2004, 3).

The ECRE and others (see for example, Hayes, 2004) are particularly critical of the development of common procedures for determining asylum claims which, they claim, have ‘totally undermined’ the absolute right to seek asylum as enshrined in the 1951 Refugee Convention and fail to ensure that asylum seekers have access to fair and efficient asylum procedures. They maintain that the Amsterdam decision-making process has allowed for the worst practices of individual States to be transposed into EU legislation, thus allowing their export to other EU Member States rather than fostering the sharing of best practice. But they are also critical of the EU’s attempts to deal with the underlying causes of forced migration and to ensure ‘responsibility-sharing’ with countries and regions of the world which are significantly poorer and in many cases political unstable yet host to the vast majority of the world’s refugees and internally displaced. Moreover ECRE (2004) argue that the EU’s prioritisation of measures to fight illegal immigration over fighting the root causes of refugee flight and improving refugee protection in third countries has led to a considerable lack of coherence between the EU’s measures to integrate migration issues into external policies and its human rights and development co-operation policies and objectives.

#### **4.2. European Border Controls and Approaches to Illegal Migration**

EU asylum policy and practice has to be seen in the wider context of increasing measures to prevent unauthorized, undocumented, irregular and ‘illegal migration’ into the EU (Hayes, 2004; Levy, 2004). There is considerable evidence that the fight against illegal migration to the Member States rather than measures to address the causes of forced migration has been the principle focus of attention and concrete action at the European level. In contrast with the laborious approach to developing asylum legislation, Member States have been prolific in the development of joint ‘migration management’ tools, such as the strengthening of external border controls and other immigration controls. Many of these measures are binding and have a potentially huge impact on those seeking asylum in Europe.

This focus on illegal migration began at Laeken in December 2001 when the European Council asked the Commission to develop an Action Plan based on the Commission’s *Communication on a Common Policy on Illegal Immigration*. At the subsequent Seville Summit the main focus of discussion was on barriers to preventing illegal migration to the EU via measures to increase the security of visas, exchange of information on illegal migration, coordination between migration liaison officers, and improving the effectiveness of border controls, including establishing a common EU border police force. The Summit underlined the need for a comprehensive and balanced approach to tackle the root causes of illegal immigration (as opposed to forced migration), which, in order to be effective, should make more extensive use of development assistance, trade relations and conflict prevention measures in close co-operation with countries of origin and transit.

In their concern to step up the fight against illegal immigration, Member States also decided at the Seville Summit that all future agreements with third countries should include provisions on joint management of migration flows and compulsory re-

admission of illegal immigrants, with a failure to co-operate hampering closer relations of that country with the EU. This was articulated in the Communication from the Commission to the Council and the European Parliament on *Integrating Migration Issues in the EU's relations with Third Countries* (European Commission, 2002b). Although the Communication recognised the rights of refugees to seek asylum and have their asylum application examined, subsequent policy making by the Council of Ministers has prioritised the channelling of financial assistance towards the development of interception measures in third countries over the support to develop their asylum systems and at establishing re-admission agreements to enable failed asylum seekers to be returned. From the viewpoint of refugee protection this is problematic. For example, despite considerable concerns about the political and human rights situation in countries such as Libya and Syria (which are notably not signatories of the 1951 Refugee Convention), the EU has sought intensified co-operation with them, having negotiated a 're-admission clause' with Syria which compels it to take in illegal immigrants (which could include persons fleeing persecution) who have travelled through its territory before arriving in the EU.

The conclusions of the Seville European Council meeting thus focussed almost entirely on combating illegal immigration and on the re-admission agreements (see below) despite the more comprehensive approach laid down at Tampere in 1999. There was no substantive mention of tackling root causes, such as lack of socio-economic development, repression of human rights and armed conflict. Indeed in the 'Road Map' for the follow-up to the Conclusion of the European Council meeting at Seville (a concrete action plan which provides deadlines for the immediate tasks to be taken and delegates the various responsibilities precisely), there is not one measure among the twenty-four outlined which addresses the root causes of forced migration to the EU<sup>21</sup>.

### **4.3. Integration of Forced Migration Issues in External Policies**

Since the early 1990s there has been an awareness within the EU of the need to pay attention to the root causes of migration, including forced migration. In December 1992, the Edinburgh European Council called for measures to address the causes of migration, including preservation of peace and end to armed conflicts, respect for human rights, the creation of democratic societies and adequate social conditions, and liberal trade policies which could improve economic conditions. It was recognised that this would require coordination in the fields of foreign policy, economic co-operation and immigration and asylum policy by the Community and its Member States. This recognition of the links between economic and political causes of migration, and hence between economic and forced migration, was reinforced in subsequent years by the experience of influxes of people fleeing the wars in Former Yugoslavia. The efforts of the EU and its Member States to bring about conflict resolution and reconstruction in Bosnia-Herzegovina and Kosovo were motivated by a range of considerations, but limiting the extent of migration and asylum to EU Member States was certainly an important element (Castles *et al.*, 2003).

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<sup>21</sup> Roadmap for the follow-up to the Conclusion of the European Council at Seville – Asylum, Immigration and Border Control, Council of the European Union, July 2002 10525/1/02 rev 1. A report will be submitted to the European Council meeting in June 2003 on the practical implementation of the guidelines set out in the Seville European Council Conclusion.



As was noted above, Tampere underlined the need for a comprehensive approach to asylum and migration, addressing political, human rights and development issues in countries and regions of origin and transit. It also called for greater coherence between the Union's internal and external policies, and stressed the need for more efficient management of migration flows at all their stages, in which the partnership with countries of origin and transit would be a key element for the success of such a policy. Reflecting this, Tampere renewed the mandate of the High Level Working Group on Migration and Asylum (HLWG). The HLWG comprises not only Justice and Home Affairs experts, but also experts in the fields of foreign policy, security, development and economic policies, and came about at a vital moment in time in the progress towards integration in the fields of asylum and immigration (van Selm 2002a, 2002b). The HLWG's responsibility is to develop a 'cross-pillar' common strategy and over-all framework approach to asylum and migration policy in order to improve the EU approach to migration flows from selected countries of origin and transit. It was tasked with drawing up a number of Action Plans for the joint analyses of migratory flows from or through selected countries, and proposals to address the causes of these flows, enhance reception capacities in the region, promote human rights actions, foster political dialogue, and with exploring possibilities for re-admission and return to the country or region of origin.

Although the HLWG is the EU's most ambitious attempt to coordinate measures across all relevant policy areas and to involve Member States in implementation, its impact has been disappointing. The HLWG has drawn up Action Plans for five countries of origin and transit of forced migrants coming to the EU – Afghanistan, Morocco, Somalia, Sri Lanka and Iraq (this was the original report which led the HLWG to be established). An interim report has been produced for Albania and the surrounding region and was approved in June 2000. In the context of the discussion in this paper it is notable that the Action Plans only cover four of the top ten source countries of asylum seekers for the EU. Morocco and Albania are mainly sources of economic rather than forced migration. Moreover although the Action Plans are intended to address the need for co-operation with the countries concerned in three integrated areas – foreign policy, development and economic assistance as well as migration and asylum – they have been criticised for dealing only cursorily with preventive measures such as conflict resolution, development and poverty reduction in refugees' countries of origin, and for their primary focus on exporting migration control, such as airline liaison officers, anti-immigration information campaigns, and re-admission arrangements to the source countries.

It should also be noted that despite the principle of co-operation with countries of origin, the Action Plans produced by the group appear to have been prepared without full prior consultation, with the result that some sending country governments see them as unilateral measures to be imposed by the EU. A further problem has been the absence of internationally recognised governments in three of the Action Plan countries: Afghanistan, Somalia and Iraq. The criticism of a lack of co-operation with governments in countries of origin can be extended to the lack of joint working with NGOs both in countries of origin and in the countries of the EU. Although there has been good co-operation with the major international organisations (UNHCR, IOM and the Red Cross) this has not extended sufficiently to smaller NGOs and policy institutes (Castles *et al.*, 2003).

Perhaps the most significant criticism however of the Action Plans produced by the HLWG is that they lack new ideas and specific proposals for action. The Action Plans are for the most part a description of country conditions and a list of policy objectives which have almost all already been developed and enshrined in EU and European Commission work, particularly in the areas of trade, external relations and development (van Selm, 2002a & 2002b). Any proposals or recommendations for action that are made are so vague and non-specific as to be virtually meaningless. As a result the Action Plans do not amount to implementable programmes or policies that would, for example, effectively prevent human rights violations, or combat the root causes of forced migration. There are far more detailed and specific proposals in relation to the immigration control aspects of the Plans, for example stationing Airline Liaison Officers in countries of origin or neighbouring regions. This has led some to conclude that the migration control imperative has dominated over concerns about sustainable development, human rights and refugee protection (House of Commons, 2004).

Following the report to review progress on the creation of an area of 'freedom, security and justice' in the European Union of May 2002, the HLWG's mandate was expanded in order to allow for a more flexible approach and a better geographical balance in its actions, including provision for regional approaches, an increased emphasis on analysing the relationship between the Union's migration management and trade, aid policy and foreign relations, and a stronger emphasis on partnership with third countries in joint migration management. Most recently this approach has been given a revitalised role and extended budget through the development of the AENEAS programme.

Since 2001 the work of the HLWG and preparatory actions to implement the Action Plans and increase co-operation with third countries in the area of migration have been financed by the EC B7-667 budget line. In 2001 and 2002, the budget of B7-667 was determined at €10 and €12.5 million respectively. For 2003 the budget was determined at €20 million but €7 million of this was earmarked specifically to implement the EU's Plan for Return to Afghanistan which was developed in response to events after 11<sup>th</sup> September 2001 which had rendered the original HLWG Action Plan considerably outdated. In March 2004 B7-667 was replaced by a multi-annual programme called AENEAS which will run from 2004 to 2008 and which aims to give specific and complementary financial and technical aid to third countries in order to support their efforts to improve the management of migration flows in all their dimensions. AENEAS builds on earlier preparatory actions carried out in partnership with third countries and regions in connection with issues of migration and asylum but is designed to provide a specific additional response to the needs of third countries in their efforts to manage more effectively all aspects of migratory flows, and in particular to stimulate third countries' readiness to conclude re-admission agreements, and to assist them in coping with the consequences of such agreements. AENEAS represents a considerably expanded commitment by the EU to addressing migration issues in external policies. For the period 2004-2008, the programme has a budget of €250 million, of which €120 million has been allocated for the period until 31 December 2006. In terms of thematic coverage, five objectives have been identified for AENEAS:

- The development of immigration policies;
- The promotion of legal migration channels;

- The development of legislation and national practices as regards international protection;
- Combating illegal immigration, including trafficking in human beings; and
- Re-admission and sustainable reintegration of returnees in their countries of origin.

The overall objective of the AENEAS programme is to promote, within the framework of a comprehensive approach to migration, a more efficient management of migration flows in close co-operation with third countries concerned. The considerably increased budget reflects the growing recognition that this cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or impact of the action, be better achieved at community level. In order to implement the programme, the Commission will be producing an Annual Work Programme. The Work Programme for 2004 will be published in September 2004 and will call for proposals in the following month, with a deadline for submission likely to be December 2004. Among the kinds of actions which may be supported by the programme to achieve the objectives of AENEAS are information campaigns and the provision of legal advice, development of actions aimed at maintaining links between countries of origin and host countries, facilitation of dialogue and exchange of information, support for capacity building to draft and implement national legislation, introduction of systems for data collection and support for targeted socio-economic reintegration of returnees<sup>22</sup>.

#### **4.4. Linking Forced Migration and Development Aid**

For the purposes of this paper it is also worth noting that in the run-up to the Seville Summit, proposals were made by the Spanish and the British Prime Ministers to link re-admission agreements to aid and other co-operation arrangements with countries of origin. This would have made it possible to put economic pressure on countries unwilling to re-admit nationals deported from the EU. The Conclusion adopted at Seville stopped short of imposing economic sanctions on countries of origin unwilling to re-admit illegal immigrants, including failed asylum seekers but it did define re-admission agreements as vital instruments and retaliation measures that could be taken under Common Security and Foreign Policy (CSFP) and other EU policies in case of 'persistent and unjustified denial of such co-operation'. This represented a significant shift of emphasis in the way in which proposals to address the causes of forced migration were framed, most significantly in the appearance of a new way of linking migration and development objectives through the concept of evaluating relationships between the EU and third countries according to their willingness to cooperate in the management of migration flows, particularly where this would relate to the re-admission of refugees who have transited through those countries.

Although the explicit policy proposal of linking development aid to co-operation on migration was defeated at Seville, the European Council did agree that each future association of co-operation agreement which the European Union or the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory re-admission in the event of illegal immigration. In November 2002 it was agreed that the HLWG would draft a clause on joint

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<sup>22</sup> For further information see  
[http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l\\_080/l\\_08020040318en00010005.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_080/l_08020040318en00010005.pdf)

management of migration flows and re-admission, to be included in any future co-operation, association or equivalent agreement which the EU concludes with any country. This has led the House of Commons International Development Committee, among others, to conclude that the linking of development aid and policies in relation to forced migration remains a dangerous possibility which should be avoided:

“It is sensible to support governments which are moving in the right direction, improving governance and fighting poverty, but it would be a mistake to make aid conditional on measures which aim to limit out-migration. Withdrawing aid to countries which fail to limit out-migration would simply plunge them further into poverty; threatening such a withdrawal would force developing countries to spend scarce resources on border controls rather than poverty reduction, would undermine any notion of partnership, and would simply succeed in pushing more migrants into the arms of smugglers and traffickers. Development assistance or the threat of its withdrawal must never be used as a tool for migration management” (House of Commons, 2004).

#### 4.5. Extra-Territorial Processing

The externalisation of the European Union's policy in relation to forced migrants was joined to proposals for extra-territorial processing that found their roots in the 1990s, but were given fresh impetus by the British (with considerable assistance from the Austrians, Danish and Dutch) from 2000 to 2004 (Noll, 2003). The UK's 'new vision' proposals early in 2003 (outlined in detail in section 3 of this paper) were an important part of this process. According to Levy (2004), the proposals represent a serious threat to the principles of the international refugee regime because unlike earlier proposals for 'safe areas' and camps associated with the Yugoslav conflict and the need to provide temporary protection in situations of mass influx, the various British and Danish plans of the last few years would see processing outside of the EU and has the potential to result in a system where there is no potential for the individual applications for asylum to be examined in European countries. Whilst the UK and Denmark have indicated that this is not their intention, there remains concern about the potential for 'policy creep' in this area.

The UK 'new vision' proposals were not the first time that the principles of the 1951 Convention had been brought into question. In the spring of 2000, at the European Conference on Asylum in Lisbon, the then UK Home Secretary, Jack Straw, called for a redrafting of the 1951 Refugee Convention suggested an international quota system under which European countries would share asylum seekers from countries recognised as violators of human rights. Since that time the UNHCR's Global Consultations on International Protection and resulting Agenda for Protection had – prior to the UK proposals - formed the basis of international discussions about the future of the international refugee regime. Ironically, at virtually the same time that the Commission published its *Communication on the Common Asylum Policy and the Agenda for Protection* (2003b) reaffirming the EU's commitment to the new strategies proposed by UNHCR (most notably through the 'Convention Plus' initiative), the UK proposals made their way into the public domain. Anxious about the UK proposals undermining the Agenda for Protection and about being seen as unresponsive to the political and policy concerns of EU Member States, UNHCR issued a counter-proposal (outlined in more detail in section 5 of this paper). The European Commission's subsequent

Communication *Towards more accessible, equitable and managed asylum systems* (European Commission, 2003a) was a response to both these proposals. Although it distanced itself from the UK position, the Communication set out the Commission's views on the basic premises of and objectives for a possible new approach in which asylum processes might be better managed with a view to improving access to protection for those in need, reducing the impetus to secondary movements of asylum-seekers and refugees, and limiting abuse of asylum systems.

A significantly more cautious document than both the UK and UNHCR proposals, the Communication recognises a number of the legal, practical and financial obstacles to the implementation of such an initiative. Instead it proposes a gradual approach which complements the stage-by-stage approach adopted at Tampere and which builds on and enhances the minimum standards established through the harmonisation process. The new approach should aim to enhance international protection rather than shift responsibility for it elsewhere, and should be underpinned by ten key principles including the need to fully respect international legal obligations of Member States, the need to improve the quality of asylum decision making in Europe, and a recognition that the most effective way of addressing the refugee issue is by reducing the need for refugee movements. The Commission's own proposals for establishing more accessible, equitable and managed asylum systems are based on three specific but complimentary policy objectives, namely:

- The orderly and managed arrival of persons in need of international protection in the EU from the region of origin through resettlement and Protected Entry Procedures;
- Burden- and responsibility sharing within the EU as well as with regions of origin enabling them to provide effective protection as soon as possible and as closely as possible to the needs of persons in need of international protection; and
- The development of an integrated approach to efficient and enforceable asylum decision-making and return procedures.

In many respects the proposals from the European Commission are better than they might have been, not least because they provided an opportunity to establish a policy process for establishing an EU-wide resettlement scheme which will enable refugees to travel legally to the EU to access protection and durable solutions. It is important to recognise that the Commission was effectively forced into making a statement on the issue of extra-territorial processing because of the UK proposals, and worth noting that it might have been able to simply reiterate the approach set out in its communication on taking forward the Agenda for Protection had it not been for the fact that the UNHCR's counter proposals for a 'EU prong' signaled that the UNHCR was open to the idea of alternative approaches to protection in Europe.

In this respect the Communication is a somewhat inconsistent document which suggests that the Commission remains open to exploring further the feasibility of locating TPCs outside the EU through pilot projects, which may be its downfall. In trying to keep everyone happy the door has been left open, casting a shadow over the strength of the commitment of the EU Communication to give sufficient consideration and weight to the legal, practical and financial obstacles to extra-territorial processing that it cites.

#### 4.6. Resettlement

In total, 16 countries worldwide offer refugee resettlement programmes in partnership with UNHCR. Six of these are EU Member States – Ireland, Finland, Denmark, the Netherlands, the United Kingdom and Sweden<sup>23</sup>. Norway also has a resettlement programme. Although the size of resettlement programmes in Europe is currently small – approximately 3,500 per year across the EU compared with between 70,000 and 132,000 each year in the US and 12,000 in Canada - resettlement is being considered more widely both in individual countries within Europe and in the European Commission, who see a potential for resettlement to be strategically used to manage a greater number of legal arrivals to the EU Member States than is currently the case. The approach to the use of resettlement is not consistent across Europe. Van Selm (2003) notes that in the current discussion, some policy-makers posit that resettlement can replace asylum systems altogether, while others assert that resettlement could very well co-exist with asylum but could not be a total alternative. Similarly, some suggest that resettlement of refugees could help end smuggling and trafficking – while others contend that both refugees and economic migrants would continue to use smugglers and be exploited by traffickers. The Commission has maintained throughout the EU discussion on the subject that any resettlement programme must be compatible with the long term objectives of the Common European Asylum System (CEAS) and support efforts to improve the management of forced migration movements, facilitating legal access to international protection by those justifiably seeking such protection. Meanwhile building on its earlier Communications (discussed above), the European Commission recently commissioned a study on the feasibility of introducing an EU-wide resettlement scheme by July 2005.

Ultimately the extent to which an EU-wide resettlement scheme is developed will depend on whether there is political will among a larger number of Member States to engage in resettlement. Traditionally the political will amongst EU Member States to engage in resettlement has been based purely on humanitarianism or reflected national priorities such as foreign policy goals or domestic politics. Before beginning any type of resettlement programme, the EU must be fully aware of the necessary level of resource commitment and the need to bring in or create partners that would allow the programme to function optimally. To this extent it is worth noting that the EU's European Refugee Fund has recently agreed to fund work in this area. Launched in Helsinki in January 2004, the MORE Project (Modelling of National Resettlement Process and Implementation of Emergency Measures) is working with the Ministry of Labour, Finland, and the Reception and Integration Agency, Ireland, along with UNHCR, the IOM and ECRE to develop comprehensive models for the resettlement of refugees, which can be used by European Union Member States and other countries. The overall objective of the project is to improve both the quality and speed of the integration of resettled refugees but the outcome of its work will almost certainly influence future policy development in this area.

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<sup>23</sup> Non-EU Member States which offer resettlement programmes are: Australia, Benin, Brazil, Burkina Faso, Canada, Chile, Iceland, New Zealand, Norway and the USA.

## 5. THE EVOLVING UNHCR APPROACH

### 5.1. Background

In early 1990, UNHCR established a liaison function in its Brussels office to monitor developments and provide inputs into the EU harmonisation process in the areas of asylum and migration. As a result, UNHCR has direct contact with the Presidency and with the European Commission and the European Parliament. In July 2000 the Commission Directorate General for Justice and Home Affairs (DG JHA) and UNHCR signed an exchange of letter in order to reinforce co-operation in asylum and refugee matters. This stipulates that UNHCR must be consulted by the EU institutions in matters pertaining to asylum. In addition to *ad hoc* day-to-day contact, formal strategic consultations are held between the Commission and UNHCR every 6 months. UNHCR branch offices in the Members States are also responsible for lobbying to influence Member States' positions during negotiations in Council.

The role of UNHCR in shaping the overall context of UK and European asylum policy and in specifically contributing to recent debates about alternative approaches has already been touched upon in this paper. Ever since the Commission and Council started to develop the external dimension of EU asylum policy aimed at improved co-operation in the joint management of migratory flows, UNHCR has monitored the process closely and has provided expertise and policy inputs as regards EU co-operation with third countries in asylum and migration matters. UNHCR have for many years undertaken efforts to link humanitarian assistance with the development process in less prosperous regions of the world (Crisp, 2001), although not all of those within the organisation agree with this approach. UNHCR has welcomed the EU's efforts to develop a more comprehensive approach to refugee producing situations as pioneered by the High Level Working Group. But it recognises that the process of developing common asylum and migration policy is simultaneously an opportunity for, and a danger to, the preservation and strengthening of the international protection regime. Reflecting this, UNHCR has raised concern about the pervasive danger that the politics of asylum policy and practice in the EU may mean that the harmonisation process loses sight of the refugees' need for protection.

### 5.2. Global Consultations on International Protection and the Agenda for Protection

In an attempt to solidify the international protection regime and reaffirm commitment to this regime and UNHCR's role within it, the organisation has undertaken its own policy initiatives that both reflect and feed into UK and EU policy processes. In 2000, UNHCR launched the Global Consultations on International Protection, triggered by what it perceived as an ongoing crisis of international protection and intended to mark the 50th anniversary of the 1951 Refugee Convention. In December 2001, in a Declaration of States Parties to the Refugee Convention, Ministers reaffirmed their government's commitment to implement their obligations under the 1951 Refugee Convention 'fully and effectively' and in accordance with the 'object and purpose' of these instruments<sup>24</sup>.

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<sup>24</sup> See Report of the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, HCR/MMSP/2001/10, available on the Global Consultations page of UNHCR's website at <http://www.unhcr.ch>

In 2002, the Executive Committee of the Programme of the UNHCR (UNHCR's governing body) endorsed the Agenda for Protection that emerged from the Global Consultations. As was noted in the previous section, a European Commission endorsing the Agenda for Protection was adopted in March 2003 (European Commission 2003b).

According to UNHCR, the Agenda for Protection reflects a wide cross-section of concerns and recommendations of states, intergovernmental organizations, NGOs, as well as refugees themselves. The Agenda focuses on suggested activities that would strengthen international protection of asylum-seekers and refugees and improve implementation of the 1951 Refugee Convention and its 1967 Protocol. Most importantly for the purposes of this paper, the Agenda for Protection recognises that prevention is the best way to avoid refugee situations:

“Resolute responses to the root causes of refugee movements, more effective and predictable responses to mass influx situations, improved reception policies and an environment generally more conducive to refugee protection would contribute to better implementation of the refugee protection regime” (UNHCR 2003a: 31)

As part of the overall objective (in Goal 1) of strengthening implementation of the 1951 Convention and 1967 Protocol, the Agenda for Protection requires States to:

- Give greater priority to dealing with root causes, including armed conflict, and to ensure relevant intergovernmental agendas reflect this priority;
- Use appropriate means at their disposal, in the context of their foreign, security, trade, development and investment policies, to influence developments in refugee-producing countries in the direction of greater respect for human rights, democratic values and good governance; and
- Support the work of the UN in the areas of conflict prevention, conflict-resolution, peace-keeping and peace-building in war torn States (UNHCR 2003a).

The paper draws on the Agenda for Protection which calls on “States to consider allocating development funds, possibly a percentage thereof, to programmes simultaneously benefiting refugees and the local population in host countries” and “... to consider including refugee-hosting areas in their national development plans, and UNHCR to encourage multilateral and bilateral development partners to extend tangible support for such initiatives...”.

In addition, international and regional human rights bodies, as well as development actors, are encouraged to examine how they can make a more direct impact on refugee situations generated by human rights violations and inter-group disputes, in particular by extending financial and/or technical support to countries of origin willing to establish national human rights commissions, and to put in place measures to improve the functioning of the judiciary and police forces. As part of the overall objective (in Goal 3) of sharing burdens and responsibilities more equitably and of building capacities to receive and protect refugees, the Agenda for Protection calls for refugee issues to be anchored within national, regional and multilateral development agendas including through the allocation of development funds, possibly a percentage thereof, to programmes simultaneously benefiting refugees and the local population in host countries.



Although the Agenda for Protection is not binding and represents good intentions rather than concrete plans for multilateral action, it has arguably spurred new thinking to tackle these underlying causes of forced migration, including through the development of special agreements in the context of the High Commissioner's 'Convention Plus' initiative (Hatton and Williamson, 2004).

### 5.3. The 'Convention Plus' Initiative

'Convention Plus' is an initiative announced by the UN High Commissioner for Refugees, Ruud Lubbers, in September 2002, following the conclusion of UNHCR's Global Consultations on International Protection. Its basic premise is that given the changes that have taken place in the world over the past 50 years the 1951 Refugee Convention 'does not alone suffice'. In terms of content, Convention Plus seeks to develop comprehensive plans of action to ensure more effective and predictable responses to mass influx, to secure development assistance as a way of addressing burden-sharing arrangements, to bring about multilateral commitments for resettlement, and to find clarity in the roles and responsibilities of states in the context of irregular and secondary movements (UNHCR 2003b). Convention Plus does not seek to revise the 1951 Refugee Convention but to build on it through the adoption of non-binding agreements between states and by establishing multilateral agreements and broad-based partnerships between government, humanitarian and aid agencies which are able to provide durable solutions.

The Convention Plus work programme was launched at the beginning of 2003 with the first meeting of High Commissioner's Forum held in June of the same year. Convention Plus has three inter-linked strands:

- The strategic use of resettlement;
- Addressing irregular secondary movements of refugees and asylum seekers; and
- Targeting development assistance to achieve durable solutions

To ensure a well-coordinated approach to the Convention Plus initiative, a dedicated Convention Plus Unit (CPU) was established at UNHCR Headquarters in the latter half of 2003. It is responsible for working with States and other partners on each of the three strands of Convention Plus, as well as for providing advice and assistance within UNHCR on the formulation of situation-specific initiatives. In December 2003, the CPU published *Convention Plus at a Glance*, which provides information on the Convention Plus initiative for use not only by UNHCR staff at headquarters and in the field, but also by States and other partners<sup>25</sup>. A Core Group of policy makers and experts representing individual countries and international organisations supports work around each theme.

The themes addressed in the Convention Plus initiative and the conclusions coming out of the Core Group discussions clearly have implications for the policy approaches addressed in this paper. Most notable are efforts to target development assistance to achieve durable solutions. In May 2003 UNHCR issued its Framework for Durable Solutions, which provides a number of methodological models that are intended to

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<sup>25</sup> The publication, which includes in annex a regular update on developments with respect to the three strands, can be found on the Convention Plus page of UNHCR's public website ([www.unhcr.ch](http://www.unhcr.ch)) under "Protecting Refugees".

facilitate the proper targeting of development assistance. These include the promotion of self-reliance through development assistance for refugees (DAR); development through local integration (DLI) schemes; strategies for sustainable repatriation, reintegration, reconciliation and reconstruction (the '4Rs') which aim to enlist the active participation of humanitarian and development agencies and the World Bank and encourage good local governance, protection of the rights of returnees, improved social services and infrastructure, economic revival and livelihood creation, and improved access to services; and multilateral commitments for the resettlement of refugees. UNHCR believes that the targeting of development assistance for refugees is relevant in both refugee situations and post-conflict situations. Refugees are often hosted in communities in remote areas where a high level of poverty prevails. Hosting refugees for protracted periods of time has a long-term economic and social impact which, if not adequately addressed, can create tensions, conflict and insecurity. UNHCR believes that in this situation, the targeting of development aid through DAR and DLI will enhance burden-sharing with poor refugee hosting countries and communities, and allow refugees to become self-reliant, equipping them for one of the three durable solutions: voluntary repatriation, local integration and resettlement. In post-conflict situations the reintegration of returnees poses a considerable challenge. The targeting of returnees in the allocation of development assistance in post-conflict situations through 4R programmes is intended to prevent the back-flows that are often encountered, so as to ensure that reintegration is sustainable and allows development actors to come in at an earlier stage, narrowing down or closing the gap between humanitarian assistance and development aid. In both situations UNHCR believes that the targeting of development assistance will ultimately contribute to the attainment of the Millennium Development Goals (MDGs).

Following the publication of a discussion paper produced by Denmark and Japan on existing experiences of targeting development assistance to achieve durable solutions for refugees, UNHCR published a draft *Convention Plus Issues Paper on the Targeting of Development Assistance Policies* in June 2004<sup>26</sup>. The purpose of the paper is to:

- Identify the issues involved in the granting of development assistance by the donor community and in the spending of development assistance on the development of refugee hosting countries and countries of return;
- Outline and explore challenges to targeting development assistance to find solutions for refugees in refugee situations as well as returnees in post-conflict situations;
- Identify donor policies conducive to targeting development assistance to find solutions for refugees; and
- Outline possible elements for a special agreement on the targeting of development assistance.

The draft paper sets out the objectives and methodologies of development assistance – including the preparation of Poverty Reduction Strategy Papers (PRSPs) and the importance of working in partnership – and outlines the challenges in targeting development aid to support durable solutions for refugees. The paper proposes that a generic special agreement on the targeting of development assistance should be

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<sup>26</sup> Available at

<http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=PROTECTION&id=40e408924&page=protect>

developed. Any such agreement would have obligations for donor countries, countries of asylum and countries of origin as well as the UN and its partners.

It is clear that this draft paper and the initiatives being developed by UNHCR as part of Convention Plus approach reflect a growing interest in integrating humanitarian and development efforts and funds and targeting development assistance to find solutions to refugee situation. In order to implement the Framework for Durable Solutions and strengthen the linkages with other parts of the United Nations system, UNHCR joined the United Nations Development Group (UNDG) in 2003. A working group was established in early 2004 to develop guidelines on durable solutions for refugees, returnees and IDPs for inclusion in UN transition policies in post-conflict situations and in the revision of the Common Country Assessment (CCA) and UN Development Assistance Framework (UNDAF) guidelines. It should be noted however that some NGOs and others have expressed concern about the potential for the Convention Plus initiative to be hijacked for the purpose of limiting asylum seeking in the UK and Europe or in order to shift responsibility for these issues elsewhere. These concerns have been further exacerbated by UNHCR's proposal for a so-called 'EU prong'.

#### **5.4. The 'Three-Pronged' Proposal and 'EU Prong'**

In parallel with these initiatives, UNHCR has been developing a 'three-pronged' proposal based on multilateral co-operation and the equitable sharing of burdens and responsibilities but focused specifically on the European context. The proposal consists of a 'regional prong' designed to improve access to solutions in regions of origin and addressed in large part by the Convention Plus initiative, 'a domestic prong' focusing on improving asylum determination procedures, and an 'EU prong' designed to encourage EU Member States to address the phenomenon of mixed movements of asylum-seekers and economic migrants by processing jointly presumed manifestly-unfounded asylum claims from selected non-refugee producing countries of origin (Figure 2). It is the so-called 'EU prong' that is most relevant to this paper, a version of which was presented to the European Commission in March 2003 as a 'counter-proposal' to the UK's 'new vision', and is reproduced as Figure 3.

Although the specifics of the 'EU prong' have been revised over the last year or so, in essence UNHCR proposes that the processing of certain categories of asylum claims – described as 'manifestly unfounded' and probably based on the country of origin – would be considered in EU-based processing centres. According to a statement by Rudd Lubbers, under the 'EU prong', UNHCR proposes separating out the groups that are clearly misusing the system, namely asylum seekers from countries that produce hardly any genuine refugees<sup>27</sup>. These asylum seekers would automatically be sent to one or more reception centres somewhere within the EU, where their claims would be rapidly examined by joint EU teams. Those judged not to have any sort of refugee claim would then be sent straight home. The limited number of recognised refugees among them would be shared between the EU states. There must be a strict time limit for the entire process. Re-admission agreements between the EU and the rejected asylum seekers' home countries have to be reached in advance, so that people are not detained for months or years simply because they cannot be deported. A second component to the approach would involve new joint initiatives within Europe itself. These could include

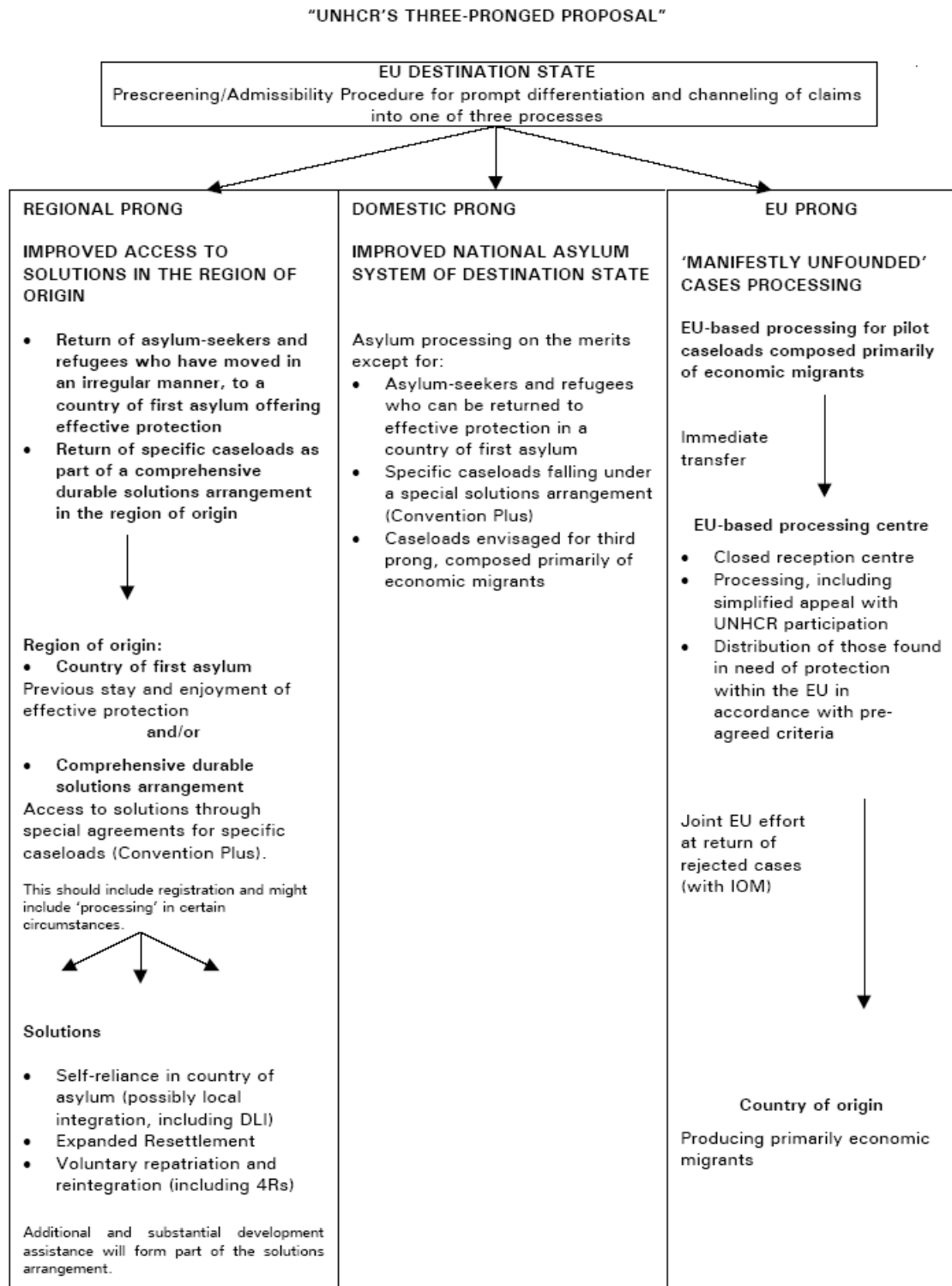
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<sup>27</sup> Available at [http://www.unhcr.org/uk/press/press\\_releases2003/prMay03op\\_ed.htm](http://www.unhcr.org/uk/press/press_releases2003/prMay03op_ed.htm)

the pooling of EU processing and reception resources in a European Asylum Agency which would carry out the registration and pre-screening of asylum seekers, provide training and expert advice to Member States on information about countries of origin, and undertake decision on the asylum claims of nationals of countries that do not normally produce refugees (House of Lords 2004b).

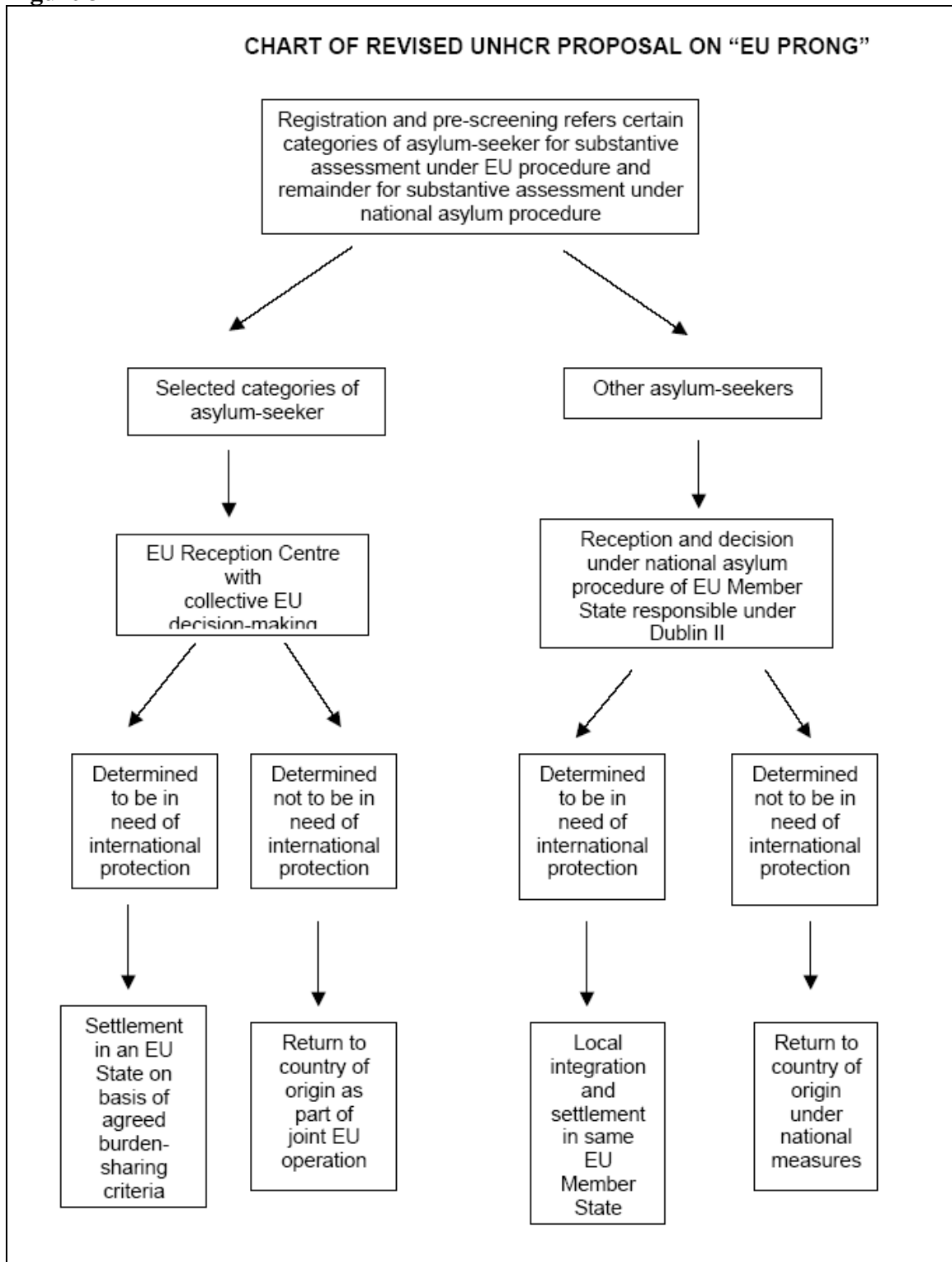
Figure

2



Source: UNHCR, 2003c

**Figure 3**



Source: UNHCR, 2003c

As was noted earlier in this paper, the rather rushed production of proposals for an 'EU prong' appear on the face of it to represent an attempt by UNHCR to rescue refugee protection from the clutches of the UK proposal. Despite this, some of the proposals were reflected in the Commission's Communication *Towards More Accessible, Equitable and Managed Asylum Systems*:

"While it is important to further investigate the exact legal modalities and the practical and financial consequences of implementing the proposals made by UNHCR, the Commission is of the opinion that in particular the EU-based mechanism as suggested by UNHCR is worthwhile giving further consideration" (European Commission, 2003a: 9).

As a result, many commentators believe that by making this proposal UNHCR has itself undermined some fundamental protection principles, notably in accepting that, at least within the EU, some classes of asylum-seekers might be transferred out of the state where they requested asylum for determination of their claims, detained in closed reception centres, and subject to diminished procedural safeguards (see, for example, Amnesty International, 2003; Loescher and Milner, 2003). Moreover the plethora of different approaches emanating from the UK, the EU and UNHCR and the evolving – and often symbiotic – relationship between these has caused considerable confusion and misunderstanding about who is proposing what and why. Arguably rather than proposing a new approach in response to the UK's 'new vision', UNHCR could have simply restated its commitment to delivering the Agenda for Protection and the need to ensure that policy and practice at the EU or Member State level reflected the themes of the Convention Plus initiative. Instead UNHCR is in the process of further developing a number of the elements included in the Commission's Communication. A revised version of the proposals was published in December 2003 and formed the basis of a presentation by the High Commissioner Rudd Lubbers to the Justice and Home Affairs Council in January 2004. According to a statement by UNHCR delivered in June 2004 outlining UNHCR's views on asylum procedures in the newly-enlarged Europe, these ideas remain on the table but the outcome has yet to be seen.

## **6. POLICY POSITIONS AND PRACTICES OF OTHER STATES**

### **6.1. Border Control**

It is not possible to map out the complexity of current policy positions in relation to border controls across the other EU Member States in this section. Suffice to say, the general themes that dominate the UK and EU policy-making scene are generally prevalent across Europe as a whole. This is not surprising given the context of harmonisation and EU legislation designed to establish minimum standards. The immigration and asylum policies of EU Member States are increasingly characterised by measures designed to prevent people without adequate documentation from entering. Many governments now employ Airline Liaison Officers and immigration officials in origin and transit countries to prevent undocumented or inadequately documented passengers from exiting the country. There is an increasing emphasis on identifying 'safe third countries' to which asylum seekers can be returned before a decision is made about their claim and re-admission agreements with origin and transit countries have

been written into trade and co-operation agreements to ensure that failed asylum seekers can be returned to their countries of origin. Policies aimed at restricting access are not unique to the EU but have been introduced in most developed countries including the USA and Australia (although not so far in Canada). These policies – rather than real improvements in human rights – appear to be the main reason why the number of Convention refugees worldwide has fallen since 1995 (Castles et al., 2003).

## **6.2. Extra-Territorial Processing**

The Dutch and Danish governments have shown particular interest in the UK's proposal for extra-territorial processing, both governments having put forward similar agendas in 1986, 1993 and 2001 (Amnesty International, 2003). As Noll (2003) notes, as far back as 1986, Denmark had proposed a draft resolution in the UN General Assembly, which suggested the establishment of regional UN processing centres administering resettlement. A 1993 Dutch proposal for regional processing of asylum claims was considered by the IGC in 1994, and in 2001, the Danish government revisited the issue. Another state to have taken an interest in the UK proposal is believed to be Austria, with Germany, France and Sweden believed to be strenuously resistant to the proposals. Noll (2003) also suggests that the Danish and British memoranda and joint meetings of the Danes, Dutch and British in 2002 and 2003 were strongly influenced by the influence of what had taken place in Australia when the government refused to land more than 400 mostly Afghan asylum-seekers rescued off the Australian coast by the MV Tampa, a Norwegian freighter. The resultant, and highly controversial 'Pacific Solution' scheme, set the scene for a new phase in state responses to the demands of their voluntarily assumed international legal obligations. Noll's conclusions are supported by Levy (2004) who also cites the influence of US policy and practice regarding extra-territorial processing for example, in relation to Haitian refugees in the late 1990s.

## **6.3. Resettlement**

There is more comparative evidence and analysis available in relation to the resettlement policies of other EU Member States and other countries outside Europe than any other area of interest to this paper. This is in large part because resettlement is a discrete and specific policy approach. Its existence is easily identified and there is reasonably coherent analytical material available to assess the strengths and weaknesses of the various resettlement programmes that exist.

According to van Selm (2003) the US has the largest resettlement programme, with an annual ceiling of between 70,000 and 132,000 each year over the past decade, and a total admission of 807,008 refugees through resettlement between 1993 and 2002. It also received 822,224 asylum applications between 1993 and 2002. Canada has a target of some 12,000 refugees for resettlement across three types of resettlement programme, and currently receives between 30,000 and 40,000 asylum applications annually. Australia aims to receive 12,000 refugees per year, with precise resettlement numbers dependent on the number of asylum applications receiving a positive determination, and thereby qualifying them as among the 12,000. Four EU Member States (Sweden, Finland, Denmark and the Netherlands) are traditional countries of resettlement and one more (Ireland) has been on UNHCR's list of 'emerging resettlement countries' since 1999. The UK started its resettlement programme in 2003. In addition some countries

do not have formal programmes to resettle refugees on the basis of a fixed quota, but have responded positively to UNHCR's urgent appeals to accept refugees for resettlement, as well as honouring other international commitments. For example, between April and June 1999, 1,426 Kosovo Albanians were transferred to Spain under UNHCR's Humanitarian Evacuation Programme. The Spanish Commission for Refugee Aid (CEAR) is one of the primary NGO implementing partners working with UNHCR in Spain. CEAR has been advocating with the Spanish Government for a stronger commitment to resettlement and the establishment of annual resettlement quotas.

It is likely that the use of resettlement will emerge as a strong theme in the international refugee regime over coming years given that it has been identified by UNHCR as one of the key strands of its Convention Plus initiative. It is also likely that the nature of resettlement will change. Canada along with some other resettlement countries is considering the value of a group processing approach to resettlement and the Resettlement Section of the UNHCR is developing a 'group methodology' that could be useful in this regard.

It should be noted that no country that carries out resettlement in significant numbers has seen spontaneous arrivals of asylum seekers disappear, or dwindle as a result of resettlement. Resettlement should therefore be viewed as a tool for protection rather than as a mechanism for reducing flows of forced migrants.

#### 6.4. Targeting Development Assistance

There is limited evidence available regarding the existence of policies specifically aimed at targeting development assistance to address the root causes of forced migration. The notable exception to this is in relation to the policies of Denmark and Japan, both of whom are responsible for facilitating the strand of the Convention Plus initiative which examines the targeting of developing assistance (see section 5 above). As part of this process, Denmark and Japan prepared a *Discussion Paper on Targeting Development Assistance to Achieve Durable Solutions for Refugees*<sup>28</sup>. This paper outlines the Danish and Japanese strategies and experiences on incorporating refugee needs and those of host communities in their respective development aid policies, describing where and how this has been practiced.

In 2002 the Danish Government launched a new initiative in support of refugees and refugee-hosting communities and in May 2003 a strategy for activities in refugees' regions of origin was adopted. It aims to promote durable solutions for refugees by integrating refugees in development programmes through a combination of multilateral and bilateral activities in close co-operation with the governments of the host countries. The strategy should also be seen as an element of the Danish Government's ongoing efforts to support conflict prevention. In the multilateral field, the strategy emphasizes strengthening the link between humanitarian and development agencies within the United Nations family, for example, through the '4Rs' approach in post-conflict situations with returnees, and by increasing self-reliance (DAR) for refugees in protracted refugee situations pending durable solutions. In the bilateral field, activities

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<sup>28</sup> Available at <http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=PROTECTION&id=403ccfa44&page=protect>



will build on existing development programmes and will, in accordance with Denmark's general poverty reduction focus, target refugee-hosting areas, which tend to be the poorest border areas of the concerned developing countries. While the Danish embassies will be responsible for the bilateral activities, a high degree of local ownership will be encouraged.

In the 2003 budget of the Danish Foreign Ministry a new multi-annual budget line was established to support these activities. The budget line draws on development assistance funds separate from the continuing humanitarian budget lines. The first allocation from the new budget line amounts to some US\$ 35 million for the 3-year period from 2003 to 2005 and focuses on Zambia, the United Republic of Tanzania, Somalia and Sri Lanka, without excluding other possibilities.

Japan, with Denmark, strongly supports the UNHCR's approach to the strategic use of development assistance as an important element of multilateral burden-sharing arrangements aimed at addressing refugee situations comprehensively, including primarily those of a protracted nature. The Japanese Government revised its ODA Charter in August 2003. Priority issues set out in the Charter include poverty reduction, sustainable growth, addressing global issues and peacekeeping. Japanese policy also aims to assist returnees by bridging the gaps between humanitarian relief and rehabilitation efforts, in the context of peace building in post-conflict situations. Assisting returnees in the initial reintegration phase is regarded as being of particular importance, in order to consolidate peace in the regions of origin as well as to prevent returnees from being displaced once again. Japan has provided assistance, for example, for the 4Rs programme in Afghanistan under the 'Ogata Initiative'. Japan has also supported the reintegration of Angolan returnees through the Grant Aid for Conflict Prevention and Peace Building.

In 2002 Norway established a Transition Budget Line aimed at bridging the gap between short-term relief and long-term development aid in post-conflict situations. The funds are risk-friendly, allowing Norway to allocate funds for activities in countries with weak government capacity lacking democratic processes. Funds from the Transitional Budget Line are mainly intended for countries which are not recipients of bilateral aid. As from 2004, UNHCR will receive a grant earmarked for 4R activities.

It is the 4R process therefore that currently appears to be the focus of efforts to target development assistance in situations of actual or potential forced migration. The 4Rs programmes to which Japan, Norway and Denmark have contributed are currently being piloted in Sri Lanka, Afghanistan, Sierra Leone and Eritrea. According to UNHCR, these programmes are based on a bottom-up approach which allows flexibility as to how they are implemented in each of the different countries and they have so far yielded promising results with the host governments, with both Resident Coordinators and country teams expressing positive experiences with the programme.

In Sri Lanka a transition group is taking forward the 4R process in an attempt to bridge the gap between humanitarian relief and sustainable development. UNHCR report that the pilot process is working particularly well in Sri Lanka, where the integrated planning process involves humanitarian NGOs, the Asian Development Bank, the World Bank as well as UNDP, UNHCR and eight bilateral donors. As the programme continues UNHCR will phase itself out of the process. In Afghanistan, the unique

strength of the integrated process has apparently been the ability of UNHCR to facilitate co-operation between development organisations like the World Bank and UNDP, and the Afghan government. UNHCR say that before the implementation of the integrated process, the relationship between the development groups and the Afghan government was marked by tension and disagreement.

In Sierra Leone similarly, the World Bank is working through the 4R process with UNHCR. A National Commission for Resettlement, Rehabilitation and Reintegration (NCRRR) was set up with support from partners as early as 1998 when IDPs and returnees were beginning to resettle. Since early 2002, following on from the formal end of the war, the Government in partnership with UNHCR and others have been implementing a 4Rs-type approach in a more systematic way through the National Recovery Committee (NRC). In May 2003, an interagency team comprising UNHCR, UNDP, UNICEF and ILO conducted a review of the 4Rs approach in UNHCR together with the World Bank, OCHA, FAO, WFP and the EU as a result of which a Transition Support Team has been established to consolidate strategies and initiatives at the operational level.

Although these examples are illustrative of the targeting of development assistance in practice, it should be noted that each is at a relatively early stage of development and that there have been few if any independent evaluations of their success in reducing forced migration. It is also clear that attempts to ensure co-ordination between the different agencies involved in relief and development activities are often easier to describe on paper than to implement in practice.

## **7. POLICY OPTIONS AND RECOMMENDATIONS**

### **7.1. Limits to the Current Policy Approach**

This paper has examined recent and emerging policies in the UK and EU for dealing with the realities of forced migration in the 21<sup>st</sup> century. There is currently a lively and expanding debate on possible 'third ways', including promoting the reception of refugees in regions of origin, measures to reduce the causes of migration and forced displacement, or resettlement schemes as a possible replacement to in-country asylum processing. All of these have inherent problems and it is clear that there is no 'quick fix' to the tensions between the numbers of those in need of protection or seeking a better life, and public concerns about their impact on receiving societies (Boswell and Crisp, 2003).

The analysis presented in this paper however suggests that a very significant part of the reason why the proposed new approaches are problematic is because they are motivated less by a genuine desire to address the underlying factors that cause people to move in the first place and far more by the desire (and political necessity) of keeping asylum seekers out of Europe. There are many different reasons for this. Perhaps the most basic yet fundamental of these is the failure to accept that people are forced to migrate at all. Despite overwhelming evidence that the majority of asylum seekers arriving in Europe over the last 20 years have come from countries where there is conflict and violence, policy makers and politicians remain convinced that the vast majority of asylum seekers are not genuinely in need of protection but are accessing asylum systems in order to by-

pass immigration controls designed to prevent the free movement of labour. The reason why policy-makers and politicians continue to believe this in spite of all the evidence to the contrary is that their assessment of whether an individual is in need of protection is based, in very significant part, on the high refusal rates across EU Member States resulting from a narrow and legally contested interpretation of the 1951 Refugee Convention. High rates of refusal are interpreted as indicating high rates of abuse when in reality sometimes all they represent is poor quality decision-making and a mean-spirited application of the concept of 'effective protection'.

The consequence of this circular and self-perpetuating process is that a huge array of policy measures - as well as massive financial resources and political effort - have been thrown at tackling assumed abuses of the system rather than at addressing the underlying causes of forced migration. Not surprisingly, despite all of this effort, millions remain displaced globally and flows of asylum seekers to the UK and Europe continue. These flows may rise and fall depending on the latest policy measures and the ability of desperate people to work their way around them, but they never stop or even decline to the point of being politically acceptable. And a significant increase in numbers is inevitable when the next conflict breaks out or an existing one escalates.

The reality is that the most effective and durable solution to the international refugee crisis is to address the root causes of the initial flight and in many cases addressing root causes means engaging in the question of failed and failing states (Loescher and Milner, 2003: 615):

“It is important for Western states to understand the importance, cost effectiveness and significance of dealing with the root causes of refugee movements, especially armed conflict. To promote repatriation and indeed to prevent future refugee movements, states, individually and collectively, should consider in greater detail not only the extent to which their foreign, development, security and financial policies may contribute to refugee-producing conflict, but also how these policies can be brought to bear on the root causes of refugee movements.”

It is evident even from the brief overview that is provided in this paper that there has been plethora of policy initiatives at the UK and EU levels as well as by external organisations such as UNHCR. In addition to policies directly addressing asylum and refugee protection issues, there is also a huge, and sometimes incomprehensible, array of policies in the areas of foreign policy, development aid, conflict prevention, trade and humanitarian assistance which it has not been possible to analyse within the confines of this paper but which are clearly critical to future policy thinking and development to address root causes. What is most concerning about any review of the existing policy 'map' is that so much money and so much effort, some of it well intended, can have so little impact on the factors that create forced migration flows. This stems in significant part from 'policy gaps' in the different strands of thinking and respective strategies for delivery.

Discourse on the issue of humanitarian assistance and the development process has long been dominated by references to the different gaps – institutional, financial and conceptual – that have obstructed efforts in this area for the past 50 years (Crisp, 2001). These gaps remain today and in some ways have become even more apparent as the process of globalisation has taken hold and accelerated. It would be wrong to suggest

that the international community has not attempted to address these long-standing gap issues. As Crisp (2001) suggests, refugee-hosting countries in the developing world have contributed significantly to the international response as countries of first asylum. Donor countries have, to some extent, developed new strategies for transitional assistance, including more flexible funding mechanisms. At the multilateral level, humanitarian and development organizations have intensified discussions on how to improve planning, coordination and co-operation aimed at increasing the effectiveness of assistance to refugees and returnees. Despite these efforts however the evidence presented in this paper indicates that there is still a long way to go in 'joining-up' the different areas of policy that have the potential not to simply deal with the consequences of forced migration but prevent it from happening in the first place. This is due partly to lack of resources, but more importantly to differences in policy objectives and targets, where for instance powerful economic interests stand to lose if human rights and poverty reduction policies are given priority. Resources for some of the policies needed to tackle root causes will most likely come from development funds,<sup>29</sup> yet according to van Selm (2002a, 2002b) development ministries and their staff, as well as development officials in the European Commission, have put up stiff resistance to working with the HLWG on the basis that development funds, limited as these already are, should be ring-fenced for poverty reduction policies and certainly not be used to prevent people from exercising their human rights, including their right to seek asylum. In addition, tying development assistance to any aspect of migration is inherently controversial and a minefield of ethical dilemmas, as illustrated at Seville. Foreign policy meanwhile remains squarely in the realm of inter-governmental co-operation, giving rise to the possibility of multiple 'turf wars' between those representing asylum and immigration policies and those representing foreign affairs and development issues (Castles *et al.*, 2003). There is also evidence that different EU countries and different government departments within each country sometimes pursue conflicting policies.

The result is that while much effort has gone into strengthening the linkages between the EU's immigration and external policies this has not always led to greater coherence. Indeed the EU's prioritization of measures to fight illegal immigration over fighting the root causes of refugee flight and improving refugee protection in third countries has led to increasing incoherence in relation to the EU's human rights and development co-operation policies and objectives (ECRE 2004). The JHA itself recognises that there have been some difficulties in the extent to which co-operation in the field of justice and home affairs have been consistent with other Community policies, which involve the institutions of the European Union intervening differently by means of separate instruments (such as regulations and directives). This is partly because of the current ineffectiveness of the HLWG as a mechanism for bringing together a range of policy areas to produce specific plans and proposals. However this in turn reflects a lack of consistency across policy areas and indeed potential conflicts of interest between the different policy areas relevant to the issue of forced migration (Castles *et al.*, 2003).

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<sup>29</sup> Although the activities of the High Level Working Group are supported by a specific budget line for co-operation with third countries in the area of migration of around 12.5 million Euro for 2002, this is clearly not sufficient nor intended to support the specific measures required to address the root causes of forced migration to the EU.

## 7.2. What is the Potential for Long-Term, 'Joined-Up' Policy on Forced Migration?

If, as Loescher and Milner (2003) suggest, the 'missing link' that would respond both to the concerns of states and to the protection needs of refugees is more comprehensive engagement in regions of origin, the next question is how best this can be achieved and the identification of any risks that might accompany the considerable benefits that such an approach would bring.

It is conceivable that the reason why the existing approaches have failed to date is because it is not possible to tie together areas that are fundamentally incompatible at some level. Moreover given the problems that can arise when attempts are made to tie policies together – for example through the withholding of development assistance which will in turn create or exacerbate conflict – it is tempting and possibly easier in the short-term at least to avoid any efforts to do so. Yet given the overwhelming evidence that the current separate (and often conflicting) policies on poverty reduction, globalisation, security, refugees and migration are costly and counterproductive, it is at best unambitious, at worst dangerous, to do so. More importantly, as is suggested by Nyberg-Sørensen *et al.* (2002), there is unused potential in mutually supportive policies i.e. in a constructive use of activities and interventions that are common to the migration and development fields and may have positive effects on poverty reduction, development, prevention of violent conflicts, and international mobility. The European Union has a great comparative advantage deriving from its presence in numerous geographical locations, sectors and policy fields and is well positioned to take a lead in the migration-development field. There can be no doubt that it is currently hitting below its weight in addressing the causes of forced migration, a fact acknowledged by the Commission itself:

“The marginalisation of many economies, the increase in poverty in the work, the need to manage better environmental interdependencies, the destabilising effects of migration, and the consequences of armed conflicts are major concerns for everyone and Europe's citizen's understandably expect effective EU action in tackling them. Given the finances at its disposal and political weight the EU can make an impact” (European Commission 2001: 27).

Reflecting this, it is arguable that if even a small proportion of the resources and political effort currently expended on border controls were spent on tackling the underlying causes of forced migration, the number of asylum seekers in the EU and UK would fall of its own accord. Refugee and other migrant flows will never disappear completely but they could become politically and practically manageable. The ultimate beneficiaries would not only be European states desperate to be seen to be 'managing' the number of asylum application but forced migrants themselves who will no longer be required to fight so hard for so little.

It is easy to be despondent about the direction of policies relating to forced migration in the UK and EU over recent years but there is also some room for optimism. As the House of Commons International Select Committee (2004) has recently suggested, the debate on migration and development is at a similar position to that of the debate on trade and development ten years ago. There is a growing recognition of the connections between the two and of the underlying root causes of forced migration. Recent years

have seen an increasing interest from donor States in de-compartmentalising humanitarian and development aid and in incorporating refugee needs in development aid policies. This development can be attributed, among other factors, to a wish by many donor states to have a 'whole-of-government' approach comprising a joint strategic vision shared by different government departments like foreign affairs, justice and home affairs, defence and development co-operation. In this context, pooled financing has the potential to serve as an efficient way of creating greater coherence and an integrated policy-making. In addition, it is acknowledged that development assistance has a greater, and sometimes unused, potential to prevent conflicts and refugee outflows. This change of approach is welcome and should be encouraged.

As has been suggested throughout this paper, the direction and content of EU policies relating to forced migration are both determined and implemented by individual Member States. As has been noted by the House of Commons International Development Committee (2004), the Danish Presidency of 2002 played an important role in stimulating policy discussion on migration and development. The Presidency of the European Union in 2005 will provide the UK with an opportunity to promote a positive agenda on forced migration which takes account of the links between development assistance and forced migration in a way which addresses root causes and avoids linking the two in a way that might contribute in the long term to the factors that lead people to leave their countries of origin. Although, for the reasons discussed in some detail in this paper, the interests and objectives of DFID are unlikely to be the same as those of the Home Office and other departments with an interest in migration, the Government as a whole must ensure that it works effectively in pursuit of an overall objective of reducing the root causes of forced migration to the UK and EU as a whole.

Achieving 'joined-up' policy on forced migration is not impossible but it will take a significant step-change in thinking and considerably more political will than currently exists. There is a real opportunity on the horizon for the UK to shift thinking at the EU level about the root causes of forced migration and to develop long term policy approaches which deliver this step-change in practice. Such a step-change should be based on the following thematic policy approaches:

➤ **Measures to reduce the causes of migration and forced displacement**

Although improving the conditions in source countries is the best policy option of them all, it is the least well worked out and is difficult to implement in practice (Hatton and Williamson, 2004). For example, although most developed states are concerned about forced migration few have the political will to intervene in another state's affairs to the extent necessary to prevent refugee-producing situations, and whether they should be encouraged to do so is questionable (Gent, 2002). Whilst inadequate development aid, private investment and debt relief have tended to produce the general environment for conflict, including for those countries in post-conflict situations, simply reducing overall levels of poverty will not necessarily result in less out-migration and indeed may lead to an increase (Nyberg-Sørensen *et al.*, 2002). In order to deliver this policy objective it will be necessary to establish coherence across the UK and EU's policies in the areas of conflict prevention, Common Foreign and Security Policy, trade, humanitarian and development aid policy, and Common Agricultural Policy. It will also be necessary to join-up efforts to promote human rights, good governance and the rule

of law in regions of origin and to establish a step-by-step approach for long-term investment in capacity and institution building.

➤ **Promoting the reception of refugees in regions of origin**

A comprehensive set of measures is needed to realise effective protection in the regions (European Commission, 2003a). Enhanced protection capacity in the regions will also involve long-term investment, including capacity and institution building, requiring long-term financial and political commitment, as well as the involvement of countries of origin, first asylum and destination. Any additional financial assistance to promote the reception of refugees in regions of origin needs to be framed within the current legal, political and financial frameworks (such as the Cotonou agreement process) and development programmes applicable to the various countries likely to be considered. As a result this is arguably an area of policy development in which DFID has a particularly important role to play. UNHCR's Convention Plus initiative may provide an appropriate mechanism for taking work in this area forward.

➤ **Resettlement schemes to compliment improved in-country asylum processing**

Resettlement has increasingly been recognised as a valuable tool for protecting individual refugees, as a potential durable solution for groups of refugees and as a tangible expression of international solidarity and the principle of responsibility-sharing (Loescher and Milner, 2003; van Selm, 2003). In any refugee crisis, there are some refugees who can return home in the short- to medium-term; there are some who can integrate locally in their country of initial protection and there are others who need protection further away. Resettlement should target the latter group, but can most effectively be used as part of a comprehensive package that includes pragmatic and supportive measures for voluntary return and for local integration where the individuals and states concerned would most benefit from those solutions.

The UK has introduced a small-scale resettlement scheme and is currently in the process of evaluating the outcomes for individual resettled refugees and the communities to which they have been relocated. The European Commission has already identified an EU-wide resettlement scheme as one aspect of ensuring more accessible, equitable and managed asylum systems and has commissioned a study on the feasibility of setting up resettlement schemes in EU Member States or at EU level. Any resettlement schemes which are developed will need to be much more substantial than existing ones if they are to have anything other than a negligible impact (an annual European quota of 100,000 is the emerging consensus), must be treated as a complement to, rather than as a substitute for, the right to seek asylum spontaneously and should not be a substitute for the legally binding rights that attach to a refugee who has directly engaged the protection obligations of a state party to the 1951 Refugee Convention. This means that failure to access such procedures should never be used as a reason to deny an asylum-seeker access to a procedure, or to draw adverse inferences about the genuineness of his other claim for protection. Much of the thinking on the strategic use of resettlement is already underway. As noted in section 4 of this paper, resettlement is a key priority for the Convention Plus initiative and as part of this process UNHCR has established a Working Group on Resettlement composed of UNHCR, resettlement countries, emerging resettlement countries and IOM. At the same time there is a need to improve asylum processing in the UK and other EU Member States. The adoption of the full

package of Directives under the Amsterdam Treaty should be considered as a starting point for new initiatives aimed at deepening and expanding the harmonisation process. The potential of Protected Entry Procedures should also be pursued. These are examined in considerable detail by Noll and Fagerlund (2002).

### 7.3. Specific Recommendations for DFID

The recommendations presented below are specifically orientated towards identifying the role that DFID might play in helping to shape UK and EU policies on forced migration. These recommendations should be interpreted in the context of the broad policy options outlined above:

➤ **DFID should promote understanding of the causes of forced migration and demonstrate political leadership on this issue**

There is a pressing need, and a duty, on the part of governments and politicians to demonstrate leadership to their publics and political constituencies and, with the support of both the UNHCR and the European Commission, to raise awareness of the rights that refugees have and should enjoy and the obligations that states have to protect them. As noted earlier in this paper, migrants, refugees and asylum-seekers often come from countries wracked by armed conflict and/or human rights abuses. This fact is not widely known among the general public of the UK or most other EU countries because political and media messages are always framed in terms of control, illegality and abuse of the asylum system. The Home Office finds it very difficult to exhibit leadership of this kind because has to be seen to be in control and has based much of its policy in recent years on the premise that the majority of asylum seekers are not genuinely in need of protection. DFID occupies a different political and policy space. The Commissioner for Development and Humanitarian Aid has shown a willingness to show political leadership at the European level. DFID should follow suit.

➤ **DFID should play a more significant role in 'joining-up' policy at UK and EU levels**

Given DFID's significant expertise and understanding of the factors contributing to forced migration, the Department has an important contribution to make in improving understanding across other government departments including the Home Office. Three specific proposals are recommended. Firstly, DFID should commission in-depth and systematic research on one specific country or region from which forced migrations to UK originate. This research should map out all of the different areas of UK and EU policy that have impacted on the current situation in order to understand better the interconnection between different policy objectives and outcomes. Second, DFID's Migration Policy Team should engage with the Global Commission on International Migration (GCIM) in thinking through the linkages between different policy areas. It is also important to ensure that the impacts of the (mis) use of development policy, for example aid tied to re-admission agreements, are understood, including in terms of the potentially negative impact on development and conflict in the countries from which refugees and migrants originate. In addition, DFID, together with other UK government departments including the Home Office, should explore whether there is potential for the HLWG to be a more transparent mechanism focused less on re-admission agreements and more on addressing root causes. If not, proposals should be developed



to establish a more effective mechanism for bringing together different strands of policy at the EU. The lead Directorate General should not necessarily be the JHA.

➤ **DFID should support proposals for resettlement from countries and regions of origin**

All EU Member States, whether separately or collectively, should establish resettlement programmes. These could be small, in the first instance, and only provide emergency resettlement for urgent protection cases, at the call of UNHCR. Over time attention should turn to selection criteria that permit more widespread resettlement, offering a durable solution to refugees and as a matter of burden sharing with states in the region of origin. As a matter of strategy, EU Member States should view resettlement as part of a comprehensive approach to protection, which includes other durable solutions and is linked to the EU's external relations. This will require DFID's expertise and support.

➤ **DFID should establish effective and meaningful mechanisms for engaging with civil society (including NGOs and diaspora) in the area of forced migration**

Those parts of UK and EU government that are responsible for immigration control have typically not been very good at engaging with civil society because their interests and priorities lie elsewhere. DFID already has good relations with many NGOs, including those working outside the asylum area with knowledge and expertise on the causes of forced migration that is not normally tapped into. DFID should establish dialogue and communication with civil society in countries and regions of origin with a view to both learning more about situations on the ground and understanding the factors that contribute to forced migration and the reasons why people chose to move at particular times and go to particular places (i.e. motivations and experiences) and to establishing partnerships and effective working relationships to help deliver policy aimed at alleviating situations leading to forced migration. In the UK and EU contexts, it is also important to develop a dialogue with existing NGOs with expertise in protection issues. As a start-point for this process, ECRE (2004) has stated that the community of refugee-assisting organisations in Europe (which it represents) is committed to increased and constructive dialogue with European governments, institutions and policy-makers. In the near future ECRE will be putting forward a set of comprehensive proposals on how Europe can more effectively achieve concrete improvements in refugee protection. It is recommended that DFID and other parts of the UK policymaking apparatus engage with these and build on them.

➤ **DFID should extend its capacity-building function to situations where there is a risk of forced migration flows and/or internal displacement even where this is not directly related to poverty reduction objectives**

Investment in capacity building is important not only to ensure better protection in the regions where refugees are forced to flee but also because it potentially plays a role in reducing the number of people who are compelled to leave their countries of origin in the first place. As is noted by Loescher and Milner (2003: 607), 'enhancing capacity in the regions of origin should be viewed as being in the best interests of European states anxious to reduce the number of applicants for asylum'. DFID should encourage and support UK and European NGOs to form partnerships with local NGOs in the regions

of refugee origin, and to participate in personnel exchanges, joint training programmes and resource development. DFID should continue its support for UNHCR but encourage an approach to refugee protection that focuses on capacity building in countries and regions of origin rather than investing in new initiatives such as the proposed European Asylum Agency.

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**Thematic Paper II: The UK, the EU and Forced Migration**

## **Thematic Paper III: Making or Breaking the Conflict Cycle: The Relationship Between Underdevelopment, Conflict and Forced Migration**

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## INTRODUCTION

### I. Development, Conflict and Forced Migration

This paper looks at the relationships between development, conflict and forced migration with the purpose of investigating how humanitarian, refugee and development assistance policies can help developing countries resolve or prevent violent conflicts. By pursuing aid policies conducive to conflict prevention and resolution, aid agencies contribute to the quest of finding durable solutions to forced migration movements. The United Nations High Commissioner for Refugees (UNHCR) sets out three types of durable solutions to forced migration movements: local integration, resettlement in third countries, and repatriation. Of these, repatriation is seen as the *preferred* solution, both for the forced migrants themselves, most of whom would rather return home if only they could, and for host states and resettlement countries, who prefer to host as few refugees as possible for economic, political and, sometimes, security reasons.

Repatriation is often also the most difficult solution. In most cases, voluntary repatriation requires that the conflict from which people flee is resolved. Furthermore, for repatriation to be durable, peace and stability must be solidified through concerted and sustained efforts to promote reintegration (of forced migrants as well as former combatants), reconciliation and reconstruction.

Once forced migrants have returned and the emergency phase of the forced migration situation is over, overseas assistance is usually diverted from relief to development programmes (while overall funding levels often go down). Once the reconstruction effort is underway, development assistance should not only be seen as part of the effort to rebuild the country economically after a devastating conflict, it should also be geared towards ensuring that violence does not re-erupt and the country does not return to the cycle of conflict and forced migration. This leads us to the aim of *prevention*. In the early 1990s, the goal of prevention was heralded by the UNHCR as the most promising new solution to the forced migration problem. In the optimistic days just after the fall of the Berlin Wall, UNHCR was not alone in the belief that the post-Cold War international system offered an unprecedented opportunity to deal with the root causes of flight – that is, to resolve the conflicts that force people to flee in the first place.

Several seemingly intransigent wars and violent conflicts were indeed resolved in the early 1990s, including in Mozambique, South Africa, Cambodia and Guatemala. However, a surge of political conflicts divided along ethnic, religious or tribal lines led to civil war in the Balkans and parts of the former Soviet Union; state collapse in Somalia and Zaire/Congo; and genocide in Rwanda (to mention some of the worst conflict-induced humanitarian emergencies in the 1990s). The murderousness of these conflicts and the rapid increase in the global number of forced migrants,<sup>1</sup> soon dampened the belief in prevention. The fate of the deceptively named 'safe areas' in Bosnia, and in particular the massacre of 7-8000 men in Srebrenica in 1995, made the

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<sup>1</sup>The global number of refugees rose from 14.9 million in 1989 to 18.1 million in 1992, but has since decreased steadily to 11.5 million in 1998, 11.7 million in 1999, and 9.7 million in 2003. The number of 'others of concern to the UNHCR increased in the 1990s as refugee numbers went down. However, in recent years it has also dropped, from 10 million in 1998, to 6.8 million in 2002, and 5.3 million in 2003. (UNHCR, 2000a: table I.4; and UNHCR, 2004a: 2).

notions of prevention and in-country protection unpalatable from a refugee protection point of view (Hammerstad, 2003).

Nevertheless, prevention – understood as finding remedies to the root causes of flight rather than preventing people from fleeing violence – remains the ideal solution to the forced migration problem despite the difficulties entailed in pursuing this solution in practice. The period since the end of the Cold War has seen an increasingly sophisticated debate on the causes and consequences of forced migration and on the role of humanitarian and development agencies in responding to forced migration movements. The impact of humanitarian operations has been increasingly problematised. (De Waal, 1997).

Taking into account the lessons that have been learnt (at least in theory, if not yet in practice) over the last ten to 15 years, this paper will discuss the root causes of forced migration movements, with particular emphasis on underlying causes of violent conflict. The paper focuses particularly on the vicious cycle of underdevelopment, conflict and forced migration. This leads us to concentrate on the problem of weak and failing states in the developing world.

The first part of the paper looks at the causes and consequences of violent conflict and forced migration. It discusses the role of economic factors in causing conflict and forced migration. Conversely, it also investigates the negative impact on development, poverty and economic growth caused by violent conflict and forced migration. Together these complex links of cause and effect can be described as the conflict and forced migration cycle, where underdevelopment and weak state institutions make a country vulnerable to violent conflict and mass forced migration movements, while conflict and flight again undermine efforts to strengthen the state's political and economic governance.

Part Two of the paper looks at how this vicious cycle can be broken, with particular emphasis on how developmental and humanitarian aid can be honed to strengthen the prospects for peace and security. The donor community has a better understanding of the potential detrimental impact of development and humanitarian assistance on the long-term peace and prosperity of aid recipient countries today than it had in the early 1990s. Several initiatives have been launched to breach the relief-development gap and to introduce development policies that are context-sensitive and conducive to conflict prevention and resolution. The paper provides recommendations on how to build further on these initiatives.

The paper concludes by pointing to factors outside the remit of aid policies that have a strong impact on the conflict and forced migration cycle. These include foreign policy, trade, investment, military intervention, and governance issues. In the longer term, getting these issues right would provide a stronger contribution to development, peace and security in developing countries than we can ever hope to achieve through aid.

## **II. Defining Key Terms**

Before discussing the relationship between poverty, development, conflict and forced migration, it is necessary to clarify what these terms mean.

### ***II.a. Forced Migration***

According to the UN Refugee Convention, a *refugee* is someone who, 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fears, unwilling to avail himself of the protection of that country'.<sup>2</sup> Since persecution is only one of many coercive causes of flight, it is common to include as refugees people who flee across an international border from war, aggression, political violence, break-down of public order, massive human rights violations or other serious threats to life, limb, and subsistence caused by human actions. This report adheres to this wider understanding of the term 'refugee'.

*Forced migration* includes refugees, as defined above, as well as people who have been internally displaced for the same man-made reasons. The term *forced migration* is used to underline that internally displaced persons (IDPs) flee for the same reasons and have the same needs for protection and assistance as refugees do. There is of course a legal difference between refugees who fall under the UN Convention, and other categories of forced migrants. The paper makes a distinction between Convention refugees, IDPs and other categories of forced migrants when necessary, but generally uses the term *forced migration* to describe mass movements of people fleeing violence, war and insecurity.

### ***II.b. Conflict***

Political conflicts exist in every community and are not necessarily a problem for peace and stability. One of the greatest successes of mature democracies has been their ability to take domestic conflicts over the distribution of goods and competition for control of the state out of the realm of security and into the realm of ordinary politics. This paper is not concerned with internal conflict as such, but only with what happens when conflict turns into large scale violence.

### ***II.c. Poverty and Development***

There are many different ways in which to define poverty. The United Nations Development Programme (UNDP) distinguishes between human poverty and income poverty, the former definition including such issues as education and health, while the latter is the more commonly used one of stipulating a certain level of income as below the poverty line. This report defines poverty in line with the Millennium Development Goals (MDG), which aim to halve by 2015 the proportion of people living on less than US\$1 a day and those who suffer from hunger. This measures *extreme* poverty, and would exclude people living under the National Poverty Line in most western countries. According to the MDG targets, more than a billion people still live on less than a dollar a day in sub-Saharan Africa, Latin America and parts of Europe and Central Asia.

Development has long been understood as more than just economic growth. It is common to attach the adjective *human* in order to emphasise that development must include betterment of the conditions of living for most people within a country, not just an elite few. Poverty alleviation and the redistribution of goods through healthcare, education, infrastructure development and job creation – to mention some – are therefore necessary parts of a developmental agenda. Furthermore, economic growth and poverty alleviation must be *sustainable* over time. Short-term profitable extraction of natural resources, often of an environmentally hazardous nature, where profits go into

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<sup>2</sup> *Convention Relating to the Status of Refugees I* (Geneva, 1951), article 1(2).

off-shore bank accounts rather than being reinvested and redistributed, may create GDP growth for a while, but is unlikely to create development. Due to this caveat of sustainability, this paper would argue that no adjectives are necessary: only development of the human kind will lead to sustained and significant economic growth.

An important explanation for the lack of development in some developing countries since independence must be found in the phenomenon of weak states, with an insecure political elite presiding over poorly developed and unstable political institutions. It has become commonplace to talk about economic and political *good governance* as a criteria for development. This paper will do the same.

## **PART ONE**

### **1. DEVELOPMENT, CONFLICT AND FORCED MIGRATION**

#### **1.1. Introduction**

This first part of the study will analyse the problem at hand: What is the relationship between conflict and forced migration? How important are underdevelopment, poverty and economic inequality when it comes to creating the sorts of conflicts that lead to forced migration?

Perceptions of the nature of the refugee problem and how to deal with it have changed dramatically over the last twenty years. This change in perception accelerated in the period around the end of the Cold War (Hammerstad, 2003). Before then, actions to deal with refugees were seldom viewed in connection with action to resolve violent conflicts and wars. The actors involved in the two areas would usually be separate and have limited knowledge of each other's work.

Today the forced migration problem is seen as much as a political and security problem – how to solve the root causes of flight and how to deal with the detrimental effects of refugee influxes – as a humanitarian and human rights problem – how to protect the rights and needs of forced migrants after flight has taken place. The underlying assumption of this post-Cold War holistic discourse is that development and relief aid must go hand in hand with economic, political and even military interventions to get rid of the conditions that cause conflicts and forced migration. The ensuing discussion will focus on the root causes of flight.

#### **1.2. The Impact of Development on Conflict**

According to the World Bank, civil war is both a problem *for* development and a problem *of* development (Collier et al., 2003: ix). The first point is straightforward and well understood: civil war undermines or destroys development initiatives, curbs economic growth and increases poverty. The ways in which conflicts undermine development will be discussed later on in this report. The second part of the claim is based on a statistical fact: developing countries have a higher risk of becoming embroiled in civil war than more developed ones do. This is a more recent discovery and also a more complex issue to understand. This section will look at the potential role of poverty, economic inequality and natural resources in increasing the risk of armed conflict.

##### **1.2.1. Poverty and Conflict**

According to the United Nations Development Programme, only 14 percent of the states in the top half of the Human Development Index had experienced armed conflict in the period 1992-2001, while 45 percent of the states in the bottom half had been at war in the same period (UNDP, 2002). Sub-Saharan Africa seems to provide particularly strong proof of the thesis that poverty leads to conflict. However, this correlation between poverty and conflict does not suffice as a tool for understanding when a particular country is at risk of violent conflict. After all, if 45 percent of poor countries had experienced war in the last decade, 55 percent had not. Since far from all poor countries are unstable, there must be something else besides underdevelopment that

creates the conditions for violent conflict. While there is a statistical relationship between poverty and war, then, it cannot be said that there is a direct causal link between the two.

Having said this, poverty can certainly be a contributing factor in spurring a country towards civil war. Most of the literature on the causes of conflict agrees that sharply deteriorating economic conditions (rather than poverty as such) signals a high risk that the country will descend into conflict. It is in countries like Zimbabwe, rather than its poorer neighbour Malawi, that the donor community should be particularly cautious about how aid and other interventions affect the likelihood of conflict. The former Yugoslavia and some of the CIS countries are examples of economies in turmoil and decline that descended into political violence.

In Zimbabwe, real GDP contracted by about 40 percent between 1999 and 2003, and even though the decline is slowing down, negative growth is expected to continue in 2005 (EIU, 2004). These economic woes must be understood in a political perspective. The prospect of ZANU, the country's liberation party, losing power to the opposition Movement for Democratic Change in democratic elections led to a combination of repressive political actions and a land-grab programme phrased in terms of anti-colonialism and race. As the economy has spiralled into decline, freedoms of speech and assembly have been heavily circumscribed. While the country is not in a situation of civil war, communal violence has been on the increase, as has ethnic divisions between Shona and Ndebele and geographical divisions between town and countryside. This said, the level of political violence and repression in recent years is far lower than in the early 1980s, when the Shona dominated Zanu destroyed the Matabele opposition of ZAPU through massacres of 20,000 people in Matabeleland.

### ***1.2.2. Inequality and Conflict***

Poverty has halved since 1981 globally, but this statistic hides severe differences within and between countries and regions. While East Asia and the Pacific reduced the number of people living on US\$1, a day from 55.6 percent of the population to 15.5 percent – mainly due to improvements in India and China – the share of people in Sub-Saharan Africa living on one dollar a day increased in the same period, from 41.6 to 46.5 percent (World Bank, 2004). Most experts, regardless of the methods used to measure inequality, agree that global inequality has increased over the past twenty years (Wade, 2003: 35-36). In many developing countries inequality *within* society has increased in the same period.

High economic inequality may contribute to instability and the eruption of violent conflict. However, not all highly unequal countries are prone to violent conflict. Brazil and South Africa, two of the countries with the most unequal distribution of wealth in the world<sup>3</sup>, are relatively stable, powerful and prosperous compared to their neighbours.

It might be more fruitful to look at the combination of poverty and inequality. However, when comparing the gini coefficient of countries that are ranked as 'low human development' by UNDP and have experienced armed conflict in the last decade, no clear picture emerges. Sierra Leone seems to confirm the hypothesis that poverty and

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<sup>3</sup> South Africa had 59.3 and Brazil 60.7 on the Gini Index, with 0 being perfect equality and 100 perfect inequality. (UNDP 2004: 282-85).

inequality is an explosive combination: the country is last on the UNDP's human development index, has a high gini coefficient of 62.9 and has only recently emerged from a devastating and cruel civil war. But Malawi and Zambia also rank high on the gini index without showing signs of political instability. Rwanda is an opposite example, where genocide took place in a poor, but economically egalitarian society with a gini coefficient of 28.9 – only slightly higher than the 25.8 of Norway, ranked as number one on the Human Development Index, and much lower than the United States with 40.8 (UNDP, 2004: 282-85).

Despite these counter examples, poor societies with high inequality between a small elite and a population living in poverty are more at risk from civil war than richer and more egalitarian ones. There is a growing consensus among economists that economic growth, when only benefiting a small elite, is harder to sustain over time and less likely to transform a developing country into a developed one. While there is no agreement on how egalitarian a country should be for sustained and broad development to take place, there is consensus that countries like South Africa, Brazil and Angola face a huge challenge of development despite their economic growth.

While highly unequal developing countries struggle to achieve poverty alleviation and development, opinions differ on whether this increases the likelihood of violent conflict. The risk seems to increase the weaker the state structures and the poorer the unequal country is overall. Thus Brazil and South Africa cope relatively well, although their exceptionally high crime rates are strongly linked to their social and economic inequality. Angola and Sierra Leone, on the other hand, are civil war prone. It should be noted that the causal relationship also goes the other way. Civil war makes most people poor, while a small political elite can enrich itself, often through illegal means, in an opaque war economy.

### ***2.2.3. The Impact of Natural Resources on Conflict***

Although natural resources like gold, diamonds, timber and oil have often been labelled a curse rather than a blessing for developing countries, Botswana has profited greatly from its diamonds and enjoyed peace and stability since independence. Ghana, after political instability in the 1970s and 1980s, has emerged over the last decade as another of the most successful African states. Through democratisation, sound macro-economic management and a relatively good record of political and economic governance, the country has been able to put its resource wealth – gold and cocoa – to good economic use without spurring political instability.

Quantitative scientists disagree widely over the exact relationship between natural resources and civil war. Researchers such as Collier et al. (2003) have painted a bleak picture of 'the resource curse'. This picture has been nuanced by more recent research. Most researchers now agree that oil and diamonds increase the risk of armed conflict, while they have moved away from asserting a similar link between agricultural resources and civil war (Ross, 2004). If oil and diamond wealth is found in weak or collapsed states, the risk of conflict increases further (Reno, 2000).

Usually political grievances and divisions must be added if natural resources are to lead to serious conflict. This is especially the case if we concentrate on the sort of conflict that creates mass movements of forced migrants, in contrast to palace coups that may change the people on the top without having great repercussions for the wider society.



An example of the latter took place most recently after oil was struck in the tiny island state of Sao Tomé in 2003. The government was fortunately quickly reinstated after resolute intervention from the African Union, South Africa and Nigeria.

Natural riches may be particularly 'dangerous' if they are found in only one region of the country and if this region is inhabited by one particular minority group. In such cases, separatist tendencies can be fuelled by the newfound wealth. The Biafra war was an example of such a combination of disaffected minority groups and oil. Nigeria's oil regions are still volatile, not least because very little of the oil revenue returns to the areas from where the oil is pumped. The Niger Delta, the source of most of Nigeria's oil, is one of the country's most impoverished regions (Hammerstad, 2004).

There is also evidence of conflicts being *sustained* by the existence of coveted resources, especially if these are easily extractable – or 'lootable' – without the need for heavy infrastructure investments (Ross, 2004). The control of diamond territory can enable rebel groups to finance their fighting year after year. Angola's riverbed diamonds are a case in point. Sometimes the illicit business networks created around the illegal sale of timber, diamonds, cobalt and other minerals are so lucrative that they become a reason of their own to continue fighting. The transformation from political ideology to business logic could be seen in Angola's and Sierra Leone's civil wars.

Collier et al. (2003: 75-79) argue that natural resources may also make the initial resort to arms easier for rebel groups, since they know that as long as they can hold on to resource rich parts of the country they will be able to buy the arms and equipment they need to become a serious threat to government forces. However, others, such as Ross (2004) do not find robust data to back up this claim.

The contrast between Angola and Mozambique, two former Portuguese colonies in Southern Africa, provides an interesting lesson on the relationship between natural resources and conflict. Both suffered devastating civil war for decades after independence. In both countries the rebel groups were supported by powerful external actors: the United States and South Africa funded and supported the Angolan UNITA, while Rhodesia and then South Africa supported RENAMO in Mozambique. In Mozambique, the war ended in 1992, soon after the end of the Cold War and the beginning of democratic transition in South Africa – two events that left RENAMO without external supporters. In Angola, after a short lull, the conflict carried on for another ten years with heavy loss of life (particularly among civilians), despite the withdrawal of US and South African support for UNITA. An important reason for this was UNITA's access to diamonds, which made continued fighting both possible and lucrative for the organisation's autocratic leader, Jonas Savimbi. Angola's civil war did not end until UNITA was beaten militarily and Savimbi killed in 2002.

#### ***1.2.4. Conclusion: A Complex Link Between Economics and Conflict***

Poverty, underdevelopment and inequality contribute to conflicts in the developing world. However, such economic issues must be understood as underlying or enabling factors in the context of the more immediate political causes of conflict. In many cases weak and predatory regimes combine political repression with economic mismanagement and self-enrichment, steering the country into deepening political and economic crises. The disintegration of Mobutu's Zaire is the classic example of this.

More disturbingly for advocates of democracy and good governance in the developing world, *positive changes* such as democratisation and rapid economic growth also increase the risk of violent conflict. Most analysts agree that neither democratic nor authoritarian societies are particularly war-prone. Instead, the political situation most at risk of deteriorating into violent conflict is that of *transition* from one political system to another. While democracy lessens the risk of conflict and forced migration, *democratisation* may heighten it (Melander and Öberg, 2004).

Examples of *transition-induced* conflict and forced migration abound. Historically some of the most tragic and deadly conflicts leading to massive forced migration have not taken place in the poorest countries of the world. Instead they often have in common that they took place in periods of groundbreaking and dramatic political changes in the international system and on the domestic arena. Among such crises should be included the final months of World War Two, when Eastern European countries and former German territories expelled around 11 million ethnic Germans at a great loss of life. Another example is the population exchange of millions of people between India and Pakistan in 1947 after independence from the British Empire (Weiner, 1993: 150-161). Removing any hope there might have been that such scenes would disappear from the world stage after the end of the Cold War, the ethnic cleansing in the Former Yugoslavia in the 1990s is another example of mass forced migration that cannot be explained from a developmental perspective. These terrible events are better explained by referring to the struggle for political control over territory in a period of upheaval and changing power constellations both domestically and internationally (the end of World War Two, the end of colonialism, and the end of the Cold War, respectively). In these periods of fluidity and upheaval, economic and political disputes were transformed into deadly conflict by political elites who resorted to a vitriolic form of ethnic or religious based nationalism in order to further their quest for political power.

This caution aside, a look at most of the conflict-induced forced migration movements in the last few years shows that almost all new mass forced migration movements have been from desperately poor and often highly unequal countries. Of the six countries that produced more than 10,000 refugees in 2003, all were among the poorest countries in the world. The six are Sudan, Liberia, the Central African Republic, the Democratic Republic of Congo, Côte d'Ivoire and Somalia (UNHCR, 2004a: 4).<sup>4</sup> To understand why these countries have descended into the sort of conflict that induces mass forced migration, pointing at their troubled economies is not enough. It is more important to recognise that these states can all be characterised as severely weakened or failed. They are riddled by political divisions, repression, mismanagement and human rights abuses, and their weak or non-existing (Somalia) central governments only control parts of the country's territory. At first glance, Côte d'Ivoire may look like an exception to this rule. However, although the country looked like a haven of tranquillity next to its neighbours Sierra Leone, Liberia and Guinea in the 1990s, the north-south divisions within that country had existed for a long time.

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<sup>4</sup> The same trend can be found in 2001, when the largest refugee flows occurred from Afghanistan (200,000), the former Yugoslav Republic of Macedonia (93,000), Angola (45,000), Sudan (35,000), DR Congo (33,000), Central African Republic (27,000), Somalia (21,000), Burundi (16,000), Liberia (12,000). Apart from FYR Macedonia, these are all among the poorest countries in the world (UNHCR, 2001: 20).

“Contrary to common belief, there is no clear correlation between poverty (or economic inequality) and social conflict. (...) [M]ore recent research has shown that, to cause civil strife, economic crisis must be severe, persistent, and pervasive enough to erode the legitimacy or moral authority of the dominant social order and system of governance. System legitimacy is therefore a critical intervening variable between rising poverty and civil conflict” (Homer-Dixon, 1994: 26).

Côte d’Ivoire is a good example of another central characteristic of these six refugee creating countries: they are all found in regions of the world – West Africa, Central Africa and the Horn of Africa – where over decades forced migration has contributed to spread the *contagion* of conflict and instability. Poverty and inequality must be understood as part of a complex web of domestic and regional factors that can hurl a country into civil war.

Creating and sustaining economic growth and alleviating poverty are powerful ways of strengthening system legitimacy in weak states. But weak states are often incapable of putting in place the necessary policies to create a successful economy, not least because they often have a history of social division and violent conflict. Most donor states have recognised that conflict, weak states and underdevelopment go hand in hand, and have made institution building, good governance and the fostering of national cohesion a key aim of development assistance efforts. While appropriate, this slow and difficult task is faced with two serious threats: First, as mentioned above, countries in the throes of deep political, social and economic *transition* – even when towards democracy and development – are even more at risk of violent conflict than communities that are ‘merely’ poor, unequal or authoritarian. Second, many weak and underdeveloped states have only recently emerged from civil war and are often at risk of descending back into violence. The next section will look at this issue of the impact of conflict on development efforts.

### 1.3. The Impact of Conflict on Development

While the impact of poverty and inequality on violent conflict is a complex subject, the relationship the other way around is neither complex nor disputed: instability and war always hinders and usually reverses development and exacerbates poverty in developing countries.<sup>5</sup> It does so in two ways. First, government spending is diverted from the civilian sector to the military, thus weakening crucial public services such as healthcare and education. Second, warfare itself is destructive of infrastructure, lives and livelihoods.

While some individuals and groups can stand to gain from war, this is not the case for the country as a whole or for the majority of the population. Sadly, the people who start or perpetuate civil wars are often insulated from their economic effects – in some cases using the lawless environment created by war to enrich themselves. The consequences are felt by ordinary people, and particularly by the most vulnerable members of society. This divide between those who fight and those who are affected by the fighting contributes to making it difficult for outside actors to get the warring parties to come to

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<sup>5</sup> According to Collier et al. (2003: 84), a country in civil war loses on average 2.2 percentage points off its normal annual growth rate. For an average lasting civil war of seven years, per capita income is 15 percentage points lower than it otherwise would have been at the end of conflict.

an agreement. Those with the highest stake in peace are often not given a seat at the negotiation table.

Civil wars damage not only economic institutions but also political ones. Corruption tends to spread while public accountability is sacrificed in the name of national security. Independent institutions like the judiciary, parliament and the media are weakened and authority relies increasingly on strongmen in government and the military rather than on political institutions and the rule of law. These are setbacks that are not easily remedied. Internal conflict therefore increases the risk of perpetuating weak states and bad governance. Add to that the economic cost of fighting, and a country emerging from civil war will have the odds stacked against it for achieving sustainable development and political stability.

#### **1.4. The Impact of Conflict on Forced Migration**

Violent conflict and civil war is the most common cause of forced migration. Most wars after the end of the Cold War have had much higher casualty rates among civilians than among combatants. This can be due to the indiscriminate nature of the violence and the lack of respect for human rights and the laws of war among ill-disciplined militias. But it has also resulted from the direct targeting of non-combatants, to get rid of 'enemy populations' who harbour guerrilla fighters or to attempt to permanently cleanse a territory of other ethnic groups. The most serious conflict-induced forced migration movement in 2004 was a result of such ethnic cleansing: aerial bombardment followed by raids by pro-government Arab militias led to around one million of the black population of the Sudanese province of Darfur to become internally displaced and another 170,000 to flee to eastern Chad (UNHCR, 2004b).

Civilians are often forced to flee internal conflict even when they are not directly targeted. The military strategy of living off the land is widely pursued by government and rebel forces alike in civil wars in developing countries. For civilians, a violent death is often less of a threat than starvation and disease. The often-quoted figure of three million conflict-related deaths in the DRC since the outbreak of war in 1996 includes mostly people dying from starvation, malnutrition and disease after being forced by fighting away from their homes.

Not everyone – usually not even the majority – of forced migrants fleeing civil war become *bona fide* refugees. Many trek into urban areas, where there is a greater variety of means of survival – ranging from finding paid jobs to begging and criminal activities. Capitals of war-torn countries like Luanda and Maputo tend to swell massively during the war, and most of the wartime influx will not return to the countryside once the fighting subsides. Conflict, then, is often a means of forced but lasting urbanisation. Others move to parts of the country untouched by the war, and some move across the border into neighbouring states where they usually end up relying on humanitarian relief in refugee camps.

#### **1.5. The Impact of Forced Migration on Conflict**

This section looks at forced migration as a potential factor in increasing the risk of conflict, first, in the refugee sending state, and, second, in their host states. A more

thorough account of the security dimensions of refugee movements can be found in a separate report (Loescher and Milner, 2004).

### ***1.5.1. Forced Migrants and Conflicts in Sending States***

The tactic of ethnic cleansing has been much used in the post-Cold War period, most recently in Darfur. Although warring parties may see this as an effective way of achieving their war objectives, it seldom leads to the end of conflict. More often, it leads to stronger links between armed rebels inside the country's borders and enemy forces – diasporas, refugee warriors and hostile neighbouring states – on the outside. In addition, the creation of a large refugee population often contributes to the resilience of conflicts (Ogata, 1996: 3). In the Middle East, generations of stateless Palestinians growing up in refugee camps constitute a serious obstacle to peace in that region. In the Great Lakes, the *génocidaires* who have taken refuge in the woods of eastern DRC, are seen as a constant threat to Rwanda's security.

### ***1.5.2. Forced Migrants and Conflict in Host States***

It has been argued convincingly that mass influxes of forced migrants can in some cases be seen as a form of non-military invasion that can have huge economic and political consequences, and can sometimes even destabilise the host region or country (Dowty and Loescher, 1996). However, when discussing the potential threats posed by refugees to their host state, it is necessary to distinguish between weak and strong states. Weak states are, as the name suggests, already prone to instability and conflict. They are characterised by poorly developed economies and polities; a lack of social and political cohesion often manifested through religious or ethnic divisions; and their governments and state institutions often struggle with low legitimacy (Ayoob, 1995; and Azar and Moon, 1988).

When arriving in weak states, large refugee movements may contribute to instability by exacerbating or triggering pre-existing internal tensions. Mass refugee influxes can upset a fragile internal balance between political contenders and accelerate existing internal conflict in their host state (Loescher, 1992: 14). The presence of disgruntled Palestinian refugees in Lebanon was a crucial factor in that country's descent into civil war. The endemic instability in parts of the African Great Lakes region is to some extent the result of a long tradition among refugee warriors of allying themselves with various political factions – government or opposition – in their host states and becoming entangled in that state's internal politics.

For instance, Uganda's dictator Obote decided to use the Rwandan Tutsi refugees together with his country's own Tutsi population, as scapegoats for all Uganda's ills in his struggle to retain power. Up to 60,000 Rwandans were estimated to have been killed during the 1980 civil war in Uganda. Rwandan refugees then rallied against Obote and contributed 3000 out of the 14,000 men of Museveni's National Resistance Army (NRA) who overthrew the dictator in 1986 (Van der Meeren, 1996: 261).

### ***1.5.3. Forced Migrants, the Environment, Development and Conflict***

Forced migrant flows and environmental strain are often closely linked in the developing world. Enormous refugee camps with tens of thousands inhabitants can easily upset a delicate ecological balance, particularly in areas such as the Horn of Africa that already suffer from environmental problems, scarce resources and poverty (Lee, 2001: 111-112). According to Mbonile (1998: 157), Rwandan Hutu refugees

consumed 3,758 hectares of forest during the first three weeks after their arrival in Zaire.

There is a close link between environmental and economic problems in developing countries. In poor, overwhelmingly agrarian societies, environmental degradation and the depletion of scarce resources may have profound effects on the local economy. Large refugee influxes may lead to food scarcity, rapid inflation, unemployment and the crumbling of the economy (Jacobsen, 1993: 215).

Such refugee induced environmental and economic problems may lead to increased conflict in host states. When the competition for scarce resources intensifies, so does hostility to the newcomers. This can lead to clashes between refugees and locals, as well as to increased animosity towards central authorities, since they are seen as unable or unwilling to cope with the refugee influx in a manner that does not jeopardise the livelihood of their own citizens.

However, refugee flows can also have a positive effect on economic development. Remittances sent home by refugees can be a source of much needed foreign currency for their sending state. In Eritrea, remittances constituted 16.7 percent of the country's Gross National Income in 1999 (IOM, 2003). Refugee hosts may also benefit: local communities can experience a surge in trading activities, as humanitarian assistance is bartered on the market place. Both locals and refugees may benefit from the humanitarian and development assistance that often arrives in the wake of refugee influxes. One study of Malawian villagers found that they were in general satisfied with the presence of a Mozambican refugee camp in their neighbourhood:

“The primary reasons for their feelings regarding the camp were first that they had ‘more money’ than before and second that they had access to a market-place, a hospital, good roads, etc. A comment widely heard, indeed, was that the area was finally developing” (Callamard, 1994: 53-54).

#### ***1.5.4. Conclusion: Forced Migrants and Weak States***

To conclude, forced migrants are most at risk of increasing the likelihood of conflict in their host states when several social, economic, environmental and political factors coincide. These factors are most likely to coincide and interact in developing states that are riddled by ethnic and communal rivalry, weak and illegitimate central government, and harsh competition for scarce resources. Refugees can be directly involved in armed conflict when they as refugee warriors take part in interstate or intra-state armed conflict, and they can constitute indirect threats to stability when their influx triggers an already explosive mix of economic, social, environmental and political problems in their host state or region.

### **1.6. Forced Migrants and the Contagion of Conflict**

The examples above of the many different ways in which forced migration flows may heighten the risk of conflict, or exacerbate existing ones, show how human flight can contribute to spreading instability from one country to another in a region. Some of the clearest recent examples of such regional forced migration and conflict dynamics can be found in West Africa, between Liberia, Sierra Leone, Guinea and Côte d'Ivoire, and in the Great Lakes District of Africa, between Rwanda, Burundi, the DRC and Uganda.

One reason for this contagion of conflict is the nature of many refugee camps. Even when not armed, refugees living in camps close to unstable borders are often considered as suspicious: if not refugee warriors themselves, they are often, voluntarily or not, harbouring and feeding armed elements. NGOs' or UNHCR's management of refugee camps can have important strategic significance in conflicts in the developing world, where the control of and access to food and health supplies are often crucial elements of warfare (MacFarlane, 1999; Loescher, 1992: 52).

Refugee camps are also potential recruiting grounds for soldiers. The bored and frustrated young male camp population is an easy target for recruiters, as could be seen, for instance, in the Liberian refugee camps in Côte d'Ivoire when civil war broke out in that country. Once recruited, the soldiers would return to the camp now and then to visit family and to rest. As a result, the Liberian refugee population, which until then had integrated well into the local Ivorian society and economy, became drawn into the conflict and treated as an enemy population by the locals (UNHCR, 2003a).

However, as the chiefly peaceful existence of over 900,000 Mozambican refugees in Malawi in the 1980s reminds us (Crisp and Jacobsen, 1998), large camp populations do not automatically cause security problems for their hosts. Tanzania has also hosted large numbers of refugees over the last several decades without tangible increases in internal divisions. Both countries have long histories of solving disputes peacefully and do not harbour minority ethnic groups with strong grievances against the politically dominant group.<sup>6</sup> Mass forced migration movements, it seems, only pose a heightened risk of spreading contagion when their presence fuels pre-existing or latent conflict dynamics.

The remainder of the discussion of the conflict and forced migration cycle will be used to study the particular case of the role of forced migrants in the Great Lakes of Africa. This case study illustrates many of the points made above and shows the complexity of this vicious cycle.

## **1.7. Refugees and Conflict in the Great Lakes Region<sup>7</sup>**

It is impossible to understand the dynamic of post-colonial conflict in the Great Lakes region without taking into account the role of forced migration in fuelling this dynamic. Without putting an end to the refugee cycle in the region, lasting stability will remain a remote goal. This case study focuses on the role of refugees in and from Rwanda and the Democratic Republic of Congo (previously Zaire). It looks at the history of forced migration movements between these countries and the role of refugee groups both as cause and effect of violent conflict.

### ***1.7.1. A History of War and Displacement***

While the two million Rwandans fleeing the aftermath of the 1994 genocide brought the refugee problem in the Great Lakes region to the world's attention, refugee flows have ebbed and waned in the area for decades. After the overthrow of the Tutsi monarchy in 1959 and independence in 1962, a Hutu dominated government was installed in Rwanda, while around 120,000 Tutsi refugees fled to neighbouring countries. In the

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<sup>6</sup> Zanzibari separatists notwithstanding.

<sup>7</sup> This account relies on a previously published article (Hammerstad, 2003a).

1960s, the militarised Tutsi refugee communities in Burundi and Uganda staged numerous armed raids into Rwandan territory – actions that led to retaliations against the local Tutsi population in Rwanda, triggering in turn more refugee flight. Thus Rwanda's vicious spiral of ethnic animosity and displacement was continually reinforced by the actions and reactions of the Tutsi refugee community and the Hutu-dominated authorities.

In October 1990, the Rwandan Patriotic Front (RPF), an exiled Tutsi army based in Uganda and with strong ties to the Ugandan government, invaded Rwanda. A peace agreement, the Arusha Accord, was signed in August 1993, proposing power sharing and the deployment of UN peacekeepers. However, Hutu hard-liners in the government, police and army had little interest in power sharing. They depicted the Tutsi not as a national minority, but as an 'alien race' thirsting for the subjugation of all Hutus. On 7 April 1994, after a period of detailed planning and relentless anti-Tutsi propaganda spewed out by local radio stations, Hutu extremists launched genocide against Tutsis and moderate Hutus. Around 800,000 people were killed, most of them within the first four weeks of the genocide.

Many ordinary Hutus joined in the killing. Among the most willing helpers of the *génocidaires* were members of the 200,000 strong Burundian Hutu refugee community who had fled to Rwanda in 1993 after a Tutsi-led *coup* and massacres in their country. The refugees brought with them their bitterness against Tutsis and were responsible for some of the most gruesome acts during the genocide (Mamdani, 2001: 205), providing another example of how ethnic animosity spread and deepened in the region through forced displacement, perpetuating the violence/displacement nexus in the Great Lakes by making the fleeing victims of yesterday into the killers of today.

### ***1.7.2. Spreading the Conflict to Zaire***

The Rwandan genocide was stopped not by international intervention, but by conquest. The rapidly advancing RPF forces took control of the country in mid-July 1994, setting in motion a new phase of the Great Lakes refugee cycle when the perpetrators of the genocide fled to neighbouring countries, together with around two million civilian Hutus fearing reprisals from the RPF. In four days, over one million refugees flooded into eastern Zaire, in the biggest sudden influx in UNHCR's history.

Overwhelmed humanitarian personnel were not able to stop the *génocidaires* from quickly seizing control of the refugee camps and using them as bases from which to rearm and prepare for an offensive against the new rulers in Kigali. They paid for their militant activities mainly by diverting and smuggling aid resources (Halvorsen, 1999: 312). The militarised Rwandan refugee camps played a crucial part in plunging Zaire into civil war in late 1996. Eastern Zaire was left increasingly in the power of the *génocidaires*, a situation that was intolerable to the new, Tutsi-led, regime in Kigali. It repeatedly warned Zaire and the international community that if the camps were not demilitarised and the refugees repatriated, Rwanda would do this itself (UNHCR, 2000: 262).

Kigali was right to argue that the refugee camps were indispensable for the *génocidaires* if they were to regain power in Rwanda. Control over the camps guaranteed their grip on power over the Hutu civilian population, and humanitarian aid was the means with which they could maintain this grip. As time passed, the *génocidaires* became



increasingly bold in their military raids and massacres, both against Tutsis across the border in Rwanda and against Zaire's own Tutsi population, the Banyamulenge.

In late 1996, a rebellion against Mobutu's regime began in eastern Zaire. The aggrieved Banyamulenge made up a strong section of the anti-Mobutu coalition. While the aim of the coalition's leader, Laurent Kabila, was to seize power over the whole of the country, the immediate aim of the Banyamulenge and their Rwandan backers was to destroy the refugee camps. In the ensuing chaos, hundreds of thousands of Hutu refugees fled in panic back across the border to Rwanda, while an unknown number of refugees moved into the interior of Zaire, sometimes forced in that direction by the *génocidaires*. To this day, the estimates of how many refugees were killed in the forests of eastern Zaire vary widely, but thousands certainly perished (UNHCR, 2000: 268-271).

The refugee situation in eastern Zaire was not the only cause of the demise of the Mobutu regime in 1997. The country was already on the brink of political and economic collapse, and Mobutu's own health was failing together with that of his country. However, without the resentment created by the refugee camps, the rebellion would not have taken place so quickly or, arguably, been so effective, since Kabila benefited greatly from the military skills of his Rwandan backers.

With a history of persecution and forced displacement in eastern DRC, the conditions were ripe for turning the Hutu refugee influx in 1994 into a regional powder keg. In the words of Mamdani (2001: 234): 'Conventional wisdom in Goma and Bukavu has it that Kivu Province in eastern Congo is where losers in Rwanda traditionally end up; and it is from Kivu that they prepare to return to power in Rwanda'. But conditions within the eastern DRC itself are equally to blame. The region's ethnic Tutsi population have for decades lived a precarious existence, at best merely tolerated and at worst persecuted and stripped of their citizenship. This insecurity has led Banyamulenge to become key figures in several of the DRC's numerous political and military crises.

Regardless of the ongoing peace process, the conditions of uncertain citizenship, ethnic tension and forced migration that were important ingredients in causing the rebellion in 1996 still exist in the eastern DRC. A triggering factor like that of the influx of one million refugees is not on the horizon, but the continuing instability in the region, especially in neighbouring Burundi, means that there is no room for complacency if the vicious cycle of violence and forced migration is to be broken. The next part of this paper will look at policies and actions with which the donor community can contribute to breaking this cycle.

## **PART TWO**

### **2. DEVELOPMENT AND HUMANITARIAN AID FOR CONFLICT PREVENTION**

#### **2.1. Introduction**

Part Two discusses how the donor community can help remedy the problems set out in Part One. To what degree and in what ways can aid from organisations like DFID contribute to breaking the conflict and forced migration cycle? What are the links between humanitarian and forced migration policies on the one hand, and development policies on the other? Can development aid be used to achieve political aims of democratisation and institution building? How can the much discussed 'gap' between humanitarian assistance and development assistance ('the relief-development gap') be addressed?

Finally, humanitarian and development aid cannot be conducted in a political vacuum. Aid organisations, whether state or non-governmental, must take into due consideration how their activities relate to local, regional, and international politics and economics. The last section of this paper will therefore look at broader dimensions of international relations in which aid activities take place, including trade, foreign direct investment, foreign affairs, and military peacekeeping and peace enforcement action.

#### **2.2. The Importance of Repatriation as a Durable Solution to Forced Migration**

Part One showed that violent conflicts are the main cause of forced migration and are also highly detrimental to human development, social cohesion and state institution building. It further argued that forced migration itself may have detrimental effects on development and political stability. Conflict resolution and the ensuing repatriation of forced migrants are therefore crucial for achieving sustainable development, both in refugee sending states and in host countries. Development, when understood not only in economic terms but defined to include political and economic governance and the strengthening of political institutions and the rule of law, increases the likelihood of a post-conflict society breaking out of the conflict cycle.

Conflict resolution and voluntary repatriation are therefore the most desirable type of durable solution to forced migration. They are admittedly very difficult to achieve, but when successful, they also have the most positive impact on global forced migration figures. It is not in today's political climate feasible to offer local integration or resettlement to large numbers of refugees. When it comes to local integration, most host countries prefer to keep refugees in camps, separate from the local population, and with limited opportunity to integrate into local life – both socially and economically. This is especially the case with large refugee groups, who can be seen as a threat to political stability, economic growth and even to the cultural identity of host communities.

During the Cold War period, resettlement was used for certain refugee groups of high ideological or political significance, such as the Vietnamese 'boat people' and dissidents escaping from behind the Iron Curtain. However, with a few exceptions, especially the

Indochinese refugees after the end of the Vietnam War,<sup>8</sup> resettlement has not been used for large groups of refugees. The Kosovo Albanians who were airlifted out of Macedonia in 1999 were not offered a lasting solution, but given leave to stay with their European hosts on humanitarian grounds for one year.

After the end of the Cold War, repatriation has become even more than before the most feasible solution for large refugee populations.<sup>9</sup> The UNHCR's refugee statistics for 2003 showed how important it is to deal with the root causes of flight if the number of forced migrants is to be significantly reduced. The number of 'people of concern' to the UNHCR decreased from the end of 2002 to the end of 2003 with 18 percent, from 20.8 million to 17.1 million people. A significant part of this decrease was made up by the repatriation of 644,917 Afghan refugees from Pakistan and Iran; 132,964 Angolan refugees from Zambia, the DRC, Namibia and Congo-Brazzaville; 82,067 Burundian refugees from Tanzania and the DRC; and smaller groups of returnees to Iraq, Sierra Leone, Rwanda, Liberia, Côte d'Ivoire and several other countries (UNHCR, 2004a: 86, table 16). Altogether almost 1,1 million refugees returned voluntarily in 2003. In comparison, 26,468 refugees were resettled from countries of first asylum in the same period (UNHCR, 2004a: 87, table 17).

Afghani refugees constitute the world's largest – and one of the world's most protracted – refugee problems. Even after the repatriation wave of 2002-2003, 2,1 million refugees remained in camps in Pakistan and Iran at the end of 2003. The relative stability that has enabled forced migrants to return to Afghanistan and the two other main countries of repatriation, Angola and Burundi, is fragile and can easily be reversed. This leads us to the core question for humanitarian and development actors: how can they contribute to create conditions for peace and stability and ensure that repatriation is voluntary, well informed and durable? Hasty repatriation to insecurity does nothing for conflict resolution. On the contrary, it often leads to further forced migration in the future.

### Recommendations

In order to be durable, repatriation of large populations of forced migrants must entail, first, conflict resolution, and second, post-conflict reconstruction, in the refugee sending country. Conflict resolution and prevention should therefore be at the top of donor countries' list if they want to significantly reduce the global forced migration problem. Repatriation is only valuable for conflict resolution and peace building if it is sustainable. Secondary flows are harmful not only to the security of the forced migrants themselves, but also to development and conflict resolution initiatives. Aid agencies involved in refugee repatriation should ensure that returns are voluntary and based on accurate and honest information of the situation back home (information often difficult to come by in the refugee camps). This will increase the likelihood that repatriation is durable.

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<sup>8</sup> Almost two million Indo-Chinese refugees were resettled in the period between 1975 and 1997 (Robinson, 1998: 295).

<sup>9</sup> Although from the point of view of individual protection, there will always be in situations of mass voluntary return, some particularly vulnerable refugees who need other solutions than repatriation.

### **2.3. Aid, Conflict and Forced Migration**

Considering the findings of Part One of the paper, and the discussion above of the importance of repatriation as the most desirable and politically feasible solution to forced migration flows, the focus of the following discussion is on how aid can contribute to resolving the root causes of flight and thereby ensure the durability of repatriation.

The discussion is divided into four sections. The first section is concerned with the potential harmful effects of aid on the conflict and forced migration cycle. Following from that, the second section highlights the importance of concentrating long-term aid programmes on post-conflict societies to ensure that repatriation is durable and conflict does not reignite. The third section emphasises the importance of understanding economic development aid and humanitarian relief aid in the context of the political conditions in which aid programmes are pursued. Finally, the fourth section goes more into detail on what sort of aid is most conducive to conflict resolution and prevention and looks at the problem of coordination between different development and humanitarian relief actors. This discussion is based on the UNHCR's recent Convention Plus initiatives.

The question of coordination then leads us to the final discussion of this paper: the impact of non-aid factors on resolving the problems of violent conflicts, forced migration, weak states, poverty and inequality in the developing world.

#### ***2.3.1. Principle Number One: Avoiding Harmful Effects of Aid***

The age of innocence for aid agencies has been over for a while. The idea that good intentions would by necessity lead to good results and that humanitarianism could somehow take place in a political vacuum have been abandoned. This is at least the case in theory – in academic articles and in humanitarian organisations' own evaluation and research reports. In practice the same mistakes seem often to be repeated. There are good reasons for this: the situation on the ground is always more complex and fraught with ethical and political dilemmas than what research papers like this one are able to convey. In the case of humanitarian operations, decisions of life and death are often taken in a hurry and with limited information available to decision makers and strong pressure from the media and public to 'do something'. In the case of development aid, the times when aid was donated with few strings attached to repressive regimes on the 'right' side of the Cold War divide are fortunately over. However, development aid can still be controversial. For instance, decisions on where and when to spend aid funds can be made based on the donor's previous investment of time and effort in a country instead of on the actual impact that an aid project has today.

This section will look at a few cases where humanitarian and development aid has had harmful unintended consequences. The cases are discussed from the perspective of conflict resolution: if instead taking a purely humanitarian (saving lives of individuals) or developmental (alleviating poverty, inducing growth) perspective, the conclusions may well be different. This goes to show that incorporating conflict resolution and peace building as core objectives of humanitarian and developmental aid involves making some uncomfortable choices between humanitarian action (the achievement of which is easily measured, for instance in the number of mouths fed) and conflict prevention (how do we measure whether preventive actions have succeeded?).

*Case one: when aid contributes to starting war.* Probably never in history has humanitarian aid been so directly involved in triggering war than in the case of the relief operation for Rwandan Hutu refugees in Zaire from 1994 to 1996.<sup>10</sup> The failure lay in a combination of the refusal of political actors, particularly the Security Council permanent members and the Zairean government, to demilitarise the camps through the deployment of troops, and the humanitarian actors' inability to take the political consequences of this inaction and withdraw from the militarised refugee camps. The UNHCR continued to fund the camps in the name of saving lives, instead of facing up to the fact that by not withdrawing it condemned civilian refugees to be virtual hostages of the militants and allowed humanitarian aid to be diverted to fund the rearming of the *génocidaires*.

Lives were indeed saved in the short term, but the conditions were created for worse suffering in the future as the camps were (not surprisingly) overrun by Rwandan forces and Zairean rebels, and Zaire descended into civil war. The blame for this failure was as much at the feet of the Security Council and the Zairean government as it was on the humanitarian actors. However, it was a spectacular example of how bad a situation can turn when humanitarian action is not subsumed within a conflict prevention and resolution perspective.

*Case two: when aid fuels war.* The Sudanese civil war is an example of aid fuelling war and doing so by providing support to one side of the conflict. Humanitarian organisations, particularly from the US and especially church based ones, have channelled aid into the territories held by the Southern Sudanese rebel organisations. Much of this aid has been siphoned off by rebel forces. Thus, while alleviating the humanitarian situation in southern Sudan, aid also became a significant factor in the war between the Christian, animist and black south against the Muslim north. Whether it is right or wrong to support the southern forces in their military struggle against the north, to do so in a veiled way, through the use of humanitarian resources, has had a negative impact on the perception of aid workers as impartial actors. This makes humanitarian work more dangerous, a trend that has been clear since the end of the Cold War (UNHCR, 1997: para 2).

*Case three: aid propping up weak, repressive and anti-developmental regimes.* Food aid – feeding a country's population when its own government is unable or unwilling to do so – can be problematic from the point of view of the longer term aims of strengthening state legitimacy and capacity, conflict resolution and peace building. Two examples of food aid contributing to propping up repressive regimes that pursue anti-developmental policies can be found in Zimbabwe and Ethiopia. In the case of Ethiopia food aid has allowed the regime to continue spending significant amounts of its budget on the military, in its horrendously deadly conflict with Eritrea over dusty border towns. In Zimbabwe, deliberate government policies of rapid and chaotic displacement of commercial farmers and farm workers from the land, combined with bad rains, led to severe food shortages in a country that used to be able to feed its neighbours as well as itself. Massive food relief from the World Food Programme prevented starvation, but in the process it also insulated an increasingly undemocratic and repressive government from the consequences of its policies. To what degree the food aid has supported the government against the opposition Movement for Democratic Change is hard to

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<sup>10</sup> See case study, section 1.7.

quantify, but it has certainly been a factor in keeping the regime in power despite its catastrophic economic policies.

These two cases constitute moral dilemmas. After all it is not the fault of ordinary Ethiopians and Zimbabweans that their governments pursue policies that do not take the suffering of their own populations into due consideration. Should the international community punish them for their governments' faults? However, from the longer term perspective of breaking the cycle of bad governance, repression, under-development, food crisis and forced migration, the answer may in some cases be that it is better for the donor community not to provide aid on conditions set by dysfunctional regimes.

### Recommendations

*Recognise the need to make hard choices:* The three cases above show that humanitarian and development actors often find themselves in situations of moral dilemmas. Too often they have hidden behind mantras of humanitarianism – the non-political pursuit of saving as many lives as possible – instead of facing up to the political consequences of aid policies.

*Dare to choose the least bad option:* the right decision is often no more than the least evil decision. And the least evil decision is not necessarily to continue development or humanitarian programmes.

*To delay a decision is to make a decision.* The UNHCR's hand wringing in the eastern DRC in 1994-96 is a case in point.

*Think long-term when making humanitarian relief decisions.* This means taking into consideration the implications of aid on the political and security situation in the country. Is saving lives today leading to the prolongation of fighting in the long run? If so, what can be done to change this?

*Overall:* development and relief aid are always political as well as humanitarian actions. If aid is to have the greatest possible impact on conflict prevention and resolution (rather than focusing solely on feeding the hungry), more responsibility and pressure must be placed on aid recipients to take care of their own population.

### **2.3.2. Principle Number Two: Focus on Post-Conflict Societies in a Long-Term Perspective**

The discussion above of how the first priority of aid policies must be to avoid harmful side effects touched on the necessity for emergency relief agencies to look beyond the immediate needs of a recipient population to the longer-term political effects of humanitarian aid. It is equally necessary for development actors to think long-term. The effect of sustained development efforts is particularly significant in societies emerging from the destruction of war. No country is as much at risk of descending into civil war as one that has recently emerged from one (Collier, 2003: 83). Research shows that aid can be crucial for breaking the conflict cycle if sustained over the first ten years after the end of fighting. More importantly, while capacity to absorb aid is weak in the first couple of years, it increases thereafter, making the potential positive impact of aid on peace building more substantial.

In contrast to these findings, in practice aid levels tend to diminish as the humanitarian crisis is over and the situation becomes one of 'development policies as usual'. In other words, just at the time when aid could be the most effective in preventing conflict, it is reduced. This is not a problem of understanding, since the importance of sustained post-conflict reconstruction is by now generally accepted. It is instead a question of political will among donors: to withstand the pressure of leaping from one high-profile emergency to another and in so doing forgetting the less spectacular post-conflict reconstruction phase. The propensity towards short-term humanitarianism instead of longer-term development may pose a serious challenge for conflict prevention and refugee return in Afghanistan. A combination of diplomatic and political pressure, peacekeeping, peace enforcement, reintegration and reconstruction policies are necessary to keep the country on track to political stability and economic growth – thus enabling returnees to stay and refugees and IDPs to return home and contribute to building the country.

Political and economic governance are usually in bad shape when a country emerges from widespread communal violence or civil war. While weak states and illegitimate governments are often a cause for internal conflict, fighting exacerbates the conditions that made conflict likely in the first place. In order to break the conflict cycle, development aid must therefore be geared towards strengthening state institutions and capacity, not just poverty alleviation and economic development. The next section will show that this is easier said than done. Furthermore, other policies, such as diplomatic efforts, trade and investment from foreign countries and the economic policies and political conduct of the aid recipient government itself, will always be more important than aid in ensuring stability and prosperity. But humanitarian and development aid plays an important part, especially when working to bolstering positive trends and alleviating conditions that threaten to reignite old grievances and disaffection.

#### Recommendations:

If development aid is to promote not just economic growth but also peace building and conflict resolution:

Pay particular attention to post-conflict countries when deciding on aid allocations.

Ensure that aid levels are sustained at least through the first decade of post-conflict reconstruction.

Ensure that aid is geared towards good governance, institution building and political reform. How this can be done leads us to the next section of the relationship between politics and economics and in particular the use of aid conditionalities to promote political reform.

#### ***2.3.3. Principle Number Three: The Link Between Economic Development and Political Reform***

Despite billions of dollars of aid money allocated over the past decades<sup>11</sup>, many developing countries, particularly on the African continent, have fallen behind the rest

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<sup>11</sup> Net flows of Official Development Assistance to developing countries from the Development Assistance Committee members of the Organisation for Economic Co-operation and Development (OECD) constituted over US\$ 52 billion in 2001. US\$ 13.9 billion of this went to sub-Saharan Africa. (World Bank, 2003: 336 and 340).

of the world in terms of economic growth. In some African countries living standards have decreased since independence. Some of the countries that received the most aid are still among the world's poorest today. This has led to a debate in the last ten to fifteen years on the efficacy of aid in creating development. One aspect of this debate has been the role of political factors in creating the conditions for development. Part One of this paper showed how economic factors alone cannot explain why violent conflict breaks out. Instead, poverty and lack of economic growth work together with social divisions and weak, inefficient and often corrupt political institutions to create ripe conditions for violence. Conflict, again, steeps the country further in underdevelopment. A clearer understanding of this vicious cycle has led governments of developing countries and donor states alike to sign up to the argument that development aid should not only be spent on economic development, but should also fund measures to improve governance, social cohesion and state institution building in weak and troubled aid recipient countries.

But is development aid the best way in which to pursue liberal democratic political reform (which is what the 'good governance' agenda is all about)? Can donor money have an impact on the complex political processes of democratisation? Or is democracy aid so difficult that the money is better spent on more traditional goals such as education and health care?

One problem with democratisation aid is that it is hard to measure the impact of projects aimed at supporting democratic institutions and practices, particularly in the short term. These projects fit badly into the mould that donor states have created in recent years, where strong emphasis is placed on aid effectiveness and efficiency, and where specific targets and continuous evaluation is incorporated into development programmes. An annual review of whether, say, 'the judiciary has become more independent' in Mozambique, would probably not yield much result. This is even more the case with donor funds, particularly from the EU, spent on promoting governance through regional institutions such as the African Union or the Southern African Development Community. Regionalism is a particularly slow-moving and difficult process. Does this mean that aid money to regional organisations is a waste because the result over the short-term is negligible?

An important part of democratisation is to strengthen civil society, labour unions, the media, opposition parties, and other non-state actors, in order to increase political pluralism and establish checks on unlimited government power. A lot of the donor funds for democratisation and political governance projects have hence circumvented government ministries and focused on non-state actors. This concentration on strengthening 'civil society' often hides the fact that in many developing states, the problem of economic development and political stability is not that the state is too strong, but that it is too weak. It is true that many *governments* of developing countries are too strong, in the sense that they dominate the field of politics and that political and economic favours are doled out on the basis of political loyalties. However, a bigger problem, compounding that of governments being too strong, is the fact that the state institutions over which these governments preside are too weak and frail. In the least developed countries, the state has little capacity for policy development; often a very weak tax basis and ineffective tax collection system; and sometimes its authority stops not many kilometres outside the capital. Local government usually has even less capacity, resources and skills than national authorities do.



The weakness of political institutions – the structures of the state – such as the bureaucracy, the judiciary, and the legislature – is what allows governments to become too dominant. Seen from this perspective, donors' emphases on 'supporting civil society'; laying the basis for multi-party politics; bettering the conditions for opposition parties, funding an independent media; and generally focusing on strengthening the non-state sectors of society; are easily perceived by governments in developing countries as attempting to undermine the authority of the state. This perception is compounded by the fact that the relationship between civil society groups and the state in many developing countries is weak and often fraught with mutual suspicion. In Southern Africa, for instance, many civil society organisations are accused by governments of pursuing the agendas of foreign powers, because they are funded almost exclusively by overseas donors. Democratisation aid, then, is a sensitive issue, fraught with questions of sovereignty and non-interference.

The political and economic governance record of recipient countries has become increasingly important for how donors allocate aid. For instance, the European Union and the United States have suspended bilateral aid arrangements with the Zimbabwean government. Denmark has gone the furthest in imposing *conditionalities* and – more importantly – following them up by withdrawing aid if the conditions are not met. DANIDA withdrew the status of core co-operating partner not only from Zimbabwe, but also from Malawi, in 2002. Zambia, another of DANIDA's programme countries, received warning that its political situation would be followed closely after the contested 2001 election, while three other African programme countries have had their aid levels reduced due to Danish disapproval of certain policies or developments.<sup>12</sup>

While the utmost should be done to ensure that aid money is well spent, there are problems with making political governance a conditionality of aid. One problem is excessive rigidity when setting the standards for development partners. Democratisation is a long and difficult process, which sometimes stops and starts and where it is possible to enjoy great progress in some areas and setbacks in others. Mozambique, for instance, is doing very well in some fields of democratisation, such as the holding of substantially free and fair elections and the adherence to term limits for heads of state and government. But the country is struggling in fields such as corruption among state officials and organised crime. Should donors 'punish' Mozambique for this failure or encourage it for the things that it does right? If Mozambique were to be punished, would this not weaken the democratisation process rather than strengthen it?

A second, and politically sensitive, problem is the danger of arbitrariness when a donor decides which countries are 'worthy' of aid and which ones are not. Too much room is allowed for political expediency to determine the fate of a development partner. Why should Malawi be taken off the list of Denmark's 'programme countries' while Bangladesh, the world's most corrupt country, according to the 2003 Transparency International corruption perception index, is not punished? The determination of aid policy out of political consideration has not disappeared with the Cold War. This is best seen in some of the United States' decisions after 11 September 2001. The lifting of sanctions and increase of aid to Pakistan had little to do with improvements in that

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<sup>12</sup> Royal Danish Ministry for Foreign Affairs, 'Development Policy: Bilateral Assistance', from the Ministry's Website ([www.um.dk/english/dp/ba.asp](http://www.um.dk/english/dp/ba.asp)).

country's governance standards and much more to do with its assistance in the US 'War on Terror'.

### Recommendations

For development aid to promote good governance, the respect for human rights and conflict prevention, the following recommendations are made:

*The virtue of modesty and patience:* The fact that the effect of democracy aid is difficult to assess is not an argument against providing aid to bolster democracy. However, expectations must be placed at the right, modest level and projects must be sustained over time if they are to have any effect.

*Transaction costs:* Since evaluating democratisation aid is difficult, ways must be found to administer such programmes in a sensible way. Otherwise the transaction costs for the recipients of these funds, in the form of reporting, evaluating and attempting to measure impact, become excessively high and the money might be better spent in other sectors such as healthcare.

*Ownership:* Developing countries rather than donors should drive the development agenda. Today, many developing countries in their eagerness to receive donor money pursue a disconnected and *ad hoc* development agenda, by unquestioningly taking aboard aid projects hatched in a variety of donor countries.

*Capacity building:* Due to point three above as well as in the general interest of strengthening state institutions, aid money is well spent on capacity building. Training civil servants in areas such as project management and policy research, and promoting more efficient governance through, for instance, helping set in place robust systems for tax collection, makes developing states more able to help themselves. Equally important, they become better equipped to formulate a proactive development agenda, where donors are asked to contribute to realising a comprehensive and cohesive development plan.

*Donor coordination:* Part of developing countries' problem of putting in place coherent, long-term development plans into which donors can opt is that different donor countries do not coordinate their actions and plans well enough.

*Sensitivity:* Because of the political intrusiveness and the infringements on national sovereignty involved in focusing development aid on democracy, human rights and political governance, donors need to show strong sensitivity in the way they disperse this aid – both when it comes to whom it is given to and how it is given.

*Use conditionalities with care.* In principle, good governance conditionality is good, but it must be used with discretion and political understanding. Setting up rigid criteria and benchmarks is counterproductive. Monitoring a country's adherence to good governance standards should be about assessing a process rather than taking a snapshot. The question the donor should ask itself when determining aid levels to a particular country, is not whether points A, B and C on the list of conditions are met, according to some quantifiable measure, but whether the country is in general moving in the right direction, or, if it is struggling, that it is showing the will to keep trying. If a country is

clearly and with a great sense of purpose and will, moving in the *wrong* direction, then reducing aid is the right thing to do.

*Avoid the wrong kind of conditionalities:* A type of conditionality that is conducive neither to economic development nor peace building is that of *tied aid*. Aid given on condition that, for instance, certain contractors from the donor country are used, or that involves the dumping of agricultural surpluses, does more for the development of the donor country than of the aid recipient. It creates dependency rather than reinforcing local coping mechanisms, building local capacities, and supporting the aid recipients own national agenda for development.

#### **2.3.4. Principle Number Four: Coordination and Bridging the Relief-Development Gap**

The three previous principles concern a general framework for harnessing development and humanitarian aid to the aim of strengthening governance and resolving conflicts in the developing world. This section looks at the particulars of aid policies within this framework. The main question in this regard is how to coordinate and overlap the different stages of aid as a situation moves from humanitarian emergency through repatriation, reintegration, reconstruction, and finally, development as usual. The discussion focuses on the UNHCR's *Framework for Durable Solutions for Refugees and Persons of Concern*, developed in 2003 in support of the agency's *Agenda for Protection and Convention Plus* initiatives. These initiatives came out of the Global Consultations started by the then new High Commissioner, Ruud Lubbers, in 2001, on the fiftieth anniversary of the 1951 Refugee Convention. The aim of the Global Consultations was to get states to recommit to the principles of the Refugee Convention while ensuring that these principles were interpreted in ways conducive to the conditions of the 21<sup>st</sup> century. In an environment of increasing hostility to refugees and asylum seekers in the western world, an important incentive behind the development of new initiatives for durable solutions was to find ways of curbing asylum flows to the West and containing forced migration movements in their regions of origin.

The *Framework for Durable Solutions* is UNHCR's main attempt at adapting the Convention's three tools for solutions – local integration, resettlement and repatriation – to today's conditions. However, it mostly ignores resettlement and concentrates on repatriation. It is particularly concerned with bridging the relief-development divide. The framework has three components: 1) Development Assistance for Refugees (DAR); 2) Development through Local Integration (DLI); and Repatriation, Reintegration, Rehabilitation and Reconstruction (4Rs). They have in common the aim of 'redoubling the search for durable solutions' through sharing burdens and building capacity between countries and between humanitarian actors (UNHCR, 2004). They are called 'Convention Plus' activities because they are meant to 'top up' existing protection and solution tools set out in the 1951 Convention.

Unlike the Convention, the *Framework for Durable Solutions* explicitly recognises the relationship between forced migration, development and conflict: 'Hosting refugee populations for protracted periods have long-term economic and social impact that, if not adequately addressed, can create conflictual situations and insecurity' (UNHCR, 2003: 4). It also acknowledges the importance of post-conflict reconstruction as a precondition for durable repatriation and recognises the challenges in this regard of the relief-development gap. It warns that the particular needs of returnees are not properly

incorporated into transition and recovery plans of governments and humanitarian agencies, thus heightening the risk of 'back flows' of recently returned refugees back into exile.

Thus, the Convention Plus framework takes into consideration many of the problems and challenges discussed in this paper. It constitutes an important step forward in the quest for holistic approaches to dealing with the root causes of flight and breaking the conflict and forced migration cycle. And UNHCR is not alone in attempting to clarify responsibilities, increase coordination, foster seamless transitions from emergency to development aid, and work to ensure that both humanitarian and development aid work towards the overall goal of conflict resolution and peace building (see e.g. Wood, 2001). This has been an overall concern of the UN family as a whole, including the UNDP, the World Bank and OCHA.<sup>13</sup> Bilateral donors are also working out similar frameworks, such as the EU's 'Linking Relief, rehabilitation and Development (LRRD)'. In 2003, UNHCR became member of the United Nations Development Group (UNDG) in order to strengthen co-operation between humanitarian, refugee and development agencies within the United Nations family.

This section will concentrate on the efforts of the UNHCR. It describes briefly the three components of the *Framework for Durable Solutions* and comes up with recommendations for how this framework can be followed up – although it is too early to make bombastic conclusions on how well the *Framework* will work in practice.

#### Development Assistance for Refugees (DAR)

The aim of DAR is to provide development assistance in refugee hosting regions for the following aims: to improve burden sharing for countries hosting large numbers of refugees; and to promote a better quality of life and self-reliance for refugees and host population alike pending durable solutions to the refugee situation (UNHCR, 2003). DAR is not a durable solution to refugee flight, but is linked to the quest discussed earlier in this paper of tackling the negative impact of forced migration on development and conflict. It does this in two ways. First, by targeting development aid to refugee hosting areas, it lessens the risk that mass movements of refugees lead to environmental destruction, economic crisis and political tension.<sup>14</sup> This is especially important in the cases of forced migration movements where the prospects for voluntary and safe repatriation in the short to medium term are slim. DAR should thus help limit the contagion of instability that forced migration movements sometimes bring. Second, DAR is also important for the success of repatriation, local integration or resettlement: A refugee who has led a productive and meaningful life in exile is much more likely to have the resourcefulness, capacity and confidence necessary to successfully embark on a new stage of life. DAR thus helps ensure that forced migration solutions are durable.

The approach for DAR projects is to build broad partnerships between governments, humanitarian agencies and multilateral and bilateral development organisations. The co-operation and commitment of host governments are crucial for DAR to succeed. Incentives from donors to host governments are particularly important in this regard.

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<sup>13</sup> E.g. UNDP is in the process of creating a tool for 'Conflict-related Development Analysis (CDA)' in order to review its existing programmes in terms of their potential to inadvertently fuel social and economic inequalities and to develop new programmes that can directly contribute to conflict prevention.

<sup>14</sup> See section 1.5 in this paper and Loescher and Milner (2004).

Host governments seldom prioritise refugee hosting areas, since refugees are not voters and the places where they settle are often remotely located. Without the necessary enthusiasm and commitment from host governments DAR is unlikely to work. UNHCR therefore emphasises the need for host government leadership and ownership of the process.

The envisioned execution of DAR relies heavily on co-operation and coordination between a variety of actors. The stages of DAR include:

- Consensus building through consultative process led by government;
- Setting up an *Operational Information Management system* to map who is doing what where, and what the existing coping mechanisms of refugees are;
- Jointly plan an *integrated strategy*, coordinated by government;
- Agree on *resource mobilisation strategy*, led by government, to fund the DAR programme;
- Systematically promote refugees on the development agenda and place DAR within the existing development framework for the country.

#### Development through Local Integration (DLI)

DLI builds on DAR, and is considered an option – when host governments and host communities concur – for facilitating the local integration of refugees as a durable solution. The components of DLI are very similar to DAR, with the addition that they include changing the legal status of refugees, gradually granting them the same rights and entitlements as the local population with the ultimate aim of acquiring citizenship.

#### Repatriation, Reintegration, Rehabilitation and Reconstruction (4Rs)

The 4Rs programme framework is, simply stated, a framework for bridging the relief-development gap in post-conflict situations through structured collaboration between government, UN and bilateral development and humanitarian agencies. It focuses particularly on ensuring the sustainability of the repatriation of forced migrants. The aim is to achieve the necessary levels of development and good governance to ensure that conflict does not re-erupt and renewed flight takes place. As in the case with DAR, the need for integrated planning between all actors involved is stressed. According to the UNHCR, the critical factors for 4Rs projects to succeed are:

- ownership by host governments of the processes which the 4Rs concept embodies;
- integrated planning process at the country level by the UN Country Team;
- strong institutional cooperation and commitment to support punctually and at decisive moments, the needs and efforts of country teams to bridge essential gaps in transition strategies; and
- participation of the plethora of actors who form part of the development community – UN agencies bilateral and multilateral institutions (UNHCR, 2003: 18).

The idea is to plan 4Rs as a package, so that UNHCR does not embark on repatriation (the first R) before the other parts of the package are also planned. The responsibilities of different agencies would phase in and phase out at different stages of the 4Rs

process. UNHCR would be involved in activities around the first, and partly the second, R (repatriation and reintegration). Development agencies would gradually phase in from the second R onwards. Pilot 4Rs projects are currently underway in Afghanistan, Eritrea, Sierra Leone and Sri Lanka, the first having started in 2002.

### Recommendations

The UNHCR *Framework for Durable Solutions* is an important step in the right direction and should be supported by DFID.

While the emphasis on coordination and integration efforts in the 4Rs, DAR and DLI frameworks is right and necessary, the challenge remains to find the political will and the practical means with which to realise this ideal. Coordination between UN agencies, other aid organisations, bilateral donors, refugee hosts, and repatriation states is crucial for aid to constitute a significant factor in breaking the conflict and forced migration cycle. Despite this, inter-agency rivalry remains rampant on the ground, as the response to the complex humanitarian emergency in Darfur has shown. Rather than creating more such frameworks for co-operation and coordination, then, emphasis in the next years should be on making them work.

Generally, DFID-sponsored development programmes in post-conflict societies must take refugees and returnees into consideration in their planning, and DFID-sponsored emergency operations for forced migrants should be executed with the long-term development of the refugee hosting and refugee sending region in mind.

The desirability of refugee self-reliance. DFID should encourage the development of aid projects that enable host countries to allow refugees to become useful economic actors rather than a drain on the economy and a burden for social and political cohesion. This in particular means to discourage the creation of large refugee camps as holding centres with no opportunity for educational or vocational activities and provide incentives for host states to integrate refugees closer into the local economy and society. This is important both for development and stability in host regions and, when that time comes, for the durability of solutions.

While repatriation is the preferred solutions, this should not be taken as an excuse not to deal with the political, social and economic problems in areas hosting long-term refugee populations. Refugee hosting areas of a country are often the poorest, most remote parts of the country. Development programmes should take these areas into particular consideration in their planning.

Adding to this, while resettlement cannot be the main solution to mass movements of forced migrants, the option of the strategic use of resettlement should be kept open in the name of burden sharing and decreasing instability in refugee hosting areas. It is difficult for western government aid agencies like DFID to promote local integration and repatriation in developing countries, if their own country is reluctant to take in refugees themselves.

Transitional periods are volatile and unpredictable, and each post-conflict situation is unique. Donor funding should be correspondingly flexible to enable humanitarian and development actors to shift focus and change tack with shifting circumstances.

Following from point (7) above, *tempo* is equally important to flexibility. The many different actors involved in the task of sustaining the cessation of violence and building lasting peace are not always in sufficient hurry to stay on top of a fast-moving ball. Often well-intended initiatives are implemented too late for them to have a positive impact – events have passed them by (Richards, 2004).

## **2.4. Non-Aid Factors Contributing to Resolving Forced Migration and Violent Conflicts**

Development aid alone will not create the high economic growth and poverty alleviation necessary to escape the quagmire of underdevelopment. Good governance, fairer terms of trade and increased flows of Foreign Direct Investment have a considerably stronger influence on economic performance. Diplomatic pressure, and even military intervention, as recently exemplified by actions in Sierra Leone and Afghanistan, can have an enormous impact on conflict resolution and the possibility for forced migrants to return – although the risk of such interventions going awry is high.

### **2.4.1. Trade and Subsidies**

If economic development is indeed the long-term key to achieving peace and stability, development aid is not the main tool with which to achieve this. According to the UN Economic Commission for Africa (2003), 'abolishing OECD agricultural subsidies would provide developing countries with potential export revenues worth three times their current ODA receipts.' The Cancun round of World Trade Organisation negotiations highlighted the plight of cotton producers in the developing world, producing high quality cotton at a lower cost than the US, but being beaten in the market place due to American government subsidies. As discussed earlier in this paper, development aid may have a significant impact on the prospects for lasting peace and the durable repatriation of forced migrants in the transitional period of post-conflict reconstruction. But the general idea of preventing conflicts and forced migration in the longer term through development and poverty alleviation forces us to think holistically: Responsible and responsive government in developing countries combined with fairer trade policies and more investment from the rich world will go much further in creating the necessary growth.

The issue of terms of trade brings us back to the question of building partnerships between donor countries and aid recipient countries. Many developing countries object that aid is more like a one-way stream of paternalistic charity, thinly camouflaging the self-interested economic policies of donor countries and doing more for the 'feel good factor' among the public in rich countries than for poverty alleviation in poor ones. India has decided not to accept development aid at all. This image could be remedied if the developed world focused less on aid, and more on other factors that promote development – particularly trade, but also migration. While bad governance is a hindrance to economic growth, it is also the case that economic sluggishness is a hindrance to democracy and good governance. The *Economist* (2003) wrote that:

“A new analysis by the World Bank, published in its Global Economic Prospects on September 3rd, suggests that an ambitious, though achievable, reduction of trade barriers in the Doha round could boost global income by between \$290 billion and \$520 billion a year. Well over half of these gains

would go to poor countries. By 2015, the World Bank reckons, a successful Doha round could lift 144m people out of poverty.”

Some of these trade barriers are *between* developing countries, and it is up to these countries themselves, through regional agreements, to get rid of them. But if Europe and North America were to get rid of agricultural subsidies, which do not only hurt African producers, but are also costly to Western consumers, this would show that donor countries (not just their aid organisations) are serious about growth and poverty alleviation in the developing world.

The African development plan, NEPAD, is a case in point. While NEPAD and other documents guiding Africa's relationships with the West such as the Cairo Declaration (OAU/EU, 2000) stress the importance of trade and investment, the North has chosen to focus mainly on the political governance elements of these documents. In other words, the North is focusing on issues within its African partnerships that are the responsibility of African states to do something about, while largely ignoring issues such as agricultural subsidies that it is their own responsibility to do something about. Clearly it is much harder for Northern countries to agree on the issue of agricultural subsidies than the benefits of good political governance, but the focus on the internal affairs of African states rather than on the obligations that the North itself has entered into, nevertheless creates bad feelings among African states.

### Recommendations

DFID must work together, not at cross-purposes, with the Department of Trade and Industry.

DFID should be a champion of trade liberalisation, the abolition of agricultural subsidies in the EU and fairer terms of trade. Britain should build alliances with like-minded countries within the EU who are ready to challenge the community's agricultural lobbies.

DFID should encourage and fund capacity building programmes which train Departments of Trade and Industry in developing countries to negotiate in complex fora like the WTO's Doha round.

#### **2.4.2. Military Intervention: Peace Enforcement, Peacekeeping and Policing**

This paper has so far ignored one of the most important tools for resolving conflicts: military action. Such action can take the form of military observers, peacekeepers, peace enforcers, or outright invasion in order to oust a repressive and refugee creating regime. This is not the place for a detailed account of the pros and cons of military humanitarian intervention. However, in Sierra Leone, Afghanistan, Côte d'Ivoire, Liberia, the DRC, and Burundi, military action by outsiders in one form or another has been a crucial part in resolving, containing or preventing refugee producing conflicts in recent years. Furthermore, the *lack* of military action to demilitarise the refugee camps in eastern Zaire in the mid-1990s turned out to be disastrous.

Military intervention of a coercive, Chapter Seven, kind, is highly contentious, not least after the troubled aftermath of the US-British invasion of Iraq in 2003. Chapter Six type military operations, staged with the consent of the country to which peacekeepers are



sent, are less controversial, but often struggle to fulfil their mandates effectively. Such peacekeeping missions often struggle with badly trained soldiers, lack of equipment, or mandates ill-suited to conditions on the ground. Often the UN Security Council authorises Chapter Six or Chapter Seven action only for long delays to set in as member countries are reluctant to come up with the necessary troops, equipment and funding for the operation to be launched.

One recent answer to this problem has been to look towards regional organisations to take on some of the peace and security role of the UN in their own back yards. Some donors have developed programmes to strengthen developing countries' capacity to launch their own military peacekeeping and peace building operations, rather than having to rely on the armed forces of their former colonial mother countries. Denmark's Africa Programme for Peace (DANIDA, 2004) is an interesting effort to support the military conflict prevention and resolution capacity of African regional organisations, mainly the African Union. In June, the G8 promised to train as many as 75,000 peacekeepers from the developing world (Economist, 2004). While these efforts are commendable and should be continued, it is unlikely that war-ridden regions in Africa can manage without the help of Western military powers for at least the next ten to fifteen years.

### Recommendations

Support the building of regional peacekeeping, peace enforcement and peace building capacity in conflict-prone regions, but do not use this as an excuse for Britain not to take part in such operations itself, if occasions should occur such as the one in Sierra Leone.

In the least developed countries, civil war is usually a low-tech affair with ill-trained and ill-disciplined soldiers. Western military powers can make a big difference with few means, usually in the role of peacekeepers but sometimes even as peace enforcers. While each case must be judged on its own merit and a UN Security Council mandate should be sought, DFID should consider advocating Western peacekeeping and peace enforcement action in situations where: one, neighbours in the developing world are unable or unwilling to act; two, when they can support interventions by regional organisations; three, when innumerable lives can be saved; or, four, when conflicts can be contained or re-eruption of conflicts can be stifled through relatively small but timely arrivals of elite forces.

### **3. CONCLUSION**

This study has investigated the links between conflict and forced migration, and the relationship between the two and poverty, underdevelopment, economic inequality, and weak and illegitimate polities. It further looked at how development and relief aid programmes impact on the conditions that cause conflict and forced migration, focusing on both positive and negative consequences of aid. The discussion included recommendations for donors such as DFID as to how emergency aid, reconstruction aid and development aid can be used to deal with the causes of forced migration. The paper concluded by warning that overseas development aid alone is unlikely to have a substantial impact on the overall forced migration problem. Foreign policy, diplomacy,

peacekeeping, peace enforcement, trade and investment policies are equally, and often more, important than aid when it comes to dealing with the vicious cycle of underdevelopment, economic inequality, violent conflict and forced migration.

Development and humanitarian assistance should therefore not only be made more sensitive to conflict situations but should also be seen as a complement to donors' foreign, economic and trade policies, as well as be used to promote good economic practices and strong and responsive state institutions within the recipient country. The aim, then, is for forced migration and development assistance to be viewed as a truly holistic endeavour: It is not enough to view different types of assistance in relation to each other and to be sensitive to the relief-development gap. It is equally important to take an inter-departmental holistic view of the interconnectedness of aid, trade, migration, foreign and even military policies towards the developing world.

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## Thematic Paper IV: Security and Forced Migration

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**Thematic Paper IV: Security and Forced Migration**

## EXECUTIVE SUMMARY

This paper examines the relationship between forced migration and the security of host states and regions. Forced migration has always had security implications. From the emergence of the early forced migration regime following the First World War, to its codification after the Second World War, through the Cold War, and into the post-Cold War era, the forced displacement of persons has always resulted in security concerns for receiving states. As such, the paper argues that policy responses have traditionally been motivated primarily by such security concerns, with legal, humanitarian and development considerations coming second.

Such policy responses have, in turn, been shaped by the prevailing international political climate. During the Cold War, forced migration constituted one of the central foreign policy concerns of US and Western foreign policies. So-called “refugee warriors” received generous support from patron governments as part of the logic of proxy wars. The end of the Cold War has brought new salience to the issue, as the changing nature of conflict, the expanding number of displaced persons and the changing priorities of Western states affected the response to the security implications of forced migrations. This new operational and political environment directly affected UNHCR’s response to such situations, expanding its activities to a wider array of beneficiaries and in a new range of contexts previously understood to be beyond its mandate.

Protection failures in such operations as Rwanda and Bosnia, however, led to disillusionment with these new responses. New conceptualisations of and responses to the security implications of forced migration were proposed, including the notion of ‘human security’ and the ‘ladder of options’ approach. On-going multilateral discussions on the topic highlight the enduring dissatisfaction with the new approaches, and the continued need for an effective and comprehensive understanding of insecurity resulting from refugee movements and other forms of forced migration.

A review of the literature on forced migration and security over the past decade reveals similar shortcomings. Early literature in the area had a limited understanding of the nature of security, while more recent literature remains preoccupied with the concerns and responses of Western states and the security dimensions of mass influx situations.

In contrast, this paper argues that the security implications of forced migration are best understood – and addressed – in the context of protracted refugee situations, the reality for the overwhelming majority of the world’s refugees. Such situations result in both direct security concerns – stemming from the spill-over of violence and the militarization of refugee populations – and indirect concerns – stemming from local grievances towards assisted refugee populations and the perception of the presence of refugees as an unending burden on the host state and community. The paper concludes by detailing elements of a necessary response to these concerns, including the separation of armed elements, targeted assistance to address local grievances, the development of local capacity to ensure protection and durable solutions and the formulation of comprehensive solutions to protracted refugee situations.



## RECOMMENDATIONS TO DFID

- DFID should be especially concerned with the security implications of forced migration as it has a direct impact on well-being for both displaced persons and host communities.
- DFID's response to the security implications of forced migration must be mindful of the causes of nature of displacement, the mixed character of refugee camp populations, the political and military abuse of camps, the location of refugee camps in insecure border regions, the weak rule of law in refugee camps and the negative economic and security impact of these camps on local communities.
- DFID should understand that recent proposals to 'regionalise' asylum, through the establishment of '**zones of protection**', will increase the burdens borne by host states in regions of refugee origin, compound their security concerns, and lead to increased reluctance to host refugees. As such, DFID should engage in cross-departmental dialogue to ensure that its understanding of conditions in host countries are fully communicated to Foreign and Commonwealth Office, the Home Office and the Cabinet Office.
- DFID needs to work towards a strengthened multilateral regime which has the mandate, capacity and resources to meet current unmet refugee needs in a more impartial and effective manner.
- DFID's policy approach to refugees, asylum seekers and IDPs must include a thorough consideration of **protracted refugee situations**, as such situations are no less dangerous sources of instability and no less greater threat to well-being than more conventional security threats at a local and national level.
- **In the short term**, DFID's programmes in host countries should include a consideration of how **directed assistance to refugee populated areas** can alleviate local feelings of grievance towards refugee populations, thereby fostering greater local security and well-being.
- DFID should examine the Firewood Project in Kenya and the range of Special Programmes in Refugee Affected Areas in Tanzania and in other host countries to assess what elements of these programmes may be **mainstreamed into DFID's country programmes** and replicated in other host countries.
- Such analysis should recognise the **double benefit of directed assistance**: such programmes can foster an environment of greater security and protection for refugees and the local population, while also contributing to broader national development objectives and the alleviation of poverty in refugee hosting communities.
- DFID should take **leadership within the development community** to formulate and implement such development-related projects, in partnership with UNHCR, but in recognition of UNHCR's core mandate to protect refugees and find solutions to their plight.

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- DFID should consider how its involvement in **security sector reform** should include training and capacity building for national security services to implement host-state obligations as articulated by UN Security Council resolution 1208 (1998) and Executive Committee (ExCom) Conclusion 94.
- DFID should consider how its involvement in **democratization and the promotion of good governance** in host countries can prevent the rise of anti-refugee sentiment present in many transition states, leading to grievance-driven insecurity.
- **In the medium term**, DFID's programmes should include initiatives to increase the protection capacity of host states, enhance the rule of law in refugee populated areas, and expand the capacity and access of national NGOs to refugee programmes.
- To this end, DFID should ensure that its **representatives in host countries** are engaged in the refugee situation and aware of the potential contribution of development initiatives in addressing security concerns.
- **In the long term**, DFID should play a leading technical and political role in the formulation of comprehensive solutions to protracted refugee situations by contributing to the enhancement of the three **durable solutions** for refugees.
- To support **repatriation**, DFID's activities in countries of origin should incorporate the preconditions for successful return and reintegration of both refugees and IDPs, including local and regional post conflict reconstruction programmes, rehabilitation of former combatants, and income generation programmes in support of demobilization.
- To support **local integration**, DFID should politically engage with host states to consider the modalities of this solution, target development assistance to refugee populated areas, support the rehabilitation of former refugee camps and settlements, and support self-sufficiency initiatives for locally integrated refugees.
- To support **third-country resettlement**, DFID should encourage the consolidation and future development of the UK's fledgling refugee resettlement programme.
- More generally, DFID should contribute its unique perspective to see how these three solutions can work in combination to form **comprehensive solutions to protracted refugee situations**.
- DFID, along with other stakeholders in the international system, needs to address how the UN should respond to the **problems of state incapacity**, including protracted refugee situations, and how to **empower regional bodies to assist in meeting this challenge**.

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- DFID is particularly well-situated to foster sustained dialogue on the development of a **cross-departmental policy agenda** that extends beyond conventional boundaries and seeks to integrate the resolution of chronic and recurring regional refugee problems with economic development and security issues, both in host countries and countries of origin.

## **1. BACKGROUND TO FORCED MIGRATION AND SECURITY**

Forced migration has always had security implications. International political concern for refugees first emerged after World War I when mass flows from Russia and Balkan states heightened inter-state tensions and threatened the security of European states. These refugee crises became protracted affairs that surpassed the capacity of humanitarian agencies and individual states to resolve them on their own. Consequently, an international framework of institutions and agreements, a nascent international refugee regime, was created to deal with this contentious issue. Following the end of the Second World War, the current international refugee regime emerged in reaction to the security threat posed to the fragile European state system by some 12 million displaced persons. (Loescher, 2001: Chapters 2 and 3)

### **1.1. Forced Migration and Security During the Cold War**

During the Cold War, forced migration constituted one of the central concerns of US and Western foreign policies. (Loescher and Scanlan, 1986; Zolberg *et al.*, 1989) Refugees were seen as part of the global struggle between East and West. Refugees fleeing communism were portrayed as “voting with their feet”. In the interest of exploiting the ideological and public relations benefits of such movements, the West responded through generous burden sharing and resettlement schemes. During the late 1970s and 1980s, the Indo-Chinese exodus in Southeast Asia, the flow of Afghan refugees into Iran and Pakistan, the exodus from Central America, and the Angolan and Mozambican refugee situations in Southern Africa and those in the Horn of Africa all had significant security dimensions. In regions of intense superpower conflict and competition, refugees were armed and their military struggles were supported both materially and ideologically. Host states did raise security concerns about refugee flows, especially in the context of the Indo-Chinese exodus, but these concerns were addressed comprehensively in their interest by the West.

### **1.2. Forced Migration and Security After the Cold War**

The security implications of forced migration have gained new salience in recent years, especially since the end of the Cold War. What resulted was a period of ‘issue-widening’, growing out of a frustration with the narrow Cold War understanding of security, focused on military threats external to the state. Speaking at the first summit-level meeting at the end of the Cold War, the President of the UN Security Council noted that “the non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to international peace and security.” (UN Security Council, 1992) Throughout the 1990s, refugee movements were central elements of numerous UN Security Council resolutions. (Roberts, 1998)

Following the end of the 1991 Gulf War, Iraqi suppression of widespread revolt in northern Kurdish areas created widespread fears among the Kurds, resulting in the mass flight of some 2 million refugees to the Turkish border and into Iran. Civil war and famine in Somalia in 1992 displaced hundreds of thousands of civilians and caused large-scale starvation and a breakdown of civil order. The break-up of the former Yugoslavia in the early 1990s resulted in bitter civil wars among competing ethnic populations and widespread ethnic cleansing and displacement. Human rights abuses and repressive military rule drove large numbers of Haitians to flee the country by boat

throughout the 1990s, causing a serious policy problem for the United States. In most of these and other cases, the UN, or regional or national forces acting with UN authorization, directly intervened in intrastate conflicts in an attempt to tackle these crises which led to mass displacement.

Moreover, forced displacements were also at the centre of crises in the African Great Lakes region, Liberia, Sierra Leone, Albania, Kosovo, East Timor and Afghanistan. In Kosovo, over 850,000 people were driven out of the country in 1999 in a massive and brutal ethnic cleansing. Later in the same year in Indonesia, gangs of armed thugs, with the active support of the military and the police, waged a campaign of terror against the East Timorese people and against UN staff who were stationed there to monitor the referendum that would confirm East Timor's independence.

During this period, it became clear to those engaged in the UN's peace and security apparatus that refugee movements were not only a consequence of insecurity, but could also be a cause of insecurity, for host states, countries of origin, for regions hosting refugees, and even a threat to international peace and security. As such, the security implications of refugee movements were seen as possible justification for armed intervention under Chapter VII of the UN Charter, thus linking the political and humanitarian arms of the United Nations.

## **2. THE UNHCR AND THE EMERGING SECURITY DISCOURSE**

At the same time that refugees came to be viewed as possibly posing threats to international and regional security, refugees were perceived increasingly as burdens. In the face of growing numbers of illegal migrants and abuse of asylum systems, Western governments became increasingly reluctant to grant asylum and enacted severe new entry controls. The closure of borders to prevent unwanted refugee and migrant influxes became much more widespread than it had been during the Cold War. In the West, in place of asylum, various forms of 'temporary protection' were utilized to deal with those fleeing war and 'ethnic cleansing'. For developing countries, the growing numbers of displaced people entering already precarious or failing economies presented problems that threatened domestic stability and governmental authority. Diminishing donor government support for long-term refugee assistance, coupled with declining levels of development assistance, and the imposition of structural adjustment programs on many poorer and less stable states, reinforced and contributed to the growing hostility towards refugees in the developing world.

In response to these global developments, most governments not only became more restrictionist in their refugee policies but also pushed for a comprehensive international policy which sought to modify the causes of refugee flows through conflict resolution, peacemaking, and peacekeeping. These policies focused on unstable, refugee-producing regions, to facilitate the prevention, containment of refugee flows, or their reversal through repatriation. This was to be achieved through a series of international humanitarian operations in the 1990s that were launched by the UN Security Council and the UNHCR. During this period, governments felt compelled to respond to refugee disasters, especially those covered by the media, and therefore repeatedly tasked the UNHCR to provide emergency relief aid with a view towards alleviating, preventing, or containing refugee crises within their own country or region of origin. For the world's

most powerful states, the provision of humanitarian assistance was financially and politically a relatively low risk option because it satisfied the demands of the media and public opinion for some kind of action to alleviate human suffering. But it was also used repeatedly by governments as an excuse for refusing to take more decisive forms of political and military intervention to deal with the underlying political causes of these population movements.

For the UNHCR, these shifts in attitudes about intervention made it begin to perceive its own work more in terms of contributing to regional and international peace and security. The agency became more frequently involved in internal conflicts and in sharing responsibility with UN mandated military forces for assistance to displaced people. In an effort to take advantage of the political opportunities that the post-Cold War environment presented, the UNHCR also made a concerted effort to frame its policies in terms of interests of the major powers in resolving conflicts and refugee problems. It also demonstrated a greater interest in preventing refugee flows and in finding solutions to the political problems that created mass flight. By emphasizing the responsibilities of refugee sending states and by labelling the mass exodus of refugees as a threat to international peace and security, UNHCR sought to legitimize its own actions to facilitate repatriations as well as interventions by the UN and states into regions of refugee origin to alleviate or even solve the causes of flight. The high priority given to humanitarian operations and the increasing recognition of a link between refugees and international security meant that UNHCR played an increasingly important role in placing refugees on the international political agenda. (Hammerstad, 2003) From 1992 on, the High Commissioner began to report regularly to the UN Security Council and to regional organizations, such as the Organization for Security and Cooperation in Europe (OSCE) on the potentially destabilizing effects of refugee and displacement crises.

## **2.1. Consequences for UNHCR Activities**

The emergence of a new international security environment and a more assertive UN Security Council dramatically changed the way in which UNHCR operated. During the Cold War, in-country assistance and protection of internally displaced people and victims of war were perceived to violate state sovereignty and therefore were taboo for UN agencies. In the post-Cold War period, by contrast, the UN developed a series of experimental measures, including a number of humanitarian interventions, for responding to instances of forced displacement within internal conflicts. These initiatives included the offer of temporary protection rather than full refugee status, the establishment of safe havens, cross-border deliveries of assistance, and the use of military resources for the delivery of humanitarian assistance. For UNHCR, the major change in the handling of refugee issues included an increased focus on working in countries of origin – even in countries at war – to reduce the likelihood of massive refugee flows across borders. In addition, the UNHCR was also frequently asked to take part in comprehensive and integrated UN peacekeeping or peacemaking operations that involved political and military actors of the UN.

In response to these dramatic developments, the UNHCR expanded its services to a much wider range of people who were in need of assistance. For example, ‘war-affected populations’ – people who had not been uprooted but needed humanitarian assistance and protection – comprised a substantial proportion of UNHCR’s beneficiary population

during the height of the 1990's Bosnian conflict. As a result, the numbers of displaced people and war-affected populations receiving UNHCR assistance increased dramatically. Worldwide the number of people receiving UNHCR assistance increased from 15 million in 1990 to a peak of 26 million in 1996. Of this total of UNHCR's beneficiaries, refugees constituted only about 50 per cent. Consequently, UNHCR expanded from a refugee organization into the UN's foremost humanitarian agency, thereby gaining a higher profile in international politics and securing more generous funding for its operations.

## 2.2. Disillusionment with the New Security Initiatives

By the mid-1990s, however, it became evident that these innovative methods of assistance and protection had not been derived from any clearly defined strategy but had been developed in an *ad hoc* fashion in response to immediate security crises. As seemingly intractable conflicts continued in the Balkans, Africa and within the former Soviet Union, it was apparent that states lacked the will to initiate effective enforcement for maintaining peace and security, for empowering human rights mechanisms, or for promoting sustainable development in crisis regions. The major powers had only minimal interest in most countries with internal conflicts and humanitarian crises, and international responses to refugee crises remained more often than not reactive, self-interested, and based on *ad hoc* initiatives. There was no guarantee that states would intervene in situations where it was desperately needed as in Rwanda in 1994. Bruised by their failure to restore stability in Somalia, the world's major governments and the UN chose to do nothing in the face of wanton mass killings in Rwanda. Similar concerns prevented Western governments from committing sufficient ground forces to Bosnia with an enforcement mission to defend the so-called "safe areas," including Srebrenica.

Most alarmingly, the new *ad hoc* initiatives also seemed to exacerbate and prolong the suffering in many cases of displaced people caught up in brutal conflicts. The UNHCR's high-profile relief efforts in Northern Iraq, Bosnia and Rwanda underlined dramatically the inadequacy of providing protection in humanitarian relief programs in the midst of on-going civil conflicts and regional security crises. In particular, the failure to halt the genocide in Rwanda in 1994, the failure to halt the militarization of refugee camps in Zaire in 1994-6, the failure to prevent the forced repatriation of Rwandan refugees in 1996, and the failure to protect and assist the Rwandan refugees driven into eastern Zaire from late 1996 onward vividly demonstrated for UNHCR the lack of commitment on the part of states to address the underlying causes of security crises and conflicts in order to find solutions to refugee problems. The international community was all too often content to encourage UNHCR and other humanitarian organizations to deal with the humanitarian consequences of conflicts rather than to actively engage in seeking political and security solutions in intrastate wars. It became clear to UNHCR that if refugee problems were to be resolved then the international community would have to become active well beyond the mandate of UNHCR.

By the mid-1990s, the major powers, particularly the United States, perceived that the interventions of the early 1990s had overextended the UN and that in the future interventions should be much more limited and essentially restricted to the most strategically important areas of the world. As Kofi Annan acknowledged in his annual report to the UN General Assembly in 1999: "the failure to intervene was driven more

by the reluctance of Member States to pay the human and other costs of intervention, and by doubts that the use of force would be successful, than by concerns about sovereignty.” (Annan, 1999: 21) The use of armed force to stem refugee movements remains highly controversial within the international community. (Wheeler, 1999) The NATO intervention in Kosovo in 1999 and the bitter debates over Iraq in 2003 demonstrate that there exist significant objections, particularly among the developing states, to the right to intervene concept and to the use of force to resolve security threats, much less refugee crises.

### 2.3. “Human Security” and UNHCR

Disillusionment with its own shortcomings and with the failure of states to take action in the Great Lakes and other refugee-prone regions gave rise to efforts on the part of UNHCR to tone down the political elements of its security discourse, to redefine security by giving it a more humanitarian emphasis, and to develop the concept as an operational tool for policy formulation and implementation. (Hammerstad, 2003) Building on the notion of “human security” first introduced in the UNDP’s 1994 Human Development Report (UNDP, 1994) and later adopted into their foreign policy agendas by states such as Canada, Sweden and Norway, UNHCR began to use the concept from the mid 1990s on as a means to establish harmony between the security concerns of states and the protection needs of forcibly displaced persons and the security needs of the staff of international humanitarian agencies.

Throughout her term as High Commissioner, Sadako Ogata stressed that her most important challenge was how to strike a balance between the principles of refugee protection and the legitimate concerns of states. (Ogata, 1997a) However, the disastrous protection crises of the Great Lakes and other operations demonstrated for UNHCR that this balance could not be achieved solely through appealing to the security interests of states. UNHCR had overestimated the extent to which the international community was willing and able to intervene in sovereign states to aid refugees and displaced people. It also became clear that the security interests of states were narrower and more self-interested than UNHCR anticipated and were not always compatible with the protection needs of refugees. Consequently, UNHCR endeavoured through advocating “human security” to show how the real security of states and the international community could only be achieved by providing security for “people”. (UNHCR, 1997; Ogata, 1997b; Ogata, 1999) In other words, UNHCR’s use of human security was part of the agency’s attempt to shape the interests of states in directions more conducive to refugee protection and assistance, as well as to mitigate the political and financial constraints imposed upon it by its environment.

However, the concept of “human security” had its own limitations. While human security emphasized the links between human rights, physical security of individuals and the security of states, it was so all-encompassing a concept that it did not provide UNHCR with a very useful tool with which to understand and explain the nature of refugee problems. (Hammerstad, 2003) The concept also did not adequately address the disjuncture between UNHCR’s emphasis on human rights and the security concerns of states affected by disruptive refugee movements. In particular, human security underplayed or ignored the security concerns of states, especially the long-term consequences of hosting large numbers of refugees. It also focused on forced migration as a consequence of conflict, but ignored the fact that refugees can frequently be the



cause of conflict. Consequently, human security as defined by UNHCR had a questionable utility as a framework for understanding the relationship between state security concerns and refugee protection.

#### **2.4. The “Ladder of Options” and Demilitarizing Refugee Camps**

After the Great Lakes disaster, the international community began to debate a more structured response to address the security threats of hosting refugees, particularly the threat posed by the movement of large numbers of refugees co-mingled with combatants in refugee camps. (Jacobsen and Crisp, 2000) In April 2000, the UN Security Council (Security Council resolution 1296) requested the Secretary-General to bring to its attention incidents involving the militarization of refugee camps and to consider taking “appropriate steps to create a secure environment for civilians endangered by conflicts”. A year later, the UN Secretary-General Kofi Annan recognized the need for a military force to keep armed combatants out of refugee settlements and recommended that the Security Council deploy “international military observers to monitor the situation in camps for internally displaced persons and refugees when the presence of arms, combatants and armed elements is suspected...(and) consider the range of options ... (including) compelling disarmament of the combatants or armed elements.” (UN Security Council, 2001)

The UNHCR had been particularly shocked by the lack of international assistance it received in Rwandan refugee camps in Zaire and Tanzania to separate out the *interhamwe* and other *genocidaires* from the civilian refugee communities. In the Great Lakes, UNHCR protection officers were totally ineffective in preventing the militarization of the Rwandan refugee camps. They had neither the mandate nor the training and resources to carry out demilitarization and their calls for international assistance went unheeded.

To deal with such situations in the future, the UNHCR proposed a “ladder of options”, ranging from contingency planning and preventive measures through monitoring and policing to forceful intervention under Chapter VII of the UN Charter, as the foundation for a new UN policy response to the problems of insecurity in refugee camps. (UNHCR ExCom, 1999; UNHCR ExCom 2000) Subsequently, the UNHCR established stand-by arrangements with a limited number of governments for the provision of police and public security experts who were designated as Humanitarian Security Officers (HSO) to be deployed as part of UNHCR’s Emergency Response teams at the beginning of refugee crises and would work with public security institutions of receiving countries. UNHCR also enhanced its own emergency response mechanism by participating in numerous civil-military conferences, designing training programs for HSOs, and establishing a focal point with the UN Security forces (UNSECORD). Finally, UNHCR entered into discussions with the UN Department of Peacekeeping (DPKO) regarding the possible deployment of missions to situations in which refugee-populated areas have become militarized or where they run the risk of falling under the control of groups suspected of genocide or crimes against humanity.

### 3. THE LITERATURE ON FORCED MIGRATION AND STATE SECURITY

During the 1990s, not only did policy makers broaden the international security agenda, but a period of 'issue-widening' was also seen in the international relations literature. (Ulman, 1983; Matthews, 1989; Homer-Dixon, 1991) This process was partly motivated by a recognition that 'security' is an 'essentially contested concept' and therefore inherently difficult to define. (Buzan, 1991) As outlined in Hammerstad's paper, the link between conflict and development rose in prominence during this period. Research began to highlight how factors as diverse as environmental degradation, economic interdependence, transnational crime and migration and refugee movements had the potential to influence state and regional security agendas. Consequently, a distinct literature on refugee movements and international security emerged.

In the early 1990s, researchers and scholars began to take cognizance of the rising importance of security in migration and refugee studies.<sup>1</sup> Early works aimed to provide a basic typology of migration flows and their related security concerns, particularly for sending and receiving states. Examining the question in a broad, cross-regional and comparative perspective, these studies sought to clarify the possible security implications of refugee movements and the potential concerns of host states. Particular reference was also made to the numerous cases of "refugee warriors" (Zolberg *et al.*, 1989) and the negative impact of these forces on regional and international security.

#### 3.1. Limitations of the Literature on Forced Migration and Security

These early works, however, had certain limitations. First, the works fail to incorporate a comprehensive conceptualization of 'security' appropriate to the study of forced migration. Second, while attempting to bring the migration question into the mainstream of security studies, the nature of the security implications of migration portrayed focus disproportionately on the 'high politics' dimension of the security concerns of host-states, focusing on external security threats of a military nature, at the necessary expense of the 'low politics' concerns, relating to domestic stability. Both works make reference to concerns surrounding host community receptivity and questions of ethnic affinity, but, as recent cases illustrate, the domestic, 'low politics', or indirect security concerns, have proven to be far more pervasive and preoccupying for host-states than previously thought, especially in Africa, and in light of the failures of international solidarity and burden sharing.

Following these earlier works, from the mid-1990s on, the literature on migration and security focused more on the securitization of asylum in the European context and on

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<sup>1</sup> Two of the earliest works were Myron Weiner's edited volume *International Migration and Security* and Gil Loescher's IISS Adephe Paper *Refugee Movements and International Security*. Both works attempted to raise the issue of forced migration as both a potential cause and consequence of insecurity, by emphasising the 'high politics' dimensions of the issue and by charting a cross-regional framework for future research in the area. Both studies had as a primary objective the raising of the profile of international migration in the eyes of national security and foreign policy planners and defining the issue for further research. Both researchers argued that it was essential to recognize that refugee problems are in fact intensely political. Mass migrations create domestic instability, generate interstate tension and threaten regional and sometimes international security. These authors argued that solutions to refugee problems necessitated not only humanitarian but also political solutions.

notions of societal motivations for casting migration in terms of security concerns. (Huysmans, 1995; Waever *et al.*, 1993; Waever, 1995; Buzan *et al.*, 1998; Bigo, 1996; Bigo, 1998) The focus of the debate has been on the way that societal identity and societal concerns about migration and immigration translate into state action against migrants. The focus is predominantly on the use of security in public discourse, and who has the authority to turn migration into a security issue.

While this literature lays an important foundation to understand the process by which the language of security may be applied to cases of migration by various actors within society for differing reasons and with various degrees of success, it is not directly applicable to the question of host-state security in developing countries. The arguments contained within the more recent literature are heavily based on the European context, especially the European state and European state-society relations. In fact, the nature of the European state is very different from the nature of the state in much of the developing world. (Clapham, 1996; Jackson, 1990; Herbst, 2000) The realities of the refugee issue in the developing world, especially Africa, are quantitatively and qualitatively so different that there is a clear need for a different approach for understanding the security concerns of host-states in the Third World. (Loescher, 1992; Chimni, 1998) As Jeff Crisp has noted, the list of concerns of developing countries differs considerably from the concerns of European states, and includes: the causes and nature of the displacement, the mixed character of refugee camp populations, the political and military abuse of camps, the location of refugee camps in border areas, the weak rule of law in refugee camps, and the impact of these camps on the local communities – all issues of concern to DFID. (Crisp, 2000c)

### 3.2. Recent Research Priorities

International relations researchers currently address the security implications of forced migration in two ways. First, and especially since September 11, 2001, there has been an emphasis on the potential links between migration and asylum in the West and transnational crime, terrorism and the identity of European political communities. (Van Selm, 2003; Gibney, 2002; Zolberg, 2002) As a result of these concerns, many Western resettlement countries and traditional asylum countries, have reconsidered their admissions levels and procedures. Increased security screening has resulted in long delays in resettlement processing, while security-motivated legislation has led to increased barriers to entry in Western asylum countries. There is a rising opinion on the part of many Western policy makers that the potential security implications of refugee movements can be contained in regions of refugee origin, and this approach has partially contributed to an increased consideration of regional processing and 'zones of protection' by Western policy makers, notably the United Kingdom. Of the many concerns with this new approach (Loescher and Milner, 2003), paramount to agencies like DFID should be that 'regionalization' increases the burdens borne by host states in regions of refugee origin, compounds their security concerns, and leads to increased reluctance to host refugees.

Second, as outlined above, through multilateral discussions and negotiations, there has been a focus on the security implications of large-scale and sudden refugee movements in developing countries, and the particular problem of armed groups within some refugee communities.

Both of these approaches are useful, and address current policy concerns of governments, but there is a third, and more pressing, situation in which forced migration may cause security concerns on the part of host states, especially in the developing world. This third situation is the case of protracted refugee situations.

#### **4. PROTRACTED REFUGEE SITUATIONS AND SECURITY**

Since the early 1990s, the international community has focused on refugee emergencies, delivering humanitarian assistance to refugees and war-affected populations, and encouraging large-scale repatriation programs in high profile regions such as the Balkans, the Great Lakes or recently Afghanistan and Iraq. (Loescher, 2001; UNHCR, 2000) The majority of today's almost 10 million refugees, however, are trapped in protracted refugee situations, unable to return home and without the prospect either of a solution in the country where they have sought asylum or of resettlement abroad. Such situations are often characterized by long periods of exile (stretching to decades for some groups) and can occur on most continents in a range of environments including camps, rural settlements and urban centres.

A serious consequence of protracted refugee situations is that they can foster instability, insecurity and conflict and can even be prime targets for recruitment into armed units and terrorism. Such refugee situations may not only cause such direct security concerns but also have indirect security implications, through the exacerbation of pre-existing social and economic tensions among local populations. Thus, protracted refugee situations are no less dangerous sources of instability than other more conventional security threats and there are reasons of state and security for the international community to focus its attention on protracted refugee situations. As such, these refugee situations should be of particular concern to DFID.

The long-term presence of Burundian refugees in Tanzania, Sudanese and Somali refugees in Kenya, Liberian refugees in West Africa, Afghans remaining in Pakistan, Burmese in Thailand – all in regions where DFID is currently active – and other chronic refugee populations, have come to be seen by many host states as a source of insecurity. In response, they have enacted policies of containing refugees in isolated and insecure camps, have prevented the arrival of additional refugees, and have, in extreme cases, engaged in forcible repatriation. (Amnesty International, 1997; Lawyers Committee for Human Rights, 1995; Human Rights Watch, 1999; Crisp, 2000b; Rutinwa, 1999) Not surprisingly, these populations are also increasingly a source of insecurity for Western states. Refugee camps are sometimes breeding grounds international terrorism (Harman, 2002) and armed groups in these camps engage in activities that destabilize not only host states but also entire regions. (Kamara, 2001) Given the transnational importance and significance of protracted refugee situations in today's security environment, much greater attention needs to be given by DFID and other international agencies to understanding this pressing problem and developing appropriate policy responses.

Unfortunately, until very recently, the problem of protracted refugee situations has largely been ignored by scholars and practitioners. A few key studies addressed this

issue in the 1970s and 1980s.<sup>2</sup> More recently, a series of studies were undertaken by the Evaluation and Policy Analysis Unit at UNHCR.<sup>3</sup> While these studies provide important new insights into protracted refugee situations in Africa and elsewhere, the primary focus has been on addressing the daily security concerns of refugees and not on the links between local and regional security and protracted refugee situations. This work also largely focuses on refugees in camps and not on urban refugees or self-settled refugees, partly because these groups are of less direct concern to UNHCR.

The rising significance of protracted refugee situations has recently been given a higher profile within intergovernmental settings. In December 2001, there was an African Ministerial Meeting on protracted refugee situations (UNHCR Africa Bureau, 2001a; UNHCR, Africa Bureau, 2001b; UNHCR, 2001a) and the issue has been considered at recent UNHCR Executive Committee sessions (Lubbers, 2002) as well as within the framework of the UNHCR Global Consultations on Refugee Protection. (UNHCR ExCom, 2002a) Following preliminary discussion on comprehensive solutions for the most prominent protracted refugee situations, (UNHCR 2003a; UNHCR, 2003b) UNHCR hosted a series of meetings in early March 2004 to generate international support for the future repatriation of a number of refugee populations in Africa. UNHCR argued that conditions in countries like Sudan, Somalia, Liberia, Burundi, Sierra Leone and Angola were suitable for the preparation of large-scale returns in the coming years, pending positive developments in the relevant peace processes and in the ability of UNHCR and partner agencies to build the necessary capacity in the host countries to effectively receive and reintegrate the returning populations. UNHCR subsequently appealed for \$8.8 million for preparatory activities in Sudan, but it has so far received \$3 million. Likewise, it has appealed for \$39.2 million to support operations in Liberia for the return and reintegration of both refugees and internally displaced persons, but it has received only \$3 million. While repatriation is not immediately possible to these countries, investment is essential in the coming months to ensure that the infrastructure is in place to support repatriation in the coming years.

These examples underscore the highly selective nature of most donor funding for refugee situations. A recent study on donor behaviour (Smillie and Minear, 2003) argues that funding for humanitarian programmes largely reflects the foreign and domestic policies of donor governments. Such behaviour does not provide a coherent or effective system for financing international humanitarian activities. Donor governments give vastly disproportionate amounts of aid to a few well-known cases and far lesser aid to dozens of other less well-publicized refugee caseloads. The absence of an autonomous and government-assessed resource base for UNHCR, for example, continue to limit the response to present and future refugee crises just as they have done for the past 50 years. While the UNHCR has recently tried to overcome these financial constraints by trying to access development funds to finance unmet needs, it is not yet

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<sup>2</sup> The Refugee Policy Group in Washington, D.C. produced reports on protracted refugee settlements in Africa outlining many of the problems confronting long-staying refugees at that time. T. Betts, Robert Chambers and Art Hansen, among others, conducted research on some of these groups in Africa and assessed the international community's policy responses, particularly programmes aimed to promote local integration.

<sup>3</sup> Individual studies conducted for the research are posted on the web-page of UNHCR's Evaluation and Policy Analysis Unit: <http://www.unhcr.ch/epau> For a summary of the research findings, see: Crisp 2002.

evident that this will prove to be a successful strategy. In light of this situation, donor governments and agencies like DFID need to work towards a strengthened multilateral regime which has the mandate, capacity and resources to meet current unmet refugee needs in a more impartial and effective manner.

#### 4.1. The Nature of Security Concerns: Direct Threats

In addition to the lack of donor support for these preparations, it is also of concern that these discussions have not been accompanied by a sufficient understanding of the security impact of long-staying refugee populations. Protracted refugee situations result in a wide range of direct and indirect security concerns for host states and states in the region. The **direct threats** faced by the host-state, posed by the spill-over of conflict and the presence of 'refugee warriors', are by far the strongest link between refugees and conflict. Here, there are no intervening variables between forced migration and violence as the migrants themselves are actively engaged in armed campaigns typically, but not exclusively, against the country of origin. Such campaigns have the potential of regionalizing the conflict and dragging the host-state into what was previously an intra-state conflict.

It is important to note that there was a time when states were willing to host refugee warrior communities, notwithstanding the threat they posed. In the context of the Cold War and the ideological struggle between East and West, the spill-over of violence assumed a very different meaning than it does today. At the time, "the emergence of armed groups of exiles, the so-called 'refugee warriors', symbolised for the West the popular rejection of communist governments and served to legitimize the resistance movements." (Loescher, 1992: 11) Examples of such resistance and support are to be found in the anti-Soviet Mujahideen based in Pakistan, the Khmers Rouge in Thailand and the Nicaraguan Contras. (Loescher 2001: 201 – 246) As part of the Cold War logic of international security, all these groups received US and Western support, both military and political. (Loescher, 1992: 12)

With the end of the Cold War, the logic has changed, but the relevance of refugee warriors remains. This relevance is especially true in Africa, as brought home with particular force in the maelstrom of violence that gripped the Great Lakes region of Central Africa between 1994 and 1996. It was this particular case that initiated discussions between UNHCR, regional states and the UN Department of Peacekeeping Operations, resulting in the formulation of the ladder of options policy.

The direct causes of insecurity to both host states and regional and extra-regional actors stemming from chronic refugee populations are best understood within the context of so-called failed states, as in Somalia, and the rise of warlordism, as in the case of Liberia. In such situations, refugee camps are used as a base for guerrilla, insurgent or terrorist activities. Armed groups hide behind the humanitarian character of refugee camps and settlements, and use these camps as an opportunity to recruit among the disaffected displaced populations. In such situations, there is the risk that humanitarian aid, including food, medical assistance and other support mechanisms, might be expropriated to support armed elements. Similar security concerns may arise within urban refugee populations where gangs and criminal networks can emerge within displaced and disenfranchised populations. These groups take advantage of the transnational nature of refugee populations, of remittances from abroad and the

marginal existence of urban refugees to further their goals. In both the urban and camp context, refugee movements have proven to provide a cover for the illicit activities, ranging from prostitution and people smuggling to the trade in small arms, narcotics and diamonds.

The security consequences of such activities for host states and regional actors are real. They include cross-border attacks on both host states and countries of origin, attacks on humanitarian personnel, refugees and civilian populations. Direct security concerns can also lead to serious bilateral and regional political and diplomatic tensions. Cross border flows are perceived by host states to impede on their national sovereignty, especially given the tenuous control that many central governments in the developing world have over their border regions. Finally, the activities of armed elements among refugee populations not only violate refugee protection and human rights principles, but can constitute threats to international peace and security. (Dowty and Loescher, 1996)

#### **4.2. The Nature of Security Concerns: Indirect Threats**

More difficult to identify, but just as potentially destabilising as direct threats, refugee movements may pose **indirect threats** to the host state. Indirect threats may arise when the presence of refugees exacerbates previously existing inter-communal tensions in the host country, shifts the balance of power between communities, or causes grievances among local populations. At the root of such security concerns is the failure of international solidarity and burden sharing with host countries. Local and national grievances are particularly heightened when refugees compete with local populations for resources, jobs and social services, including health care, education and housing. Refugees are also frequently scapegoats for breakdowns in law and order in refugee populated areas, both rural and urban.

The indirect threat to security that long-staying refugees can pose to host states is a key concept that has been lacking in both the research and policy consideration of refugee movements. In these cases, refugees alone are a necessary but not a sufficient cause of host state insecurity. It is not the refugee that is a threat to the host state, but the context within which the refugees exist that results in the securitization of the asylum question for many states.

Lacking policy alternatives, many host governments now present refugee populations as security threats to justify actions that would not otherwise be permissible, especially when the state is confronted with the pressures of externally-imposed democratization and economic liberalization. More generally, the presence of refugees can exacerbate previously existing tensions (as also noted in Hammerstad's paper) and can change the balance of power between groups in the country of asylum. For this reason refugees play a significant but indirect role in the causes of insecurity and violence, but with consequences potentially of the same scale as the direct threats. Given DFID's involvement in democratization and good governance programmes, it should be especially aware of these types of concerns.

This dynamic has been emphasised in recent research examining the dramatic restrictions on asylum that have been imposed by host states in Africa since the mid-1990s (as outlined in Kamanga's paper). Several researchers have pointed to the significance of the absence of meaningful burden sharing and the growing xenophobia

in many African countries as the key factors motivating restrictive asylum policies. (Crisp, 2000; Rutinwa, 1999) It has also been argued that these xenophobic sentiments “have emerged at a time when most of Africa is democratizing and governments are compelled to take into account public opinion in formulating various policies. The result has been the adoption of anti-refugee platforms by political parties which result in anti-refugee policies and actions by governments.” (Rutinwa, 1999: 2) Just as “government leaders found themselves facing more and more pressures to restrict entry” as “asylum became part of the cut and thrust of domestic politics” in Western Europe in recent years, Gibney emphasises that “the rise of multiparty democracy in Africa ... has arguably diminished the autonomy of state elites in determining the security agenda.” (Gibney, 2002: 7)

It has been argued that the Tanzanian government’s decision to close its border with Burundi was closely linked to the lead-up to the 1995 parliamentary and presidential elections. Opposition parties exploited local dissatisfaction with the government’s handling of the asylum question in the region, and thereby tried to create political opportunity by demonstrating that they had the power to restore order and stability to border regions by expelling unpopular refugee populations. (Runtinwa, 1996: 299)

This example serves to highlight the dynamics of internal competition between the core and periphery of a state, and how the presence of refugee camps typically in the “hinterland” (Herbst, 2000: 3) of a state influences this dynamic. The presence of large numbers of refugees in the periphery of a state may give that region significance that it did not previously have. This is particularly true when the political geography of the African state is considered.

Herbst argues that “states are only viable if they are able to control the territory defined by their borders” and that such control is “assured by developing an infrastructure to broadcast power and by gaining the loyalty of citizens.” (Herbst, 2002: 3) Unlike European states, which have managed to broadcast this power to all sectors of the state, Herbst argues that African states have concentrated power in economic centres and have very limited control over the periphery of the state. The presence of large refugee populations in these ‘hinterlands’, where the regime typically does not exercise effective control, is a serious concern for the state. This fact, combined with an understanding that “rule by the centre” in many African states is so weak and that there is “space for challengers to form large and sophisticated rebel armies” (Herbst, 2000: 255) in the periphery of the state, clearly adds to an understanding of why African states are increasingly concerned about the security implications of large, insecure refugee camps and settlements in their hinterland.

Furthermore, it has been argued that “in countries which are divided into antagonistic racial, ethnic, religious or other groupings, a major influx can place precariously balanced multi-ethnic societies under great strain and may even threaten the political balance of power.” (Loescher, 1992: 42) In this way, the presence of refugees has been demonstrated to accelerate “existing internal conflicts in the host country.” (Weiner, 1993: 16) For example, this concern was made most explicitly clear in Macedonia’s reluctance to accept Kosovar Albanian refugees in March 1999, citing the concern that the mass of Kosovar Albanian refugees threatened to destabilise Macedonia’s ethnic balance.



But, not all refugees are seen as threats. The question of which refugees are seen as threats, and why, may be partially explained by understanding the perception of refugees as members of the local political community or as outsiders. As Loescher argues, “in the Third World, the remarkable receptivity provided to millions of Afghans in Pakistan and Iran, to ethnic kin from Bulgaria in Turkey, to Ethiopians in the Sudan, to Ogadeni Ethiopians in Somalia, to southern Sudanese in Uganda, to Issaq Somali in Djibouti and to Mozambicans in Malawi has been facilitated by the ethnic and linguistic characteristics they share with their hosts.” (Loescher, 1992: 42) In this sense, the importance of affinity and shared group identity cannot be overstated. If a host community perceives the incoming refugee as ‘one of us’, then positive and generous conceptions of distributive justice will apply. The empirical evidence is overwhelming.

Conversely, if the refugees are seen as members of an ‘out-group’, they are likely to receive a hostile reception. In cases where there is a division along ethnic, linguistic or religious lines, “a major population influx can place precariously balanced multi-ethnic societies under great strain and may even threaten the political balance of power.” (Loescher, 1992: 42)

Indeed, refugees “as an out-group, can be blamed for all untoward activities.” (Maluwa, 1995: 657) While levels of crime may rise by no more than expected with a comparable rise in population, refugees increasingly are seen as the cause. Maluwa also argues that the “presence of massive numbers of refugees” can “create feelings of resentment and suspicion, as the refugee population increasingly, and often wrongly, gets blamed for the economic conditions that may arise within the domestic population.” (Maluwa, 1995: 657) This can lead to a point where “poverty, unemployment, scarcity of resources, and even crime and disease, are suddenly attributed to the presence of these refugees and other foreigners.” (Maluwa, 1995: 657)

## **5. POLICY RECOMMENDATIONS: ELEMENTS OF A NECESSARY RESPONSE TO SECURITY CONCERNS**

As this paper has argued, refugee movements can result in a range of security concerns for host states and states in the region. As the causes and consequences of these concerns are diverse, it is not possible to formulate a single policy response to all migration-related security concerns. In fact, the elements of a necessary response are diverse.

### **5.1. Responding to Direct Security Concerns**

In the short term, **direct security** concerns must be addressed through supporting the separation and exclusion of armed elements within the refugee population, notwithstanding the highly complex nature of this undertaking. (O'Neill, 2000; Rutinwa, 2002)

One of UNHCR's first efforts to operationalise its new policy response to armed elements, ‘the ladder of options’, was its attempt to implement a “security package” in western Tanzania and to move Sierra Leonean refugee camps further from the border in Guinea to protect refugees from attacks by armed elements. While these actions helped create greater security for some of the refugee communities in Tanzania and Guinea,

they did not succeed in separating armed elements and other exiles from the civilian refugee populations in these countries. (Crisp, 2001) A similar effort by UNHCR and DPKO in the Democratic Republic of the Congo in mid-2001 to separate armed refugees from their civilian counterparts met with greater success. (Yu, 2002)

From these experiences, it is evident that the future success of the ladder of options depends on the practical partnerships and 'security packages' that UNHCR is able to form with the DPKO and governments. While discussions between DPKO and UNHCR have set the groundwork for future cooperation between the two offices, serious differences of approach and political and resource constraints remain. On the one hand, UNHCR and other humanitarian aid organizations fear that too close an association with the military compromises their impartiality and neutrality, and on the other, governments are reluctant to authorize military forces for such functions. Protection for refugees in militarized situations also depends critically on the willingness and ability of host states and countries of refugee origin to observe international humanitarian norms regarding the treatment of refugees and non-combatants. Such issues received significant attention during the recent UNHCR-sponsored Global Consultations on International Protection, and were highlighted for particular action in the ensuing Agenda for Protection. (UNHCR, 2001b; UNHCR, 2001c; UNHCR ExCom, 2002a; UNHCR ExCom, 2002b; Lawyers Committee for Human Rights, 2002)

There is considerable evidence to suggest that refugee participation in armed conflict can and has led to the diffusion of small arms in host states (Small Arms Survey, 2004), to the forced recruitment of refugees into armed bands, the expropriation of humanitarian aid to support armed elements, and the rise of criminal activity in camps and urban settings. The development of more effective security packages can assist UNHCR, DPKO, regional peacekeeping units and host states to deal with the broad array of direct security concerns present in many regions of refugee origin.

As DFID develops its policy towards refugees and forced migration, it should give careful consideration to the ways in which it can lend support to the development of more effective security packages. Focusing on the role of arms in refugee camps is an important first step in proposing arms control measures and other demilitarizing regimes aimed at reducing violence emanating from and within refugee communities. In particular, DFID should consider how its experience in demobilization and disarmament can contribute to better programmes in a refugee context. At the same time, DFID should encourage UNHCR and DPKO to expand its understanding of security packages to include support to the process of return and reintegration. Finally, DFID involvement in security sector reform should include training and capacity building for national security services to implement host-state obligations as articulated by UN Security Council resolution 1208 (1998) and ExCom Conclusion 94.

## 5.2. Responding to Indirect Security Concerns

As with responding to the direct security concerns, responding to **indirect threats** requires the engagement of a range of actors and agencies, not only UNHCR. Development agencies, such as DFID, have a vital partnership role to play, working closely with UNHCR to devise and implement appropriate programmes. UNHCR cannot and should not be expected to address these concerns on its own.

Indirect threats are best addressed in the short to medium term through development initiatives and targeted assistance designed to address the burdens on local communities related to the hosting of refugees and to ease tensions between refugees and the local community. In the long term, the security implications of protracted refugee situations are best addressed through comprehensive solutions, involving a broad range of policy interventions.

The remainder of this paper considers how development initiatives can play a role in addressing the security implications of refugee movements. It draws on recent field research in Kenya and Tanzania to outline how targeted intervention can make a significant contribution to the security of not only refugee populated areas, but also to the security of the host state. In the long term, however, it will be argued that such interventions are only coping mechanisms, pending the formulation and implementation of comprehensive solutions to resolve protracted refugee situations.

### **5.3. Lessons Learned: The Firewood Project in Kenya**

Kenya and Tanzania host two of the most challenging protracted refugee situations in Africa.<sup>4</sup> Kenya has hosted over 135,000 Somali refugees since 1992. The overwhelming majority of these refugees live in three camps near the town of Dadaab, in the Northeast Province of Kenya, approximately 80kms from the border with Somalia. During the 1990s, these camps were renowned as the most violent refugee camps in the world, where rape, murder and armed robbery were almost daily occurrences. (Crisp, 2000a) Violence was endemic not only in the camps but also in the areas surrounding the camps, as bands of *shiftas*, or bandits, attacked convoys of humanitarian relief, aid workers, and refugees collecting firewood outside the camps.

A series of interventions were introduced by the UNHCR, with the support of the donor community, in the late 1990s, including a mobile court system to try those suspected of criminal offences, additional support to the Kenyan police to substantially increase their presence in and around the camps, and the firewood project. The firewood project was designed to provide refugees with 30% of their firewood needs, with the objective of reducing the exposure of refugee women to sexual violence by reducing the amount of time they would be required to spend in the insecure areas around the camps.

The six years following the introduction of the firewood project in 1998 witnessed a dramatic decline not only in the number of reported cases of rapes in the three Dadaab camps, but also in murder and armed robbery. In 1998, there were over 300 reported cases of violent crime in the Dadaab camps, of which 104 were cases of rape. By 2003, that number had fallen dramatically: to 36 reported cases of violent crime, of which 15 were cases of rape.

UN and NGO partners working in Dadaab universally believe that this improvement in refugee security and the dramatic decline in violent crime has been overwhelmingly the result of the firewood project and its positive secondary benefits, namely that it has created jobs for the local population and has encouraged young men who would

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<sup>4</sup> Details of the policy responses in Kenya and Tanzania were collected during field visits to Nairobi and Dadaab (2001 and 2004) and Dar es Salaam (1999 and 2004) and Kibondo (2004). Internal reports and statistics on these programmes are held on file with the authors.

otherwise pursue banditry as a means of livelihood to participate in the more lucrative trade in firewood. Under the programme, villages in a 50 - 100km radius from the camps are contracted by the GTZ, UNHCR's environment programme implementing partner, to collect deadwood. Since 1998, the project has supplied between 8 – 10,000 metric tones of firewood a year for the refugees, and has contributed an average of 48 million Kenyan shillings (approximately £330,000 at the current exchange rate) to the local economy. It is estimated that roughly half of this amount is returned to the refugees as, in many cases, they are sub-contracted by the local population.

The firewood project thereby mitigates the indirect security burden in Kenya in a number of ways. First, it reduces the strain on the scarce environmental resource of firewood in and around Dadaab by ensuring that the firewood is collected in a managed way across a wider area. Second, it ensures an income to the local population, thereby reducing grievances that may arise between refugees and Kenya, notwithstanding the ethnic similarity between the populations. Third, by providing a context within which the refugees and the local population can cooperate in a large scale, mutually beneficial project, better understanding is developed between the two groups, which serves as an important basis for future conflict resolution at a local level. Although a costly programme, the firewood project is one example of a development-related project that has played a significant role in addressing the security implications of the protracted presence of Somali refugees in northern Kenya. DFID may consider how such a programme may be replicated in other contexts.

#### **5.4. Lessons Learned: SPRAAs in Tanzania**

Special Programmes for Refugee Affected Areas (SPRAAs) is a second example of possible development-related interventions. In both Kenya and Tanzania, SPRAAs have been implemented in recent years to directly address the grievances of the local population by providing services and benefits to the local population that resides near refugee camps.

The positive effects of SPRAAs have been most striking in Kibondo, a district in Western Tanzania that has hosted over 100,000 mostly Burundian refugees since 1993. A number of direct and indirect security concerns have been expressed by local and national authorities in relation to the presence of Burundian refugees in Kibondo. Most pressing has been the allegations that armed elements from a number of Burundian rebel groups are based in the camps and carry-out fundraising and recruitment activities within the camps. These allegations have been thoroughly denied by the Tanzanian government, and steps have been taken, along with UNHCR, to increase the security presence in the camps and the ability of the local security forces to screen for armed elements among the refugees, as outlined above.

But the protracted presence of the refugee population in Western Tanzania has also resulted in the rise in significant grievances against the refugees and a common belief that their presence has resulted in a rise in banditry, crime, disease and environmental degradation, in addition to placing a significant strain on the local infrastructure and public services. As a result, relations between refugees and local authorities have deteriorated, and a sense of insecurity now prevails.

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In an attempt to reverse this trend, UNHCR and its implementing partners have undertaken a wide range of programmes to directly benefit the local population and counter the negative affects of the presence of such a large refugee population. Over US\$1.25 million has been spent in recent years in a range of programmes, including the rehabilitation of roads used by aid convoys, the improvement of water supply to local communities, development of local communication infrastructure, the building of local schools and health centres and the planting of trees. In 2003 alone, over 1.65 million tree seedlings were planted in the areas surrounding refugee camps in Western Tanzania.

A recent report by the Centre for the Study of Forced Migration at the University of Dar es Salaam (2003) comprehensively reviewed the allegations made by Tanzanian officials, both locally and nationally, that the presence of refugees in districts like Kibondo are a burden to the host state, and constitute a threat to Tanzanian security. In assessing the cost of hosting refugees against the benefits that have accrued to the local population, both directly through the SPRAAs and indirectly through the creation of employment and larger markets, the report concludes that the hosting of refugees has been a benefit to Tanzania. Indeed, local community and business leaders at the local level recognize the efforts that have been made to ensure that the presence of refugees benefits local development, and have worked closely with UNHCR in the formulation of SPRAAs.

Activities such as SPRAAs and the firewood project contribute to an improved security and protection environment by reducing competition between refugees and the local population over scarce resources and by reducing local grievances towards refugees. At the same time, however, it has been argued that such programmes, and more generally the presence of refugees and refugee programmes, could, if effectively managed, significantly contribute to longer-term local and national development. (Jacobsen, 2002) There is, therefore, a double benefit in the short to medium term: development-related projects targeting refugee populated areas can foster an environment of greater security and protection for refugees and the local population, while also contributing to broader national development objectives. DFID has a vital role to play in understanding the successes of past programmes and identifying new areas where similar approaches can be applied.

The implications of SPRAAs for DFID's poverty reduction policies are obvious. Protracted refugee situations, such as Burundians in Tanzania, not only pose indirect security burdens for host countries but also perpetuate poverty and social and political deprivation. As observed in the UNHCR June 2004 Standing Committee paper on protracted refugee situations (UNHCR, 2004): "The World Bank notes three dimensions of poverty: lack of income and assets; voicelessness and powerlessness in the institutions of state and society; and vulnerability to adverse shocks, linked to an inability to cope with them." UNHCR notes that refugees suffer from all three conditions and not only lack national protection, but are also desperately poor. We have argued above that poverty can also lead refugees to a range of negative survival tactics, many of which affect local host populations, such as the degradation of the environment, prostitution, petty theft and child labour. DFID can play a key role in addressing some of these indirect security burdens, particularly providing safety nets that prevent refugees from having to resort to negative coping mechanisms. DFID should consider ways to provide prospects for refugees to lift themselves out of poverty

by building both local and refugee capacities through loans and income generating projects. As argued in the UNHCR Standing Committee paper:

“Evidence suggests that focusing on the condition of the refugee, and removing obstacles in the way of that person’s productivity, are the most effective means of dealing with refugee situations, in the absence of a durable solution. For example, Liberian refugees who are free to cultivate land in Cote d’Ivoire, have turned swamps into rice fields. In Pakistan, Afghan refugees made such a contribution in the carpet and transport sectors that their mass repatriation impacted negatively on Peshawar’s economy. And in Malawi in the 1980s, Mozambican refugee farmers sold surplus produce to locals, and bequeathed functioning farms upon their repatriation.” (UNHCR, 2004)

### **5.5. Towards a Full Response: Comprehensive Solutions to Protracted Refugee Situations**

Such directed interventions do not, however, provide a full response for the security implications of refugee movements or protracted refugee situations. These interventions can only help manage the situation until a resolution can be found; they cannot be a substitute for a solution. In the long term, the security implications of forced migration can only be fully addressed through the formulation and implementation of comprehensive solutions for protracted refugee situations. Such a response would employ the full range of possible solutions for refugees – repatriation and reintegration, local integration in the host country, and resettlement to a third country.

DFID could play a significant role in each of these three solutions. For example, it could support return and reintegration through local and regional post-conflict reconstruction programmes, rehabilitation of former combatants, and incoming generation programmes in support of demobilization. It could support local integration by politically engaging host states to consider the options, by targeting assistance to refugee populated areas, and by supporting self-sufficiency initiatives for locally integrated refugees. Finally, DFID should encourage the consolidation and future development of the UK’s fledgling refugee resettlement programme.

In the past, comprehensive approaches and greater external engagement in regions of refugee origin have proven to be the most effective way of resolving not only long-standing refugee problems but sources of regional instability. The US and the international community employed a broad range of policies to resolve refugee situations of a protracted and seemingly insoluble nature in Europe in the 1960s for displaced persons still in camps in Europe nearly 20 years after the Second World War and from the late 1980s to the mid-1990s in Southeast Asia to deal with the protracted Vietnamese refugee problem. (Loescher, 2001: Chapters 4 and 8; UNHCR, 2000) It is likely that the potential benefits of a comprehensive approach applies with equal force to the protracted refugee problems and conflicts in many regions of the world today. (Loescher and Milner, 2003: 609 – 616)

There have been a number of recent policy initiatives by UNHCR, the EU and the UK that attempt to address issues of forced migration, including protracted refugee situations in a comprehensive manner. As Heaven Crawley’s paper examines the UK’s proposals for in-region processing and the European Commission’s initiatives on the

management of asylum and on durable solutions, we will focus on UNHCR's Convention Plus and recent UK initiatives to address security concerns in Africa and elsewhere.

Protracted refugee situations have been the principle targets of several major UNHCR initiatives, such as Conventions Plus and the Framework for Durable Solutions. Convention Plus provides the framework to implement special agreements, including comprehensive plans of action (CPAs) that bring together a mix of durable solutions to resolve complex refugee situations, including those that have significant security implications such as protracted refugee situations. The Framework for Durable Solutions also works to resolve long standing refugee problems and to unblock impediments to responding to protracted refugee situations. It brings together three initiatives developed in recent years: DAR (Development Assistance for Refugees), the 4Rs (repatriation, reintegration, rehabilitation and reconstruction) and DLI (Development through Local Integration). DAR and DLI emphasize refugee self-reliance.

A good example of Convention Plus initiative to resolve and on-going protracted refugee situation, including some of its security dimensions, is effort underway to try to establish a CPA for Somali refugees. This initiative includes most (but not all) of the major stakeholders including the Mogadishu government, host governments in the region, the European Commission, UNHCR and the cosponsors of the CPA, Denmark, Netherlands and the UK. The steering group does not include Somaliland or Puntland. With seed funding from the European Commission, the steering group intends to develop a plan of action that it can eventually present to a special inter-governmental meeting for approval and funding.

The effort to create a Somali refugee CPA is seen as a test case for Convention Plus. Its objectives are to identify appropriate durable solutions for Somali refugees living in the region's host countries. At present, given the continuing instability in southern and central Somalia, the focus of the CPA is repatriation to Somaliland and Puntland where conditions for returnees are more secure. In order for returns to be sustained there needs to be increased emphasis on reintegration and post-conflict recovery. A focus of Convention Plus is to open up possibilities for tapping into development funds to provide stability in areas of return. However, funds for reintegration are limited and donor appeals for Somali returns have been seriously under-subscribed. For example, less than half of the \$200 million for the Somalia repatriation appeal has been pledged so far.

The second objective of the CPA is to examine how effective protection can be achieved in host countries. A number of studies will be undertaken by local experts in the region to determine the protection and assistance gaps that need to be addressed in any future projects within the CPA. Finally, the European co-sponsors, Denmark, Netherlands and the UK, are particularly interested in examining ways to mitigate irregular movements of Somalis to the West.

While the plans to establish a Somali refugee CPA is a commendable effort to try to engage the international community on a particularly difficult and complex protracted refugee situation, it does not adequately link humanitarian, economic and political approaches. Finding a solution for resolving the Somali protracted refugee situation

requires the restoration of a degree of stability and normality in southern and central Somalia where the security situation has been unstable for more than the past decade. The collapse of the central government in Mogadishu has provided opportunities for radical Islam in the region. Numerous efforts to create a new, more stable government there have failed and donor governments have come to perceive Somalia as a security black hole.

The Somali refugee CPA underscores the need for a joined-up policy on the part of the international community to address the long-standing security implications of protracted refugee situations and humanitarian emergencies. The principal weakness of the Somali refugee CPA is that it is not hitched to the on-going Somali peace negotiations that are currently taking place in Nairobi. Past successful CPAs such as those in Indochina and Central America in the 1980s and early 1990s relied on political initiatives that preceded and laid the foundations for humanitarian and development programmes. Without strong political support and successful peace negotiations there is little immediate prospect of resolving protracted refugee situations such as the Somali situation. Somalia needs a stable central government—one which requires some external support in order for new political roots to take hold. This necessitates not only inputs of humanitarian assistance but also security and peace keeping assistance aimed at such activities as training and capacitating a new independent police force and army.

Such broad range responses also require the cooperation of a range of agencies and states, and a range of actors within a state to address the security, development and diplomatic aspects of comprehensive solutions. Despite the need for a multifaceted approach to protracted refugee situations, however, the overall response of policy makers remains compartmentalised with security, development and humanitarian issues mostly being discussed in different forums, each with their own theoretical frameworks, institutional arrangements, and independent policy approaches. (Castles *et al.*, 2003) There exists little or no strategic integration of approaches and little effective coordination in the field.

One notable exception at the UK level is the joint DFID, FCO, Cabinet Office and MoD Conflict Prevention Pools initiative. This programme was established by the UK to integrate the policy making and programme delivery of these departments in order to reduce both the number of conflicts around the world and the number of people affected by war. A recent evaluation of the Conflict Prevention Pools (Austen, 2004) found that this mechanism has led to increased inter-departmental collaboration and consensus on conflict prevention policy in a number of regions. While this is a welcome development, it should be noted that this effort does not specifically address the security implications of protracted refugee situations nor does it address the considerable negative impact of chronic and long-standing refugee populations on host state and regional security.

Another important initiative in which the UK government has been involved is recent efforts to increase the capacity of African peacekeeping capabilities, particularly in West Africa. Building up regional peacekeeping capabilities is an important part of the Conflict Prevention Pools and DFID should continue to give priority to this. Conflict prevention goes hand in hand with development initiatives to help restore stability in war torn regions.



There also has been a dramatic increase in the number of UN peacekeeping operations in Africa during the last year and a half. The UN Security Council has authorised new missions in Liberia and Burundi and has strengthened existing ones in the Democratic Republic of the Congo. It is likely to authorise a large-scale mission to Sudan later this year to support the implementation of a comprehensive peace accord designed to end the twenty years long civil war there. These missions are overwhelmingly staffed by troops from developing countries. All these missions are also so-called complex peacekeeping operations, involving multiple tasks and combining military and civilian components. (Berdal, 2004) Indeed, in May 2004, Kofi Annan outlined for the Security Council the multidimensional tasks of today's peacekeeping missions: "Peacekeeping today has become increasingly multidimensional. The missions you mandate are implementing peace agreements, helping manage political transition, building institutions, supporting economic reconstruction, organizing the return of refugees and internally displaced persons, assisting humanitarian aid programmes, supervising or even organizing elections, monitoring human rights, clearing minefields, disarming and demobilizing militias, and reintegrating their members into the civilian economy." (UN Secretary General, 2004)

Neither the DPKO nor the under-resourced peacekeeping forces from developing countries have adequate capacity (especially in logistics) to sustain this level of multiple operations effectively. Therefore there is an urgent need for DFID along with other stakeholders in the international system to address how the UN should respond to the problems of state incapacity, including protracted refugee situations, and how to empower regional bodies to assist in meeting this challenge.

Despite all the rhetoric to the contrary, neither the UN nor governments have adequately integrated the resolution of recurring regional refugee problems with economic and security issues. International involvement in nation-building, reconstruction, and rehabilitation in war-torn regions is still piecemeal and under-resourced. Consequently, there is a pressing need to develop a policy agenda that extends beyond conventional boundaries and seeks to integrate the resolution of chronic and recurring regional refugee problems with economic development and security issues. It is clear that DFID along with its sister agencies must be engaged in these discussions.

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## **Thematic Paper V: Lessons Learned from Specific Emergency Situations: a Synthesis**

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**Thematic Paper V: Lessons Learned from Specific Emergency Situations**

## 1. INTRODUCTION

Drawing principally on evaluation reports and other lesson learning materials produced by a variety of humanitarian and donor agencies, the task of this paper is to discuss the experience of in-country responses to conflict, humanitarian need and forced migration with a view to informing DFID's policies on behalf of refugees and displaced persons, particularly at the country level. Despite continuing shortcomings in the evaluation and accountability of humanitarian action, evaluations have now become a central and invaluable component of the international humanitarian system, and should provide an important source for informing DFID policies on forced migration.

Yet in the 2002 annual review of the Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP)<sup>1</sup> it was noted that only seven (of the 55) evaluation reports received by the network that year covered support to refugees, and despite some common threads, these reports assessed very different interventions, 'which limits the possibility of synthesising findings' (ALNAP, 2002: 122). Moreover, given that protection is at the heart of action to address the needs of refugees, asylum-seekers and internally displaced persons (IDPs), a persistent gap in the evaluation of protection efforts impacts particularly on the evaluation of action on behalf of forced migrants. According to ALNAP, 53 of the 55 reports that they reviewed in 2003 'either did not discuss protection, or, if they did, addressed it only in a piecemeal fashion' (ALNAP, 2003:104).

On the other hand, a large number – perhaps a majority – of humanitarian evaluation reports at least touch on refugees, IDPs and displacement issues, reflecting the fact that displacement represents such a critically important component of most humanitarian emergencies around the world. Furthermore, many issues arising in respect of other or broader aspects of humanitarian responses – such as humanitarian access, delivery of food aid, co-ordination of humanitarian action, preparedness, linking relief, rehabilitation and development (LRRD) – are also highly relevant to action on behalf of forced migrants. Growing concern across the system with responses to complex political and humanitarian emergencies and conflict has meant growing concern with strategic issues connected with forced migration in these contexts, such as refugee return and reintegration, and humanitarian coverage (e.g. across displaced and 'host' populations).

This paper therefore draws on a relatively wide range of evaluation reports, reviews and other synthesis and lesson learning materials produced by a variety of humanitarian and donor agencies since the mid-1990s, the majority relating to specific emergency situations. A few institutions – particularly UNHCR, WFP and ECHO – stand out as sources of a comparatively comprehensive set of evaluation and lesson learning materials in this area which are easily accessible in the public realm. It has not been possible to draw on much material relating specifically to CHAD/DFID's interventions

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<sup>1</sup> ALNAP was established in 1997 as an international interagency forum concerned with working to improve learning and accountability and quality across the humanitarian sector. It has 51 full members and 370 observers, with the membership encompassing all types of organizations that make up the international humanitarian system, including bilateral and multilateral donors, UN agencies, NGOs, the International Red Cross and Red Crescent Movement, and independent consultants, academics and research institutes. ALNAP's Annual Review series draws on ALNAP's online Evaluative Reports Database.



on behalf of forced migrants, since, with the exception of two recent reports by the National Audit Office (NAO, 2000; NAO, 2003), little of DFID's own humanitarian policies or activity have been formally evaluated over the past ten years, and certainly very little that relates specifically to forced migrants; the emphasis within DFID has been on informal internal lesson learning reviews of its own action, with formal evaluations limited largely to the performance and accountability of specific partner agencies (NAO, 2003: 4-5, 7, 20; Macrae *et al.*, 2002).

The main themes discussed below broadly reflect the principal issues highlighted in the evaluations reviewed for this paper. Section 2 focuses on the need for improved assessment, monitoring and analysis, particularly social and political analysis, to support humanitarian action at all levels, including action on behalf of forced migrants. As discussed in the Section 3, linked to the general need for improved contextual analysis is the need to 'join up' analysis and strategy more effectively across Government to enable greater coherence between (particularly) DFID, FCO, MoD, Home Office and Cabinet Office policies and actions concerned with refugees, IDPs and asylum-seekers. Also critically important for informing and improving all aspects of assistance and protection for refugees and other displaced populations is the need for increased involvement and consultation of forced migrants and other primary stakeholders in the planning, implementation and monitoring and evaluation of humanitarian responses, including protection activities. As discussed in Section 4, despite a growing consensus on the need for more participatory and rights-based approaches, practice in this regard remains patchy at best.

While the dominant paradigm defining international humanitarian *assistance* is to provide assistance on the basis of humanitarian need regardless of pre-conceived group categories (such as displacement status), international *protection* efforts on behalf of forced migrants are shaped to a great extent by the categorization of particular individuals or groups in terms of their displacement status (such as internally versus externally displaced, non-displaced 'host' populations, etc.). Section 5 explores the tensions between needs-based and group-based humanitarian action in efforts to achieve effective humanitarian coverage in situations of forced migration. Section 6 examines the importance of addressing the specific needs of particular vulnerable groups (e.g. women, children, the elderly) among displaced and host populations in the context of both needs and/or group-based assistance and protection efforts.

While on-the-ground humanitarian coverage is a recurrent theme examined in the evaluations reviewed for this paper, there is very little attention in the evaluations material to broader political or strategic issues affecting humanitarian coverage at the macro level, particularly the impact of uneven donor funding across different humanitarian crises. Nor do most evaluations tackle issues connected with the rights (rather than simply humanitarian needs) of forced migrants and other populations affected by humanitarian crises, as reflected in the overall lack of attention to protection issues. The small number of evaluations concerned with the protection and assistance of particular vulnerable groups, reviewed in Section 6, represent an exception in this regard, by examining explicitly whether humanitarian agencies are addressing the rights and specific protection needs of women, children, urban refugees, IDPs and other groups, and by advocating concrete measures to strengthen agencies' rights- and protection-based programming on behalf of these groups.

Section 7, looking at support for refugee and IDP livelihoods, draws on the increasing body of evaluations material concerned with humanitarian action in protracted conflicts and humanitarian crises, and reflects a growing interest across both the humanitarian and development sectors in the livelihoods of poor and vulnerable groups, including those of forced migrants. Concern with refugee and IDP livelihoods has developed against the backdrop of costly and often seemingly unsustainable 'care and maintenance' programmes in long-term refugee and IDP camps, in which there are often few opportunities and little support for refugee / IDP integration and little scope for those displaced to create sustainable livelihoods for themselves. While prevailing political conditions often militate against efforts to secure more effective local integration for displaced populations, the failure to achieve more in this regard is increasingly seen as a human rights issue within the humanitarian system, and is frequently raised as a central question where evaluations are concerned with assessing the overall impacts and sustainability of what so often turn out to be effectively long-term assistance programmes on behalf of forced migrants. The question of refugee and IDP livelihoods begs the perennially problematic question of the linkages between emergency humanitarian assistance and longer-term development-oriented interventions. An apparent lack of attention to displacement issues in DFID's new Country Assistance Plans (CAPs) suggests that more could be done to bring displacement issues into the mainstream of analysis and policy supporting DFID's development assistance efforts in countries affected by forced migration.

The preferred 'durable solution' for forced migrants within the international refugee regime has long been their safe and sustainable return to their place or country of origin, and is now pursued actively alongside broader efforts to resolve many long-standing conflicts around the world. This is often referred to as the '4Rs' framework in the context of efforts to achieve 'transition' to peace and stability in situations of conflict and displacement: repatriation, reintegration, rehabilitation and reconstruction. While, in theory, 'transition' is often presented as a linear process towards peace, the reality is usually one of uncertain and often faltering peace processes and uncertain and often highly insecure conditions for the '4Rs'. As noted in Section 8, key recommendations from recent evaluations of refugee repatriation and return programmes include for donors and agencies to adopt a 'multi-scenario planning approach' to refugee repatriation and reintegration with contingency plans for a range of different situations that might arise, and for humanitarian actors to develop and adopt strengthened technical and protection standards to govern the conduct and monitoring of return programmes.

The concluding section summarises the main policy recommendations for DFID emerging directly or indirectly from the review of evaluations and other lesson learning materials. Inevitably, this paper is prone to gaps and shortcomings in the evaluations themselves – such as with regard to issues of protection and rights-based programming. Nevertheless, a number of important recommendations can be made on the basis of what is a relatively substantial body of evaluations material, which, it is hoped, can contribute directly to DFID's evolving policies on displaced people.

## 2. THE NEED FOR IMPROVED ASSESSMENT, MONITORING AND ANALYSIS

The poor or inconsistent quality of needs assessment and impact monitoring has now been a recurring theme of humanitarian evaluations for a number of years (cf. ALNAP, 2002; ALNAP 2003), as clearly illustrated in two recent evaluations of WFP Protracted Relief and Recovery Operations (PRROs) addressing the food needs of refugees, including repatriating refugees. In the case of food assistance and support for the repatriation of Iraqi and Afghan refugees in Iran (1999-2002), there was:

‘no baseline data, no data on food security ... and ... no monitoring of the impact of food assistance or the exclusion of certain refugees from assistance ... [and] no monitoring of potentially marginalized groups’ (WFP, 2002a: 20).

Similarly, in Ethiopia (2000 – 2001):

‘Knowledge of the degree of self-sufficiency among the target refugee population [was] ... limited and the mission could not find indicators that the nutritional requirements of the refugees have been analysed in a systematic way following UNHCR/WFP guidelines’ (WFP, 2001a: 9).

Several evaluations reviewed by ALNAP in 2003 suggested that the data is often not available to ensure appropriate targeting of food aid, and that many vulnerable groups, particularly those outside refugee camps, may be bypassed by food aid (ALNAP, 2003: 119). According to a recent evaluation of ECHO's humanitarian programme in Afghanistan, some NGOs have made decisions about beneficiary selection without the use of stringent criteria and participatory approaches; closer monitoring is recommended to identify these anomalies and allow them to be addressed (ECHO, 2004a: 36). Capacity problems and overload among agency staff almost certainly contribute to the tendency not to prioritise monitoring, and thus it is important to think strategically about the specific types of assessment and monitoring that need most improvement in the field. ALNAP observes that quantitative monitoring is usually stronger than qualitative monitoring (e.g. who actually benefits from food aid), and this is reflected in the fact that there is often a lot of data generated in the course of assessment and monitoring activities, but insufficient analysis.

The need for improved analysis is repeated across a large number of evaluations concerned with all levels of humanitarian assistance and/or action on behalf of refugees and IDPs. According to UNHCR's 2002 evaluation of the protection of refugee children:

‘the current programme cycle of Country Operations Plans and Annual Protection Reports seems to be used as a matter of obligation rather than as a tool to analyze the situation and needs of refugees. Situation analysis is different to needs assessment in that it analyses risks, opportunities and potential resources’ (UNHCR, 2002a: 6).

A number of reports and evaluations draw specific attention to the weakness of social and political analysis in a great deal of humanitarian programming. The 1999 evaluation of Danida's programme in Sudan notes that attempts to monitor and improve

understanding of vulnerability generally relied upon nutritional and socio-economic indicators and paid less attention to the inherently political nature of vulnerability: '[t]he displacement process has been economically and politically manipulated by government in the north ... [but] agencies have paid less attention to wider and underlying political issues' (Danida, 1999b: Executive Summary).

The importance of strong social and political analysis is particularly important in respect of efforts on behalf of forced migrants, since the causes, dynamics, implications of, and solutions to, forced displacement are so inherently political in most cases. The potential implications of failing to link the planning of humanitarian interventions with a the political process in terms of compromising protection efforts and the sustainability of assistance interventions by are illustrated by the case of UNHCR's repatriation efforts in Angola following the 1994 Lusaka Protocol:

'UNHCR engaged in heroic efforts ... to repatriate some of the large numbers of refugees in neighbouring countries. Vehicles were purchased, provincial infrastructure was rehabilitated, schools, health posts and hospitals put in place. Many refugees did return but, when fighting was renewed in May 1998, they could not be protected and even more refugees fled' (Danida, 1999a: Executive Summary).

In their study of internally displaced populations in Kismaayo, Somalia, Narbeth and McLean note underline the importance of protection and assistance programmes and strategies to, as they put it, 'think multi-clan' at all levels:

'In Kismaayo, aid resources are likely to be a source of dispute, destabilizing an already-fragile environment and reinforcing the existing socio-economic divisions and patterns of power. This raises a number of issues (and challenges)... International assistance must be sensitive to the multi-clan topography of Kismaayo and the Lower Juba in general' (Narbeth and McLean, 2003: 14).

In the light of inter-clan dynamics, they recommend, for example, 'mobile resources' such as mobile health clinics operating a multi-location and multi-clan itinerary, as potentially preferable to 'fixed' facilities (*ibid*: 15).

ALNAP recommends that significant efforts be made to strengthen social science skills within agencies, noting that qualitative issues encompassing social and political processes are only likely to be captured by skilled observers through ongoing communication with stakeholders:

'good monitoring depends as much on the quality of staff as it does on the systems themselves. The most important area for agencies to focus on over the short term, therefore, is strengthening field staff ability to carry out participatory social science analysis' (ALNAP, 2003: 121).

UNDG/ECHA Working Group reporting recently on 'transition issues' argues that the uniqueness of each (transition) situation, grounded in the particular history of the conflict and the consequent humanitarian crisis, must be assessed and well understood if the response to it is to be appropriate and effective: '[t]his requires, inter alia, resisting

the temptation to replicate wholesale what might have worked in one ... context without first considering what is unique to each situation and then adapting lessons learned and good practices accordingly' (UNDG/ECHA Working Group on Transition Issues, 2004:12).

Recommendation to DFID:

To actively support effective capacity-building in the area of social science skills among partner agencies and NGOs to significantly improve field staff ability to carry out participatory social and political analysis. Stronger context analysis will support better understanding of the causes, dynamics and implications of forced migration, and enable agencies to incorporate this understanding into programming on behalf of forced migrants. DFID's support in this area might include specific attention to supporting the ability of implementing agencies to use DFID's Conflict Assessment Framework. Given the risk of information overload within humanitarian agencies, it is important for DFID to think strategically about the specific types of field-based assessment, monitoring and analysis that require the most support.

### **3. 'JOINING UP' ANALYSIS AND STRATEGY ACROSS GOVERNMENT: THE NEED FOR COHERENCE**

It would be naïve, of course, to suggest that improved political analysis will automatically lead to improved programming, since in the political realm, there are always a host of competing political realities that will affect donor and agency programming decisions positively or negatively, irrespective of the quality of analysis. As argued in the Mid-Year Review of the 2001 CAP for Uganda:

'any exit strategy [for humanitarian actors] will be contingent upon Member States of the UN engaging in preventive diplomacy with all parties ... to apply political and economic pressure to diffuse or contain the conflict and continued displacement. The unwillingness to deal responsibly with friendly or strategically important actors will perpetuate the need for humanitarian assistance and foreclose on alternative / transitional activities or exit strategies' (UNOCHA, 2001).

In a review of refugee return and reintegration, Macrae points to the possibility of operational agencies such as UNHCR becoming trapped between observable political realities on the ground and the higher-level political momentum of the formal politics of transition in 'post-' or protracted conflict situations. In one particular case of refugee repatriation and reintegration, UNHCR was apparently seeing daily the effects of deteriorating security conditions on their operations and on their constituents; yet UNHCR's ability to reorient its programme and prepare for a major collapse in the peace process was limited, since this would have signaled the failure of the political process. Macrae observes that it is this 'constitutional inability to formulate an independent political analysis, and to (be seen to) act upon it' that constitutes an important constraint to UNHCR's efficacy in such situations (Macrae, 1999: 26).

The need for improved coherence between humanitarian, human rights and political interventions and processes is widely recognized, if not widely practiced, right across

the international humanitarian system and by the international community more generally. This is reflected in the UK Government's Conflict Reduction and Conflict Prevention strategy and its establishment of two joint DFID / FCO / MoD Conflict Prevention Pools (CPPs) in April 2001 (an Africa CPP, and a Global CPP for the rest of the world), providing for joint analysis, financing, coordination and strategising between the Departments concerned. The CPP mechanism was created to help the three Departments develop common approaches and strategies to achieve their joint target for the reduction of violent conflict. While not all conflict reduction and prevention activities are funded by the Pools, those that are must involve a comprehensive approach involving all three Departments. Despite some difficulties with implementation – such as varying levels of trust and understanding of different issues between the Departments – a recent evaluation of the CPPs involving six geographically- and thematically-focused case studies concludes that the CPPs are 'doing significant work funding worthwhile activities that make positive contributions to effective conflict prevention', although it is too early to assess impact (DFID, 2004: iv). The DFID Secretary of State's report to the Chairs of UK Parliamentary Select Committees in May 2002 stated that the CPPs have resulted in improved interdepartmental policy cooperation, better policy analysis and implementation, and a stronger UK contribution to international conflict prevention efforts (DFID, 2003: 33-34).

Since forced displacement represents such a central component in the causes and resolution of so many conflicts around the world, the CPPs could provide an important resource for DFID to encourage 'joined up' analysis and strategy across Government with respect to preventing forced displacement and mitigating or minimizing the worst impacts of forced migration in particular countries and regions. Where joint Departmental analysis and strategizing would add value to specific areas of policy or action, forced migration could be included as a distinct thematic and/or geographical focus of both CPPs, such as where the achievement of safe and durable solutions to refugee problems are a prerequisite to the reduction, prevention or resolution of particular conflicts.

Efforts to pool analytical resources should extend beyond these three Departments, however, since in many areas, DFID also needs to be engaging proactively with other parts of Government, including the Home Office and the Cabinet Office. This is underlined by the recent publication by the Cabinet Office and Home Office of a 'non-paper' proposing moves towards 'extra-territorial processing' of asylum claims and the establishment of 'protection areas' for asylum-seekers and refugees in the regions of origin – policies which, if implemented, could have profound implications for refugee protection and wider political dynamics in many of the countries where DFID works (Betts, 2003; Crisp, 2003a).

#### Recommendations to DFID:

(i) To use the CPPs as a key resource to support closer liaison and cooperation with FCO and MoD to develop more effective responses to particular conflict-related situations of forced migration and to develop more general commonalities of understanding and approach to forced migration issues between the three Departments.

(ii) To engage more closely with the Home Office and the Cabinet Office, with the emphasis on joint long-term and strategic scenario planning, e.g. to explore jointly with the Home Office how changes in refugee policies in the UK and other EU / OECD countries might impact on standards and forms of refugee protection and assistance in poorer countries, and what the longer-term implications of any changes in the international refugee regime might be worldwide.

#### **4. BENEFICIARY / PRIMARY STAKEHOLDER CONSULTATION AND PARTICIPATION & RIGHTS-BASED HUMANITARIAN ACTION**

There is a growing consensus that understanding the causes and consequences of forced population displacements, assessing the needs of those displaced and of host populations, identifying and targeting the most vulnerable people within these populations, and planning and monitoring appropriate responses, will all be strengthened by the increased involvement of refugees and displaced persons and other primary stakeholders. And yet, according to the two most recent ALNAP reviews, there has been a wholesale failure across the humanitarian system to mainstream more participatory approaches and methods across the cycle of humanitarian projects and programmes, from design and planning, through implementation, monitoring, and evaluation. In its 2002 annual review, ALNAP stated that:

‘there were no examples of good practice [re. participation of primary stakeholders] that could be highlighted from this year’s reports, which should illustrate the extent of the problem, and the urgent need for development of good practice’ (ALNAP, 2002: Section 4.3.6).

Again, in 2003, it was observed that agencies ‘are mostly non-participatory and have not included primary stakeholders’ (ALNAP, 2003: 112). This complaint is echoed in many of the reports reviewed for this paper, such as in recent evaluations of ECHO programmes in Sudan (‘[b]eneficiaries have only exceptionally participated in project decision-making) and Afghanistan (‘[a] more concerted effort is required to move beneficiary / community involvement into the sphere of the project planning cycle’) and the 1999 evaluation of Danida’s programmes in the Great Lakes region (‘[t]here should ... be much greater use of information of an anthropological nature, whereby the perceptions of the beneficiaries could be understood without putting anybody at risk’) (ECHO, 2004a: 63; ECHO, 2003a: 8; Danida, 1999c: Executive Summary). According to a recent evaluation of ECHO programmes in Afghanistan, the development of mechanisms to ensure community / beneficiary feedback ‘would promote more appropriate targeting and would promote ownership of programmes by the community’ (ECHO, 2004a: 63).

There are considerably more constraints and risks associated with beneficiary consultation and participation in humanitarian emergency situations compared with ‘normal’ development contexts, given the complexity and fast-moving nature of many emergencies and the need for speedy and decisive responses on the part of humanitarian actors. These risks and constraints do not excuse the sector from striving to increase the direct involvement of beneficiaries, but they do mean that particularly careful thought and significant resources need to be put into this aspect of programming if beneficiary consultation and participation are to be brought systematically into the mainstream of

refugee / IDP and broader humanitarian programming. Growing concern with beneficiary participation has generated some new initiatives among NGOs and operational agencies to adapt participatory methods for application in emergency and relief situations, and, clearly, high quality initiatives of this kind deserve concerted donor support.

Particularly in the context of protracted displacement crises, characterized by effectively long-term protection and care-and-maintenance programmes, there is indeed considerable scope for involving both displaced and host communities and groups at every stage of the project or programme cycle, and to develop capacities and ownership within these communities. In Côte d'Ivoire, for example, where many refugees have been enabled to settle and integrate outside camps, Kuhlman notes how:

'Decision-making has been relatively top-down and in particular has not sufficiently involved refugees themselves. Yet, refugees are locally quite well organised. It is recommended that they be taken seriously as partners, to the extent that they should be encouraged to develop structures at national level, which can be accepted as discussion partners in policy-making – together with UNHCR and the Ivorian government' (Kuhlman, 2002: 6).

Kaiser points to the need for more consistent use of participatory methodologies in the evaluation of humanitarian action. She notes that both DFID and Danida are moving towards participatory evaluation, but there is scant evidence that beneficiary-based methods are actually being used by many evaluators and organizations. With respect to DFID, she notes that the Evaluation Department does not generally define research methods in advance with evaluators, and that DFID evaluation reports usually contain little description of methods used. Reflecting an awareness of weaknesses in this area, DFID has initiated a process to expand the use of new participatory approaches (Kaiser, 2002: 10). This should apply equally to DFID's humanitarian programmes as to its development programming – including, of course, the design, planning, monitoring and evaluation of programmes concerned directly or indirectly with refugees and IDPs.

The importance of improved beneficiary participation extends to all areas of protection and assistance for refugee and other displaced populations, including the coverage and targeting of assistance interventions, and protection efforts at all levels. Beneficiary consultation is particularly pertinent for achieving more detailed, disaggregated needs assessments. A recent critique of WFP's Vulnerability Assessment and Mapping (VAM), for instance, notes that '[t]oo much emphasis may have been placed on geographic targeting at the expense of targeting more distinct groups of food-insecure beneficiaries with specific vulnerabilities, based more on demographic criteria or livelihood strategies' (WFP, 2000, Annex 2:6; ALNAP, 2002: 103). This more 'fine-tuned' form of needs assessment cannot be carried out effectively without a higher level of beneficiary consultation. The 2001 evaluation of WFP's food assistance for refugees and refugee repatriation in Ethiopia noted good practice in the use of refugee interviews to disaggregate primary stakeholders into categories associated with different repatriation and livelihood options (WFP, 2001a). And the 2001 evaluation of ECHO's intervention in Sierra Leone concluded that, in the IDP camps, 'there was a growing realization that a demand-driven approach through increasing people's participation contributed to coverage and use more than a supply-driven approach (ECHO, 2001: 14).



A recent evaluation of Oxfam-GB's humanitarian programme in Bujumbura-Rurale drew principally on information from community members using participatory methods. This evaluation found that participatory approaches had proved feasible in the context of Oxfam-GB's programme, even in this context of limited access and contact, but that identification of needs and intervention design had nevertheless been weakened by top-down approaches. The relatively greater vulnerability of people in the residual IDP sites was consequently not fully appreciated, and community views about the relative priority of water/sanitation and vector-borne disease were not taken into account. The evaluation further concluded that '[h]ad the project ... been more participatory in the identification, design and monitoring phases, there would have been more opportunity to incorporate further gender-specific input, analyses and objectives' (Oxfam-GB, 2002: Executive Summary).

As regards protection, an evaluation of UNHCR's policy on refugee women highlights the importance of ongoing communication and consultation with beneficiaries, particularly members of vulnerable groups (women, children, elderly, disabled, ethnic minorities, etc.) for identifying local protection problems within refugee communities, including sexual and gender-based violence (SGBV). In this respect, community service officers appear to have performed a more significant role than protection officers, since, in all the sites visited, protection officers considered their primary realm of action to be the legal sphere (focusing on questions of access, admission, status determination, and repatriation) and their visits to refugee camps were often short and infrequent. With reductions in community service posts (due to a general reduction in donor support) and a concomitant reduction in ongoing consultation with women and other beneficiaries, the evaluators warn that the ability of UNHCR to protect refugee women and other vulnerable groups will be further weakened:

'This assessment found that many women and girls suffer SGBV throughout their refugee experience ... However ... in most refugee settings there is little awareness about the problem and few coordinated efforts to prevent abuses and respond when abuses occur. In the field, some UNHCR staff noted that they rarely received information, must less accurate information, about rape, domestic violence, or sexual exploitation' (UNHCR, 2002a: 4).

Similarly, in Kismaayo, Somalia, understanding and addressing the protection environment and identifying vulnerable groups – including weak and powerless clans – would require sensitive beneficiary consultation to reveal 'subtleties of political, economic and social discrimination [that] remain largely hidden to outsiders'. According to Narbeth and McClean:

'Individuals from weak and powerless clans such as the Bantu, Bajuni and Galgaala (including those in IDP camps) rarely enjoy the protection afforded to others. These entrenched socio-ethnic divisions affect access to economic capital (such as employment opportunities); this in turn affects the degree of access (or reinforces the lack of access) to education and health facilities ... When human rights violations take place ... individuals from 'minority' or weak clans in Kismaayo often have little recourse to systems of justice' (Narbeth and McLean, 2003: 13).

Recognising the marginalisation and vulnerability of particular ethnic or other social groups and acting to address this marginalisation and assert claims to protection on the basis of more participatory approaches to humanitarian programming calls for a more politically engaged mode of humanitarian action based on the concept of rights, rather than the more traditional philanthropic needs-based approach discussed below (Darcy & Hofmann, 2003: 22; Slim, 2001). As argued by Hugo Slim:

‘this shift involves humanitarian philosophy in a move from sentimental, paternalistic and privileged discourse of philanthropy and charity, to the political, egalitarian and empowering ideology of rights and duties ... political events in the last 10 years have combined with a new commitment by humanitarian agencies to put their core beliefs on paper since the Rwandan genocide and have involved humanitarians being much more explicit about their values in recent years’ (Slim, 2000: 3; ALNAP, 2002: 139).

Yet, as noted by ALNAP in its 2002 annual review of humanitarian evaluations, if there has been a shift in humanitarian programming towards rights-based humanitarian action, it remains largely rhetorical, ‘with interventions still firmly set in the philanthropic mode, i.e., externally determined and driven with limited participation from the affected population’ (ALNAP, 2002: 139). Darcy and Hofmann argue that the apparent dichotomy that has developed between needs and rights is unhelpful and misleading, and that there is no necessary incompatibility between the two; the principal value of rights-based programming, they argue, lies in ‘the ability to identify more precisely responsibilities for humanitarian outcomes, and to bring corresponding influence to bear on those responsible’ (Darcy and Hofmann, 2003: 23).

It is particularly important for participatory rights-based programming to be supported by high-quality analysis and knowledge of the social, political and economic context and for it to be conducted sensitively, since any active engagement by humanitarian agencies in the political economy of vulnerability carries risks for beneficiaries and other primary stakeholders, as well as for the agencies themselves (Collinson, 2003). Targeting certain forms of assistance specifically at vulnerable groups, for instance, may have negative protection implications in particular social or political contexts. This, again, underlines the importance of supporting high quality sociological and political analysis in all situations of humanitarian action.

#### Recommendations to DFID:

- (i) To devote significant resources to developing effective methodologies and guidance for improved on-the-ground consultation and participation of refugees, IDPs and other primary stakeholders to support improved needs assessment, improved understanding of the causes and consequences of forced migration and develop appropriate responses, including protection activities, and to identify and target the most vulnerable people within beneficiary populations.
- (ii) To work with and actively support partner agencies and NGOs to strengthen their capacities to pursue effective participatory approaches.
- (iii) To work with implementing agencies to strengthen their protection activities on behalf of forced migrants and vulnerable groups within displaced and non-displaced

populations, including active capacity-building in the area of rights-based programming to enable agencies to consider more comprehensively where and how needs- and rights-based programming can be combined to achieve improved protection outcomes.

(iv) To strengthen partner agencies' and NGOs' accountability for more effective participatory and protection-focused action on behalf of forced migrants through, e.g., partnership agreements, monitoring and reporting requirements, and evaluations.

## 5. COVERAGE

The dominant paradigm shaping the stated policies of many agencies concerned with providing in-country humanitarian *assistance* to both displaced and non-displaced populations is to provide assistance on the basis of need, rather than on the basis of pre-conceived categories, albeit paying special attention to the specific needs of potentially vulnerable groups (including women, children, the elderly, disabled). In its response to the House of Commons IDC Kosovo Inquiry (1998-99), the UK Government stated that 'DFID has encouraged integrated projects that benefit both refugees and poor host communities with priority to the poorest and most vulnerable' (International Development Committee, 1999: paragraph 26). A recent policy document outlining WFP's approach to assisting displaced populations states that WFP:

'will target displaced populations on the basis of food insecurity rather than identify them as a particular group. The Programme will apply the same targeting criteria to displaced persons that it does to other food-insecure groups, while making a special effort to understand and address the particular needs of IDPs ... In general, it is not appropriate to target IDPs per se as a group for food assistance, especially when there are other needy and vulnerable persons in the same situation. While there may be some situations in which the internally displaced will be specifically targeted (for example those living in transit centres of camp-like situations), in others, IDPs are much better assisted through programmes aimed at broader segments of the food-insecure population' (WFP, 2001b: 8).

Similarly, a 2003 evaluation of ECHO's programme in Sudan comments that:

'ECHO has funded projects based on the assessment of needs in the field, not using any pre-conceived categories (such as IDPs, refugees and local population). The rigid categorization of potential recipients of ECHO aid into these three categories is not contributory to carrying out the ECHO mandate in Southern Sudan' (ECHO, 2003a: 7).

This needs-based approach is also endorsed by the 2004 evaluation of ECHO's Afghanistan programme, and the 2003 evaluation of its Angola programme (ECHO, 2004a; ECHO, 2003b). The latter comments that vulnerability criteria are the best instrument of targeting, not least because, in a long-lasting emergency, displacement inevitably evolves into a variety of situations and degrees of vulnerability:

'those displaced long ago and effectively resettled versus those newly displaced and in urgent need; those displaced to nearby towns versus those who ended up

in other provinces; quasi-economic migrants versus those who fled combat, etc.’ (ECHO, 2003b: 8).

Similarly, the evaluation of Oxfam-GB’s programme in Bujumbura Rurale notes that:

‘The pattern of humanitarian problems in Bujumbura Rurale is no longer one of large-scale displacement into camps. It is more one of short-term, short-distance, repetitive displacement: families often have to flee their homes for a few days or weeks, taking shelter elsewhere in the colline, then returning to find their household goods stolen, and their crops destroyed, stolen, or suffering from neglect. Such patterns make it hard to identify and target affected people.... Oxfam’s humanitarian programme in Colombia seems to be a similar case, and perhaps there are relevant lessons from that programme’ (Oxfam-GB, 2002: Executive Summary).

This Angola report also notes that non-displaced people in areas isolated from humanitarian aid are often found to be in worse condition than IDPs, and that discrimination based on simplistic categorization could increase tension among the various social groups (*ibid*). Narbeth and McLean observe that in Kismaayo, ‘material assistance has to be provided to a wider community than just the IDPs, in terms of neutrality and impartiality on the one hand, but also as a pragmatic means to reduce the potential for conflict between groups, or the targeting of aid providers’ (Narbeth and McLean, 2003: 17).

The recent evaluation of ECHO’s Afghanistan programme goes further to argue that refugees, whether in countries or asylum or returning to Afghanistan, ‘do not necessarily represent the most vulnerable segment of the population’. The report observes that ‘the fact that they have been able to travel to neighbouring countries is in itself an indicator that they have had sufficient means to leave’. Thus, the principal reason for assisting this category of people is both to afford them international protection and to help host governments bear the impact of large refugee burdens (ECHO, 2004a: 57). The International Development Committee’s 2001 report on the humanitarian crisis in Afghanistan noted the extreme vulnerability of people referred to as ‘internally stranded’: ‘many people are already too weak or lack the resources to move from their villages – they are too weak even to become displaced’ (International Development Committee, 2001: para. 31-32). According to the IDC, DFID calculated that, in November 2001, the estimated number of internally stranded persons (4,150,000) was almost four times the number of IDPs (1,200,000) and over twice the number of refugees in Pakistan (2,000,000), and exceeded the total number of externally displaced Afghan refugees (3,695,000).

Of course, an impartial needs-based approach to assisting both displaced and non-displaced populations begs the very big question of the quality of the needs assessment underpinning the targeting of assistance. This problem is widely documented and discussed elsewhere (Darcy and Hofmann, 2003); suffice to say here that the many fundamental problems that bedevil needs assessment more generally in humanitarian action also apply to needs assessment among displaced communities and their ‘host’ populations. With specific reference to refugee populations, a 2002 WFP report on Afghan and Iraqi refugees in Iran analysed WFP’s coverage of different refugee populations inside and outside camp, between camps, and differential needs within

campes, and found a general lack of data on those outside camps. This report concluded that:

‘it is generally true that the more vulnerable refugees are in camps, but in the absence of survey data it is not possible to be sure that this is the case or that all refugees outside camps are coping. The camps might have originally accommodated the most vulnerable, but given that the government seems to have more or less frozen the number of refugees in camps it is difficult to maintain that they continue to serve the function of accommodating those unable to achieve self-reliance’ (WFP, 2002a: 4-5).

Meanwhile, the 2002 WFP Great Lakes evaluation notes that one indicator of a successful programme is that refugee populations demonstrate consistently better nutritional status than the host population, which begs the question of whether other vulnerable groups within the non-displaced population have been marginalised from humanitarian efforts (ALNAP, 2003: 68; and WFP, 2002b).

Probably the clearest set of recommendations relating to coverage of host populations in any recent evaluations remain those contained within the 1996 Joint Evaluation of Emergency Assistance to Rwanda (JEEAR). The joint evaluation noted that while certain groups and enterprises gained from hosting large refugee or displaced populations, others experienced substantial losses – and these impacts were distributed unevenly. There were heavy environmental and other costs imposed by the large refugee camps on local populations in Zaire, Tanzania and Burundi, as well as on local populations surrounding IDP camps, and some of these costs resulted from flawed agency policies. Moreover, the international community was slow to provide compensation to those affected, and, as a consequence, host communities came increasingly to resent the presence of the refugees. Recommendations leading out of this assessment include:

‘Standard operating policies and procedures should be prepared for donor organizations, UN agencies and NGOs that will help to minimize and mitigate adverse impacts of relief operations (whether refugee or IDP) on surrounding populations and their environment. ... A quick-disbursing fund should be established (or alternatively allowed to draw from the existing UNHCR Emergency Response Fund) to provide early compensation to the host communities in the immediate vicinity of refugee /IDP concentrations. ... [And strategies should be pursued] that minimize negative impact of refugee / IDP concentrations on host communities, such as: providing food that requires little or no cooking; providing fuel for cooking; extending camp infrastructure and services (healthcare, water supply, etc.) to surrounding local populations; and rehabilitating physical infrastructure (e.g. roads and airstrips) damaged in meeting relief needs’ (JEEAR, 1996).

Despite ECHO pursuing a more explicitly impartial and needs-based policy on assisting displaced and non-displaced populations, a recent evaluation of ECHO’s programmes in Afghanistan concluded that refugees and IDPs were nonetheless being singled out for assistance and that certain projects had been specifically targeted to support refugees, IDPs and returnees as exclusive beneficiaries of return assistance and other forms of support. Nevertheless, the evaluators note that ECHO had made specific efforts to

include non-displaced vulnerable people in its projects, such as through the selection of beneficiaries for shelter activities on the basis of greatest need, without distinguishing between returnees or local populations; selection of communities in return areas for irrigation, WATSAN, health, skills training and income generation activities which benefit the whole community; winterization projects targeting the urban poor as well as returnees and IDPs; provision of health services in the poorest and remotest communities without discriminating between local and returnee populations; social programmes for women and children to improve livelihood skills irrespective of displacement status; and activities in drought-affected areas designed to benefit the local community as well as returning IDPs. The evaluation team concluded that this was a sound pragmatic approach in the circumstances in the time period evaluated (understaffing, large funds disbursement, need to identify large numbers of beneficiaries) but that a more 'needs approach' should become appropriate as such pressures moderate (ECHO, 2004a: 55-57).

The need for emergency assistance to pre-conceived categories to give way eventually to more impartial needs-based assistance to both displaced and non-displaced populations is similarly emphasised in the 1999 evaluation of Danish support to UN agencies and international humanitarian organizations, which concluded that:

'The high financial costs of humanitarian assistance reflects the recognized need of refugees and others directly affected by armed conflict to special assistance and protection ... However, a similar claim cannot be justified for returnee, or generally for rehabilitation and reintegration of conflict-affected persons, who, along with the rest of often very poor communities, are part of the development process ... *the emphasis should be to maximise self-reliance as soon as possible for those affected and for their communities*' (Danida, 1999d).

This Danida evaluation also emphasizes the importance of ensuring that national authorities are made more responsible and accountable for protection and assistance, which is arguably more difficult to achieve if international humanitarian actors single out particular groups for special assistance and fail to ensure broader ownership and responsibility by local authorities for the assistance and protection of all vulnerable people.

Uneven or ineffective coverage among displaced populations or between displaced and host populations often also results from lack of humanitarian access, which, again, is an issue of broad concern across the international humanitarian sector. In Angola, for instance, the question of coverage between displaced and non-displaced populations was largely obviated on a practical level in the past by the fact that until the ceasefire, the neediest people who were not displaced were in areas inaccessible to humanitarian action (ECHO, 2003b: 8). Problems with coverage have also been found to result from inappropriate programming decisions. The evaluation of Danida's humanitarian programme during the 1990s noted that, following the 1991-1994 war in Azerbaijan, UNHCR (as main implementing agency in the region) put considerable effort into relocating families of IDPs to specially constructed sites, with over 30,000 people moved. This, however, was fewer than 5% of all IDPs, and only one third of those in serious need. The evaluators concluded that: '[c]oncentrating on relocating some IDPs and doing very little for a far greater number of vulnerable people seems inappropriate and obviously represents a failure in coverage' (Danida, 1999a: chapter 5).

Possibly the greatest single contributor to poor humanitarian coverage among and between displaced and host populations is uneven donor funding, which in turn is likely to be linked to political decisions of host governments, donors and humanitarian agencies themselves (ALNAP, 2003: 67). According to the NAO evaluation of DFID's response to humanitarian emergencies, DFID has calculated that, since 1997, the per capita level of humanitarian assistance it has provided in European emergencies has been five times higher than for emergencies in Africa. This difference, it concluded, could not be explained simply by differences in the cost of delivery and associated security, but raised the possibility that wider strategic considerations were important in determining the allocation of resources (NAO, 2003: 4). The most recent report of the UN Secretary-General on Coordination of Emergency Humanitarian Assistance observes that the pattern of funding humanitarian activities remains uneven, leaving some countries substantially under-financed; countries such as the Central African Republic received only 5% of their requirements in 2003 (UN General Assembly Economic and Social Council, 2004: 2). Yet there is little examination of these issues in evaluations of humanitarian action: as noted by ALNAP:

'[e]valuation reports tend to steer clear of wider political issues such as diversion of food aid from one emergency to another or donors' refusal to fund particular governments' (ALNAP, 2003: 67).

Persistent donor under-funding of particular crises further undermines impartial needs-based programming at the field level. As noted in the 1999 evaluation of Danida programming in Sudan, operational agencies have reduced appeals according to what they envisage donors will tolerate, and, as a consequence:

'some aid agencies have started to revise downwards the standards to which they are working – an ominous development. This was particularly significant in the case of WFP. Until late in 1998, they used a 1900 kcal daily requirement to calculate needs and to target, rather than the internationally recognized minimum rate of 2100 kcal per day' (Danida, 1999a: Executive Summary).

Donor coordination also represents a key issue for humanitarian coverage with respect to displaced and other vulnerable or conflict-affected populations. The recent ECHO Angola evaluation, for instance, observes that, since humanitarian need in Angola is strongly correlated with displacement, a comparison of ECHO's funding with the number of IDPs per province raises questions with regard to coverage. While regions with comparatively fewer IDPs (e.g. Moxico) are receiving funding, other regions with much higher numbers are not. The lack of funding in some cases is likely to be due to coverage by other donors. The evaluators recommend that ECHO pro-actively determines whether humanitarian needs are being met across all areas, and, if not, and if no implementing partner is present, ECHO should stimulate necessary interventions either by interested agencies or by informing OCHA, which could use its Emergency Response Fund if funds are available (ECHO, 2003b: 4).

### Recommendations to DFID:

- (i) To work actively with partner agencies and NGOs to improve the quality of on-the-ground needs assessments in situations of forced displacement to ensure more effective humanitarian coverage among both displaced and non-displaced populations.
- (ii) To clarify DFID's own position on needs-based versus group-based assistance and protection in situations of forced migration, including clarification of how needs-based assistance efforts should or can link with more group-based protection activities, and to ensure that the practice of implementing agencies regarding needs versus group-based programming in the field is examined in evaluations of DFID-funded humanitarian action on behalf of forced migrants.
- (iii) To continue to work proactively to improve donor coordination in situations of complex and large-scale displacement, for example, by actively seeking to determine if humanitarian needs are being met in all geographic areas and among all vulnerable groups and taking whatever remedial action is possible where significant gaps are found in humanitarian coverage.
- (iv) To ensure that any closer cooperation with FCO, MoD or Home Office in the area of forced migration (e.g. through CPPs) does not result in any distortion of DFID funding of assistance to different refugee and IDP emergencies as a consequence of the particular strategic, political or defence concerns of the other Departments.
- (v) To review how far DFID and its partner agencies, NGOs and other donors have gone towards implementing the recommendations of the 1996 JEEAR, including those relating to coverage of displaced and host communities.

## **6. ASSISTANCE AND PROTECTION OF VULNERABLE GROUPS**

Alongside stated policies of impartial needs-based programming at a general level, most donor and operational agencies are becoming increasingly aware of – if not always more responsive to – the specific needs of particular vulnerable groups. As noted in a recent review of ECHO's needs-based humanitarian policy, categories are widely used in humanitarian assistance to label groups with special needs, according to displacement status (e.g. refugee, IDP, returnee, 'old' / 'new' caseload, host etc.), personal attributes (e.g. gender, age, disability), health status (e.g. HIV), ethnic group, wealth, etc.; some categories are closely associated with higher levels of need and vulnerability, but these general characteristics are never the sole indicator (ECHO, 2004b: 4-5).

This, in a sense, is what underpins the international refugee regime and associated instruments concerned with IDPs, since, in terms of *protection* needs – as opposed to purely humanitarian *assistance* needs – refugees and IDPs represent distinctly vulnerable groups due to their displacement status. It is this specific protection need that represents the foundation of UNHCR's unique protection mandate for refugees and other 'populations of concern', including IDPs. IDPs, of course, represent a distinct and vulnerable category within global displaced populations, as discussed further below.



Among both externally and internally displaced populations (and host populations), there are a number of identifiable groups who may be especially vulnerable and therefore require special attention if their assistance and protection is to be equal to that of other members of the population. As noted in the conclusions of a recent evaluation workshop convened by the UNHCR to assess UNHCR's operational experience of protecting IDPs, 'UNHCR should ensure that all the members of an IDP population receive equal treatment, while also paying special attention to the special protection needs of children, women, ethnic minorities and other groups with particular needs' (UNHCR, 2002b: 4).

However, as discussed below in the context of specific groups (women, children, urban refugees and IDPs) success in the protection of vulnerable groups has been patchy at best. As noted in the 2003 ECHO evaluation in Sudan:

'There was no evidence children have been specifically targeted as a vulnerable group with special needs. Child protection issues have received no special attention. Gender issues overall, women-headed households, the elderly, the orphans / separated children and the handicapped have received little explicit attention as well' (ECHO, 2003a: 7).

As observed in its 2002 review of humanitarian evaluations, agency failure to promote gender equality (and that of other vulnerable groups) is linked to the fact that the concept is based on a rights approach, while, as noted above, most assistance remains centred on a needs approach (ALNAP, 2002: 139-140). Nevertheless, a number of recent evaluations concerned with examining whether or not particular agencies are achieving effective protection and assistance for particular vulnerable groups have been explicitly concerned with rights-based issues and, as discussed below, have resulted in important insights into why agencies continue to fail in this area, and in concrete recommendations as to how agencies can improve their ability to protect vulnerable groups. As noted below, an important obstacle to more effective protection activities on behalf of vulnerable groups appears to be the plethora of protection and other priorities in the field to which staff and partners are expected to respond, with the result that field staff are overburdened with competing priorities with little clarity or guidance on how or where to focus their attention (UNHCR, 2002d: 4).

#### Recommendation to DFID:

To work with partner agencies and NGOs on developing more effective mechanisms for communicating protection and other priorities to field staff and to better support the ability of field staff to balance and respond to apparently competing priorities, including the protection and assistance of different vulnerable groups.

### **6.1. Women**

The special needs of displaced women include support to develop new coping mechanisms and livelihoods, steps to ensure socio-cultural biases that discriminate against women are not reinforced, protection from physical violence and sexual abuse and exploitation, and protection of property rights and entitlements (WFP, 2001b: 6). A recent assessment of UNHCR's application of its policy on refugee women and guidelines on their protection, based on a five-country study, concluded that, although

positive examples were found of enhanced protection in accordance with the guidelines (such as improved capacity for gender-sensitive status determination, bringing refugee women into camp management, wider availability of reproductive health services, establishment of safe houses and counselling services, etc.), 'positive actions tend to be sporadic, and they are often insufficient to provide refugee women with equitable protection' (UNHCR, 2002c: 1). Thus, for example, in every site, women described others who exchanged sex for otherwise unavailable food and non-food items. And there were serious inadequacies in clothing, blankets and sanitary materials among camp-based refugees that impeded women's ability to participate in education, employment and other activities. Similarly, an evaluation of UNHCR's repatriation and reintegration efforts among Guatemalan refugees found that, although an early decision to involve both men and women of each family in receiving assistance had a positive effect (e.g. staff were able to speak directly to women and women could mention to staff their concerns and were accorded respect in front of their families), around more profound issues of gender mainstreaming (e.g. involving women in political and logistical negotiations and planning), UNHCR 'often fell short of its goals' (UNHCR, 1999: Preface). The 2003 evaluation of ECHO's programming in Sudan notes that:

'Gender issues overall – including the desegregation of data by gender, the analysis of access by gender, health educational activities for women and girls, the violence against women issue, the training of TBAs, reproductive health rights and other – ... need to be focused upon more proactively in the years to come' (ECHO, 2003a: 7)

The evaluation of UNHCR's policy and guidelines on refugee women notes that, to some extent, the continued protection problems faced by refugee women result from lack of access and resources that impede efforts on behalf of all refugees regardless of gender or age. But programmes that directly and indirectly promote women's protection are often cut in a funding crisis. Lack of resources was found to be a serious barrier to implementation of the protection guidelines. For example, refugee women and girls are at increased risk of HIV/AIDS infection due to their vulnerability to sexual violence and exploitation, yet health budgets have not been increased for the purpose of combating HIV/AIDS. The report concludes that there is a need for much more systematic monitoring of women's protection issues in refugee and IDP camps and settlements. However, 'staff levels in the field offices and sub-offices are insufficient to identify, monitor and resolve protection problems'. Therefore 'donors should continue to promote policies and programs that keep the principles of the Guidelines at the center of refugee protection and programming', and should recognize that 'fewer resources in the field will disproportionately impede the ability of UNHCR to provide protection to refugee women and girls' (UNHCR, 2002c: 1-4).

#### Recommendations to DFID:

- (i) To extend the work that DFID is already doing with UNHCR on strengthening the application and implementation of policy guidelines on refugee women to other partner agencies and NGOs.
- (ii) To work to ensure that staff levels and capacities in the field are sufficient among all implementing agencies to ensure the adequate protection of refugee women.

(iii) To ensure strengthened accountability of DFID-funded implementing agencies for the protection of refugee women through, e.g. partnership agreements, monitoring and reporting requirements, and targeted evaluations.

## 6.2. Children

Children are especially vulnerable in situations of displacement. Displacement exposes children to increased risks of malnutrition and disease, physical danger, emotional trauma, exploitation and abuse, poverty and destitution, and it may remove their chances of obtaining an education (WFP, 2001b: 6). Children represent half of the UNHCR's population of concern, and yet, according to a 2002 evaluation of the agency's efforts to meet the rights and protection needs of refugee children, their specific needs are often overlooked or considered on the sidelines of core protection and assistance work (UNHCR, 2002d: 3-4). The report found many positive examples of high quality efforts to meet the protection needs of displaced children, but found important gaps in the mainstreaming and operationalisation of child protection across the agency's programming, with limited understanding of child rights as a framework for child protection in the field, lack of situation analysis, insufficient recognition of the social aspects of protection, and insufficient integration with community services and their work with community networks. As in the report on refugee women, the evaluators point to inadequate resources and support to ensure that child protection obligations are fulfilled. In particular, community services and education are inadequately supported, both financially and in terms of human resourcing, yet they are among the most important sectors to meet the protection needs of children.

The report points to the importance of strengthening accountability in this area, warning that policy recommendations are otherwise unlikely to have the desired impact:

'For many years, the Office has designated refugee children and women as 'policy priorities', but such priorities have become mechanical rather than conveying genuine priorities of the organisation' (*ibid*: 1-4).

But they also warn that there are so many priorities in the field that field staff and partners are overburdened as to where to focus their attention:

'There is consistent clarity that refugee women, children and the environment are policy priorities, but multiple issues or categories of refugees are noted as priorities in various documents and communications of the Office' (*ibid*: 4).

The report notes that the vast majority of UNHCR's staff should not be expected to be child specialists, but on the other hand, the work of all staff and implementing partners should reflect the fact that half of the population of concern (and in many instances the portion of that population most at-risk) are children, and all those working in the field should be expected to know the key protection risks that they face.

The report lists forty-three recommendations for action in this area, including the development of a one-page reference document on key protection issues for refugee children (noting that generalist staff were overwhelmed and intimidated by the sheer volume of materials contained in the 'Action for the Rights of the Child' training programme). It recommends that country-level annual planning should require child

protection situation analysis and programme planning with all partners. The report also recommends the widening of education programming to encompass non-formal education for adolescents, including life skills and sex education.

The recent draft report produced by Social Development Direct for DFID on education for refugee and IDP children and young adults observes that there is a very mixed record on the quality and quantity of education provided to refugee and IDP children and youth globally, with IDP needs in particular being hardly met. This results in part from the fact that emergency education sits rather uneasily between humanitarian and development assistance: education has represented only 1-2% of overall CAP spending since 2000, and this is reflected in the fact that interventions are often ad hoc, small scale and too narrowly targeted. The authors develop a series of recommendations for DFID, including that DFID should clearly position education as a 'first response' in emergencies for both displaced and non-displaced populations. A stronger policy position on education in emergencies – supported by a dedicated post within CHAD or closer collaboration with the Education for All team – would help to bolster contributions to this area and reduce confusion at country programme level. They highlight two potentially strong partners to work with: UNHCR's Education Unit, and the Inter-Agency Network for Education in Emergencies (INEE), and they recommend support for the monitoring and action research efforts of NGOs such as Save the Children Alliance (Payne and Fraser, 2004).

These recommendations reflect a recognition that, while adequate funding is essential, funding alone will not make all the difference. The UNHCR report on child protection notes, indeed, that many donor governments earmarked funding for child assistance and protection during the 1990s, but much of that funding was not accessed by field operations. It appears that, in some cases, field operations were not aware of the availability of special funds; this proved a problem with more than US\$5 million dedicated to 'at risk' children by the US government in 1997. For the UNHCR, the 'unified budget' system makes it all the more important that child protection is built into country plans and programmes from the outset, since there is to be no 'additionality' to a field operation's budget.

#### Recommendations to DFID:

- (i) To match work that DFID is currently pursuing with UNHCR on refugee women and the elderly with parallel work on improving the protection of refugee children.
- (ii) To prioritise support for refugee education and training, which is of central importance to the protection of children and for refugee rights and livelihoods more generally.
- (iii) To strengthen accountability in this area through partnership agreements, monitoring and reporting mechanisms, and evaluation.

### **6.3. Urban Refugees**

Two evaluations of UNHCR's assistance to urban refugees – one concerned with Afghan refugees in New Delhi (UNHCR, 2000a), and another focused on urban refugees in Cairo (UNHCR, 2001a) – are both highly critical of UNHCR's policy on

urban refugees. This policy, according to the Cairo evaluation, contains a strong message to the effect that UNHCR assistance should be reduced to a minimum. Such an approach, the report argues:

‘may be effective in reducing dependency and encouraging self-reliance as long as the refugees concerned have found a durable solution in a country of asylum where they are permitted to work and have access to governmental services on the same terms as nationals’ (UNHCR, 2001a: Summary of Conclusions and Recommendations).

However, ‘[w]here this is not the case, the progressive reduction of UNHCR assistance will only result in worsening the marginalisation and impoverishment of the refugees’. Reduced allowances, for instance, has resulted in many children ceasing to go to school. The outcome, the evaluators suggest, ‘is entirely counterproductive as the refugees’ chances of securing self-reliance are in actual fact diminished’ (*ibid*).

Similarly, in New Delhi, reduction in support and assistance from UNHCR appears to have reinforced Afghan refugees’ marginalisation and vulnerability. Refugees have found it increasingly difficult to gain access to local markets and to engage in income-generating activities. UNHCR staff members and others report that growing numbers are surviving by means of illicit activities and are leaving the country in an ‘irregular’ manner as a response to their insecurity. The evaluators complain that the existing UNHCR policy on urban refugees fails to explain why refugees in urban areas are invariably expected to attain self-reliance, while refugees living in camps are often assisted indefinitely. They recommend that the policy be amended to address the situation of urban refugees who lack a secure legal status, who do not have any formal right to engage in income-generating activities, and who cannot benefit from local integration. They note that integration is not synonymous with socio-economic self-reliance, since it must include the crucial element of legal and physical protection. They also caution against assumptions that urban refugees are necessarily the result of ‘irregular’ movements or that they necessarily have the choice of living in a rural camp or settlement.

The Cairo evaluation recommends further that education and training opportunities should be a central objective of the UNHCR’s urban refugees policy, and that the promotion of self-reliance should not be pursued simply on the basis of a reduction of UNHCR assistance, but rather as a process requiring the support, involvement and resources of relevant development agencies and government departments. The authors also point to the importance of involving and engaging refugees themselves in the design and implementation of policies affecting them.

Recommendations to DFID:

- (i) To ensure that self-reliance among urban refugees is treated as a separate issue from protection.
- (ii) To support positive efforts to enable urban refugees to develop sustainable livelihoods wherever possible.

(iii) To actively advocate for secure legal status for urban refugees and support efforts to strengthen their protection, including the protection of vulnerable groups within urban refugee populations.

#### 6.4. IDPs

A recent lesson-learning review of UNHCR's experience of addressing situations of internal displacement suggests, somewhat controversially, that the concept of 'internally displaced persons' should be the subject of critical review:

'While the concept has proven to be of considerable value for the purposes of advocacy, its use as an operational category is more questionable, especially in situations where displaced and non-displaced populations experience the same or similar conditions of life, and where the internally displaced do not wish to be described in that manner' (UNHCR, 2002b: 7).

Different agencies place different values on the concept, the report notes, with some regarding IDPs as a specific humanitarian category, analogous to refugees, others find the concept less useful. A strong defence of the concept of IDPs as a distinct humanitarian category is set out in a Danida evaluation of IDP programmes in Angola. The report insists that involuntary displacement is what defines IDP status, and not the continuation of whatever vulnerability flows from that displacement. Thus IDPs only cease being IDPs when they return to their place of origin, or when given the opportunity for a safe return, or when they opt to stay in another area: '[t]hey do not cease to be IDPs simply because they are able to scratch a living in their area of displacement' (Danida Angola IDP Evaluation Draft Report, quoted in ECHO, 2003b: 25). IDP status can co-exist with a range of levels of humanitarian need (*ibid*: 26).

WFP's policy on IDPs recognizes that IDPs' food security and other needs are often indistinguishable from those of other victims of conflict or disaster who have not fled their homes. However, the policy recognizes that displacement itself creates particular vulnerabilities which may not be suffered, at least to the same extent, by the non-displaced – through, for example, the separation from families, communities, livelihoods and key assets (including land), and disrupted access to education and health services. Hence, the distinct needs of IDP groups need to be monitored on a continuing basis, paying attention to how these needs change over time (WFP, 2001b: 5).

As with many conflict-affected populations, the monitoring of IDP populations and protection and delivery assistance efforts on their behalf are significantly impeded, however, by a number of operational, protection-related and other problems on the ground, particularly in conflict situations. These include restricted humanitarian access and inadequate protection of beneficiaries and/or agency staff, limited capacity and/or willingness on the part of national or local government authorities to address IDP-related issues, and the lack of any specific operational authority for IDP issues assigned to a particular agency. Effective coordination among all of the agencies and actors concerned (humanitarian and human rights organisations, development agencies, donor governments, etc.) is therefore crucial for effective IDP interventions.

The UNHCR lesson-learning review notes a clear link between assistance, protection and durable solutions in situations of internal displacement. As in refugee situations, the

establishment of indefinite care-and-maintenance programmes and settlement of IDPs into large camps (or smaller camps in insecure areas) should be avoided if at all possible, and efforts made to promote self-reliance. However, IDPs cannot be expected to become self-reliant if they are denied basic rights. A programme continuation review of UNHCR's programme for IDPs in Angola notes the difficulty of assessing protection activities compared to material assistance, but advises that UNHCR should focus its attention on protection work, such as monitoring, civil registration for IDPs, enhancing the agency's response capacity, providing protection support for other actors, developing provincial-level capacity-building, and advocacy (UNHCR, 2002e: 4). Similarly, a joint Danida / UNHCR review of UNHCR's IDP programme in Angola notes that:

'Although the most apparent and immediate effects of UNHCR's activities have been in the material assistance sectors, UNHCR's comparative advantage lies in protection, and it is this element that will have to be bolstered in the medium and long term' (Danida / UNHCR, 2001: Findings).

#### Recommendations to DFID:

(i) To ensure clarity in understanding among staff and implementing partners of the specific group-based protection needs of IDPs, as a separate issue from the material needs of IDPs (which may or may not vary significantly from those of non-displaced populations); and to work to ensure that the specific protection needs of internally displaced populations are effectively assessed, monitored and responded to wherever possible.

(ii) To explore and clarify what a protection focus to IDP programming means in practice in the field – e.g. distinct protection activities, such as monitoring, civil registration, action to resolve land disputes, etc.

(iii) To clarify which agencies DFID prefers to work with to ensure that the protection needs of IDPs are met (UNHCR and/or other?) and work to develop the capacities of partner agencies to provide effective protection for IDPs.

(iv) To clarify which agencies are best suited to take the lead in providing material assistance to both displaced and non-displaced populations in specific situations of large-scale internal displacement.

(v) To actively support efforts to achieve self-reliance and sustainable livelihoods for internally displaced populations (with effective protection and rights-based activities), and, wherever possible, work to avoid the establishment of indefinite care and maintenance programmes and settlement of IDPs into camps.

## **7. REFUGEE AND IDP LIVELIHOODS IN PROTRACTED DISPLACEMENT SITUATIONS**

Kuhlman recommends that 'it is better to plan for a protracted refugee situation than for a short-lived crisis' (2002: 40). He argues that only if, during the first year, it already appears abundantly evident that the refugees will soon be able to return home can programmes aimed at a local integration be abandoned.

The picture for many refugees and IDPs living in long-term camp situations hardly looks more promising than it does for self-settled or self-reliant refugees in urban areas. The Mid-Year Review for the 2001 CAP for Uganda, for instance, observes bleakly that while the cost of maintaining IDP camps and providing for basic needs is increasing, donor support is steadily decreasing, 'rendering the camps unsustainable on purely financial grounds' (UNOCHA, 2001):

'Donor fatigue is becoming increasingly apparent. ... Freedom of movement and access to land has been limited, preventing the IDPs from compensating for the loss of external assistance. The ... UNHCR's Self Reliance Strategy had to be discontinued due to lack of support. ... Deteriorated infrastructure ... has made marketing of surplus commodities unprofitable, forcing the majority of the population to rely upon subsistence production and charcoal-making to cover basic needs. The amount of time in which women spend fetching firewood and water and in performing domestic work is increasing, forcing girl-students to drop out of school at an early age in order to care for their younger siblings' (*ibid*).

But, as Crisp observes, for externally displaced populations, the proposal that refugees should not be confined to camps long-term but should instead be allowed to settle and become self-reliant, would not be politically feasible in many refugee-hosting countries. Indeed, such a policy would risk early refoulement and therefore run counter to UNHCR's protection responsibilities. Nevertheless, he notes that in certain protracted refugee situations, greater potential for local integration may exist than is usually recognized. For instance, where refugees share the same ethnic origin as the host population; where they are in an area of surplus agricultural land or where other economic opportunities exist; where they have established sustainable livelihoods but their legal status and residence rights remain unresolved; or 'residual caseload' refugees with strong social and economic links to their country of asylum (Crisp, 2003b: 28).

The large number of 'spontaneously' settled refugees in Africa suggests that there may be greater scope for refugee integration than is currently assumed. In a recent review of the community services function in refugee aid programmes, Bakewell observes how:

'In the field we heard numerous references to the need to get refugees to stop being so 'dependent', as opposed to a focus on creating appropriate conditions for refugee self-sufficiency. This occurs despite the fact that our findings and a consistent body of other evidence from other research and evaluations confirm that in all settings, refugees are actively engaged in every possible type of productive work, based on the opportunities and resources at their disposal' (Bakewell, 2003: 10).

Clearly, refugee dependency is in part the product of host government regulations limiting freedom of movement and the right to work or engage in economic activity. But it must be recognized that many host governments would be extremely hostile to the prospect of promoting self-reliance among refugee populations because of concern that self-reliant refugees will not want to repatriate when conditions change in their country of origin (Crisp, 2003b: 28). Thus, for example, ECHO's 2002 review of WFP programmes in Afghanistan, Eritrea, Tanzania and Serbia found that the potential for



refugee integration was especially low in Tanzania, where refugees are located in camps and have restricted freedom to move and virtually no access to land or means of production for local markets (ECHO, 2002: 11).

Active government hostility to the IDP or refugee populations concerned, leading sometimes a deliberate policy of marginalisation, often results in limited possibilities for displaced people to achieve sustainable livelihoods. A joint WFP/UNHCR evaluation in Sudan notes, for instance, that in the case of long standing refugee camps in South Sudan, attempts to promote sustainable agricultural solutions to chronic problems lasting over 30 years have proven largely unsuccessful, with an overall lack of appropriate land for farming plus the government actively thwarting any efforts to provide refugees with land to produce their own food (WFP / UNHCR, 2001; ALNAP, 2002: Section 4.2.1).

If the promotion of refugee self-reliance and integration is to be given any credence, there is a very important advocacy challenge for humanitarian and protection agencies and donors in this area, since:

‘experience shows that refugees who have led a productive life in exile, receive an education, developed practical skills, and accumulate some resources may actually be better prepared and equipped to go home and contribute to the reconstruction of their country than those who have languished in camps for years, surviving on minimum levels of humanitarian assistance’ (WFP / UNHCR, 2001).

If refugee or IDP integration is to be explored as a feasible option in any context, it is important to first recognise that displaced populations are never an ‘undifferentiated mass’ (Jamal, 2000: 32), and that individual refugees and IDPs possess a range of different skills and attributes that will result in varying potential for local integration in different situations – e.g. refugees with urban backgrounds versus those with rural backgrounds. An evaluation of the UNHCR programme in Kakuma, Kenya suggests that agencies should think in terms of essential *needs* rather than minimum *standards*:

‘While at the start of an emergency essential needs may be congruent with minimum standards, over time essential needs will grow, as refugee lives become increasingly intolerable unless they are able to enjoy a wider range of human rights, and are enabled to develop their human functions and capabilities’ (UNHCR, 2000b: Executive Summary).

In Kakuma camp, UNHCR has become locked into an ‘unproductive emergency management mode’ and a ‘debilitating cycle of reactive, minimum standard planning’, and so, despite good quality management of basic services, ‘the most apparent and prevalent mood in Kakuma camp today is a sense of despair and low self-worth’ (*ibid*); hence violence in the camp is rampant, and UNHCR’s ability to protect refugees is seriously compromised (Crisp, 1999).

In the context of a study of Liberian refugees in Côte d’Ivoire (Kuhlman, 2002), Kuhlman points out that any serious programme designed to promote the integration of refugees requires more money for a given year than care and maintenance. In the Côte d’Ivoire case, where the political environment, at least, was generally conducive to

refugee integration (since the government opposed the settlement of refugees in camps), UNHCR made the mistake of only beginning to think seriously about economic integration at a time when funds were already running out.

Apart from support for agriculture and vocational training, UNHCR's efforts on behalf of economic integration in Côte d'Ivoire have not proved very successful, partly due to under-funding. UNHCR's agriculture programme in Cote d'Ivoire is an example of how aid can contribute both to the livelihoods of refugees and to the development of the refugee-affected area. The reason for its success, he suggests, was that it aimed at assisting in an activity which local people were already undertaking. In other projects, however, it was the donor who took the initiative in calling on people to submit project proposals, with stipulations about what kind of proposals would be entertained. The screening of income-generation proposals was not based sufficiently on firm economic and commercial criteria, and so sustainability was compromised. Overall, vocational training is likely to be more effective in fostering economic self-reliance than income-generating projects. Indeed, Kuhlman suggests that the provision of aid specifically for income-generating projects is less necessary – and often less useful – than would appear at first sight.

ECHO's Afghanistan evaluation observes limited success with many livelihoods interventions, and points out that it was not always clear whether income-generation activities were based on surveys to determine whether profitable markets actually existed for the products of these projects. There appears to have been widespread confusion between the terms 'Cash for Work' (CFW) and 'Income-Generating Activities' (IGA). While the former have no sustainability criteria, IGAs should lead to sustainable economic activity. Some IGAs had not been subject to a clear pre-examination of market possibilities but represented a simplistic assessment of what was considered possible on the production side: sustainable incomes, the evaluation notes, 'are not possible in non-existent market places' (ECHO, 2004a: 39, 51).

On the other hand, this report recommends that an area which should be highlighted for donor support is IDP training in camps and settlements, to provide displaced people with employment opportunities, both in their areas of displacement and to help them to reintegrate on return. Training intervention of this kind among Afghan refugees has so far been limited to sectors such as construction where there is the potential for trainees to compete with foreign workers in a buoyant market, but 'there is scope for a broader range of sectors in which skills training would be highly relevant' (*ibid*: 39).

Careful situation and market analysis is required in such situations, however. Crisp (2003: 22) warns, for instance, how large-scale refugee (/IDP) presence in a situation where there are few income-earning possibilities can have the effect of driving down wages. There is always the potential for exploitative employment patterns among refugee populations, just as there is the potential for illegal and unsustainable farming and other harmful forms of land use.

An adapted sustainable livelihoods (SL) framework could prove helpful to assist situation and market analysis to support refugee / IDP integration in situations of protracted crisis and displacement, particularly if it is linked to political economy analysis (Collinson, 2003). An evaluation of DFID's support for post-cyclone livelihoods rehabilitation in Orissa found that:

‘the structured format of the SL framework provides an excellent tool for understanding how people can and do respond to a disaster. ... This is partly because it reflects the reality and complexity of people’s lives. The poor are involved in multi-sectoral activities that are linked through complex relationships. In a disaster situation the whole of the system of people’s livelihoods is affected. ... [It] benefits from providing a cross-cutting and holistic perspective ... This in turn is likely to have produced a greater level of balance in the rehabilitation process. ... To be effective in this role, however, requires that the [framework] ... be converted into tools and language that are easily assimilated and used by different groups of practitioners’ (DFID, 2001: Executive Summary).

It is important to note that livelihoods-based analysis of this kind might not only prove useful to underpin positive initiatives to support refugee / IDP livelihoods and integration, but it can also play a potentially important role in monitoring the dynamics and implications of ‘negative coping mechanisms’ that might themselves need to be addressed at one level or another, either because of negative impacts on the environment or host society, or because of negative protection or livelihood implications among displaced populations themselves. Negative coping mechanisms might include, for example, theft from other refugees, the host population or from humanitarian agencies (e.g. crops, food, cattle and other assets), the sale of vital assets, unsustainable collection of natural resources, or engagement in the production or exchange of assets connected with the local or wider war economy (Crisp, 2003b: 20; Collinson, 2003).

Situation analysis and monitoring focused on the dynamics of beneficiary and host populations’ livelihoods and the dynamics of the local political economy should also help agencies to keep track of the impacts of aid inputs such as food aid. The WFP’s Ethiopia evaluation points out that:

‘WFP staff do not systematically and consistently follow up during the post-distribution phase to better understand the role of WFP food aid within the broader coping and strategies and livelihood systems of the refugees. This failure hinders the development of appropriate indicators for the shift towards more recovery-oriented activities’ (WFP, 2001a; ALNAP, 2003: 94-5).

In a recent study of the protracted displacement of Guatemalan refugees, Cheng and Chudoba (2003) advocate the expansion of options for refugees beyond the traditional camp infrastructure through the establishment of a decentralized approach to service provision, taking the form of decentralized ‘resource and service centres’ (RSCs). These, they suggest, could be established in both countries of origin and asylum countries, and could be established as development projects in partnership with UNDP and/or other development partners. RSCs, they argue, would fill the current gap that exists for assistance to self-settled refugee communities, as well as the current gap that exists in transitioning and integrating returnee communities to their home countries. While the financial viability of these centres has not been explored, they suggest that the impact of RSCs (in terms of reaching large numbers of refugees) relative to probably low overall cost could offer better value for money than long-term and costly care-and-maintenance programmes. Although host governments tend to favour containment of refugees in camps, UNHCR could advocate a more decentralized approach on the

grounds that they are likely to increase refugee registration rates and subsequently increase the flow of information to refugees about opportunities for repatriation.

Apart from formal assistance efforts through UNHCR and other protection and assistance agencies, one of the most important assets supporting the livelihoods of refugees and IDPs in situations of protracted crisis and displacement is remittances sent to them by family members who have succeeded in moving to another part of the world (Crisp, 2003 b: 22). As noted by Dick in a recent report on Liberian refugees in Ghana:

‘with limited and dwindling assistance from UNHCR, remittances have proved crucial in enabling refugees to survive in Ghana. Their effect is felt beyond their immediate recipients. Many refugees have invested remittance money into small businesses, thus fuelling the camp economy. And those without access to remittances depend on the generosity of friends and family who share their resources. Social networks both in the camp and in the United States enable many to survive’ (Dick, 2002: 6).

The importance of remittances should not be underestimated, not only for sustaining and supporting the livelihoods of many displaced populations, but also for sustaining – and thus possibly preventing the displacement of – many non-displaced communities living in situations of protracted crisis that have generated large numbers of IDPs and refugees (Pain, 2001). This is one potentially important and positive spin-off of the ‘asylum crisis’ affecting the UK and other OECD countries. Given the substantial and now long experience of analysis and management of international remittances and their impacts in the economic migration field, there is considerable scope for DFID to support further investigation of the significance of remittances among displaced populations and with a view to helping design policies at country and wider level that might help to maximise the positive impacts of remittances in support of livelihoods among refugees, IDPs and other conflict-affected populations.

#### Recommendations to DFID:

(i) To advocate actively with governments and local authorities concerned for the promotion of refugee and IDP self-reliance and integration on the basis of evidence that refugees and IDPs who have been able to lead a productive life, receive an education, develop skills and accumulate resources are usually better prepared and equipped to return home than those who have been confined for long periods of time in camps surviving only on minimum levels of humanitarian assistance.

(ii) To support efforts to adapt livelihoods-based programming and analysis for application to protracted refugee and IDP situations, both to help track the impacts of aid on livelihoods and the local political economy, and to strengthen humanitarian programming for both displaced and non-displaced populations.

(iii) To provide appropriate funding and support for high quality projects and programmes promoting self-reliance and sustainable livelihoods among displaced populations, which may require more money per capita for a given year than care and maintenance programmes. To work to develop agencies’ capacities in this area, particularly to ensure that livelihoods support projects are based on strong situation and market analysis. Strong supporting analysis should enable sound assessment of the feasibility of livelihoods support, and should help to achieve sustainability, avoid

adverse impacts on the local political economy, and avoid the development of exploitative employment or commercial patterns.

(iv) To expect to have to plan for protracted displacement situations rather than for short-lived crises, and in the context of longer-term refugee and IDP protection and assistance, to support an 'essential needs' or 'essential rights' approach which recognizes that, following the initial humanitarian crisis that caused their displacement, forced migrants have a right to develop their broader human functions and capabilities beyond simple survival.

(v) To prioritise support for IDP and refugee education and training in camps and settlements to help provide forced migrants with employment and other income-generating opportunities, both in their areas of displacement and to help them to reintegrate on return.

(vi) To support further investigation of the significance of remittances among displaced and other vulnerable conflict-affected populations so as to help design policies that might help to maximise their positive impacts in terms of supporting livelihoods among displaced and non-displaced populations; to consult with the Home Office and work to develop joint understanding and joint strategies in this area.

### **7.1 Refugee Livelihoods and Resettlement in Developing Countries**

In the context of refugee livelihoods, it is worth mentioning briefly here the conclusions of a recent evaluation of two pilot refugee resettlement projects carried out in Benin and Burkina Faso between 1997 and 2001. The evaluation concluded categorically that the projects had not proved successful – as indicated by the fact that 46% of the cases resettled to Burkina Faso and 32% of those resettled to Benin had left the country by the time the evaluation was conducted. For those who remained, the most important factor determining their livelihoods was not whether they had found employment, but whether they had contacts abroad which provided them with remittances or opportunities for trade.

Overall, the 'adverse economic circumstances of the two countries that rank among the poorest in the world are ... principally to blame' for the failure of the resettlement programmes (UNHCR, 2004: 1). The evaluators conclude that the establishment of a credible resettlement programme in a poor developing country requires a degree of planning and a level of commitment in staffing and resources well beyond what was made available in the case of these pilot projects:

'resettlement programmes to developing countries should only be introduced if ... the donor community funds the comprehensive integration programme as a burden sharing measure, subject to the type of multi-lateral special agreement envisaged under the 'Convention Plus' approach; and if it is supplied with a strong, long-term development component. ... Clear criteria should be established to select ... countries suitable for emerging resettlement, with equal weight given to legal protection and socio-economic factors; it should only be undertaken if it can attract additional donor support to enhance the integration of all refugees in the country concerned; it should be planned and monitored by administrative units professionally concerned with integration programmes;

must be based on detailed feasibility study; and should be incorporated into Poverty Reduction Strategies and designed to attract longer-term bilateral donor funding, with donors encouraged to provide additional input into designated parts of the strategy such as facilitating socio-economic integration of refugees in the employment sector; should be primarily negotiated in the field; and refugees should be directly involved in planning and implementing programmes' (*ibid*: 4-6).

#### Recommendation to DFID:

To ensure that no resettlement of refugees to developing countries is ever encouraged outside the framework of a fully comprehensive and sustainable integration programme.

### **7.2. Refugee/IDP Livelihoods, 'Transition' and 'Connectedness' of Humanitarian and Development Programming in Situations of Forced Migration**

As noted by the UNDG/ECHA Working Group on Transition Issues, sustained transition should aim at scaling down humanitarian assistance ('exit strategy') and scaling up reconstruction and recovery activities linked to longer-term development goals (2004: 15). At the local and country level, achieving sustainable transition processes depends crucially on finding durable solutions for refugees and IDPs, and this, in turn, depends on the development of sustainable livelihoods for these populations. This must involve the joint and 'connected' efforts of humanitarian and development actors, and flexible funding and operational linkages between short-term relief and longer-term livelihoods and development-oriented interventions. Thus, the scaling down of humanitarian assistance and the scaling up of reconstruction:

'need to be articulated *jointly* by humanitarian and development actors, within a single and integrated strategy that shifts the analytical perspective from symptoms of the crisis to its underlying causes and from *short-term* to *medium-term objectives*, predicated upon evidence-based needs assessments and regular revalidation of needs and capacities' (*ibid*).

The need for improved connections between humanitarian and development aid in order to secure durable solutions, including sustainable livelihoods, for uprooted people is highlighted in ECHO's Afghanistan evaluation. The ultimate solution of the IDP problem, the report argues, is closely linked to a synchronized approach to resolving land issues and reducing conflict, which in turn will depend on connecting ECHO with development aid:

'Solutions will depend on land reform, the improvement of conditions in the drought-affected areas, conflict resolution and improvements to the justice system and require concerted action between the Commission and other international donors. As with IDP situations in other countries, most of the solutions will take time and should be matched with the pace of development and improvement to livelihoods. ECHO can usefully advocate ... for specific areas of return that would benefit from development intervention to expedite the return process' (ECHOa, 2004: 54).

Yet, the whole concept of 'transition' begs the question of when and how the transition and the scaling down of relief / scaling up of reconstruction and development might begin, since it is arguably only by starting to tackle the causal dynamics of crisis and displacement through strategic, longer-term and connected engagement of all humanitarian, political and development actors that any progress might be made towards the resolution of conflict and the search for durable solutions to large-scale forced displacement. In reality, effective strategic connections between these different streams of international engagement are rarely achieved in such a way as to support an unambiguous transition to peace and durable solutions for displaced populations. The Uganda example, characterized by 'donor strategy imbalance' and a 'split assistance strategy' (UNOCHA, 2001) is illustrative of this problem:

'Large funds are disbursed for development assistance in more stable areas, whereas the UN Consolidated Interagency Appeal (CA) for humanitarian activities is critically underfunded. The poverty and instability in western, northern and north-eastern Uganda are largely attributable to economic, political and ethnic marginalisation. Donors have a tendency to consider the humanitarian crises in Uganda as isolated situations of socio-political instability and are reluctant to acknowledge their regional interdependence and chronic character. This makes it difficult for the UN to establish and maintain a strategic orientation of humanitarian programmes, beyond ad-hoc relief interventions. Both the Government and donor community contends that the affected districts are too insecure for investment. The counter argument is that only by investing in market and social infrastructure and in employment generation can the displaced be provided assets worth protecting and be able to reintegrate and accommodate their opponents. ... Unfortunately, public and external development assistance remains absent from those areas where it is most needed' (*ibid*).

It should be noted that little attention is paid to relief or transitional recovery needs in Uganda's National Budget and Poverty Eradication Action Plan (*ibid*). This reflects a broader and continuing problem with the pursuit of poverty reduction strategies (PRSPs) in many conflict-affected countries. A recent briefing by the DFID-funded PRSP Monitoring & Synthesis Project notes that:

'Donors urgently need to make analyses of the dynamics of the conflict so that they are aware of the economic interest of the contending parties, their incentives for war or peace, and how donor support might play into this. Although there is a considerable body of literature on this topic, there is little evidence that it is currently informing programming decisions. IFI programming is particularly weak in this regard. There is still limited read-across between ongoing analytical work on conflict countries and the general discourse around PRSPs' (Evans, *et al.*, 2003: 14).

The failure of much development planning to take adequate account of conflict dynamics is also noted in a recent review of the UK Government's approach to peace-building, which observes that:

'During 1999/2000, DFID developed several Country Strategy Papers, including those for Bosnia, Cambodia and Mozambique. In setting the strategy context,

these papers make reference to armed conflict as profoundly damaging to infrastructure and livelihoods and then move on directly to a development agenda, in particular how the Millennium Development Goals are to be met. The papers read as if the job of peace-building is either over or no longer relevant for the UK ... for Bosnia and Cambodia, this was unexpected' (DFID, 2003: 41).

Arguably, any comprehensive conflict analysis or poverty reduction assessment in a country affected by or emerging from conflict must include close attention to the patterns, dynamics and implications of forced migration caused by the conflict. It is therefore noteworthy that there is no mention of refugees or displaced populations in DFID's new Country Assistance Plans (CAP) for Kenya and Ethiopia, only one historical mention of refugees (and no mention of IDPs) in the CAP for Rwanda, one mention of IDPs in the Interim CAP for Uganda, and no mention of refugees or IDPs in DFID's Institutional Strategy Papers (ISPs) with UNDP, UNICEF, IFRC and ICRC. This suggests that, in the context of longer-term poverty reduction efforts, a relatively low priority is attached to displacement issues within DFID; and in some cases it might indicate a continuing disconnection between short-term humanitarian and longer-term development programming.

Even CHAD's own conflict assessment framework designed explicitly to inform peace-building and humanitarian activities in conflict-affected countries places relatively little emphasis on forced migration and responses to displacement as a key component in the political economy of conflicts and of engagement in situations of conflict. Refugees or IDPs are mentioned only seven times in the entire 52-page document of guidance notes on conducting conflict assessments, with only one mention in the main text and the other six all within the context of illustrative tables (DFID, 2002).

#### Recommendations to DFID:

- (i) To seek to ensure that programmes concerned with supporting 'transition' from emergency assistance to reconstruction and recovery activities link down effectively to the local level to support sustainable livelihoods for displaced populations and returning refugees and IDPs.
- (ii) To ensure that conflict analysis is incorporated as a central component of all CAP and other poverty reduction and development planning mechanisms, and to ensure that conflict analysis is not confined only to those countries designated as 'conflict-affected'.
- (iii) To bring displacement issues more fully into the mainstream of DFID's own conflict analysis and poverty reduction / development planning, and to support and encourage closer attention to displacement among institutional partners, development partners (e.g. in PRSP processes) and other donors.



## 8. REFUGEE & IDP RETURN AND REINTEGRATION: SEEKING 'DURABLE SOLUTIONS'

The UNDG/ECHA Working Group on Transition Issues (2004: 20-21) highlights the importance of establishing conditions conducive to the return and reintegration of refugees and IDPs for broader efforts to restore peace and stability and build local capacity in 'transition' situations. The linking of repatriation, reintegration, rehabilitation and reconstruction (the '4Rs') underpins the UNHCR's Framework for Durable Solutions involving both humanitarian and development actors – as being piloted in Sri Lanka, Sierra Leone and Afghanistan.

It is increasingly recognised by humanitarian and development actors that the transition from war to peace and relief-to-development is usually far from linear, but more usually a faltering and highly uncertain process in which there are often localized or broader lapses back into crisis and conflict, and an ever-present risk of the process stalling entirely. And yet the '4Rs' framework for durable solutions to refugee problems would appear to rest on a continuing faith in a 'best-case' scenario of sustainable peace leading to sustainable development. With the notable exception of Mozambique, most experience suggests that formal processes of political transition rarely yield a sustainable peace, and the reality for most refugees is a return to situations of continuing conflict and instability (Macrae, 1999: 1). Consequently, there is a growing gulf 'between the idealized conditions of repatriation envisaged by the mandate and guidelines of the [UNHCR] ... and actual conditions under which repatriation takes place' (*ibid*: 2).

The conclusions of a UNHCR workshop convened in 2001 to explore and review lessons learned from the repatriation experience in Liberia during the late 1990s highlighted very clearly how 'best-case scenario' planning for repatriation and reintegration proved inappropriate in a region as unpredictable and unstable as West Africa:

'planning for the Liberia [repatriation and reintegration] programme had generally been based on a 'best case scenario', in which security and the economy steadily improved, adequate donor funding became available, a growing number of other actors contributed to the reintegration process, and the country's borders were kept open. ... [In fact], the operational environment for the Liberia programme was amongst the most challenging that UNHCR has ever encountered. Today, as in the four-year implementation period of the ... programme, Liberia remains political unstable, insecure and subject to sporadic outbreaks of fighting. ... The ability (and arguably the willingness) of the state to promote rehabilitation and development, especially at the local level, is minimal. ... [T]he level of interest [of the international community] has waned significantly. ... Reflecting this international trend, UNHCR has unfortunately devoted less resources, attention and publicity to the Liberia operation than it has given to ... programmes elsewhere in the world ... In essence, this major repatriation and reintegration programme has been undertaken by a regular branch office structure, without any of the special staffing arrangements witnessed in similar or smaller operations elsewhere in the world' (UNHCR, 2001b).

A key conclusion leading out of this workshop, therefore, is that UNHCR and other agencies should adopt a 'multi-scenario planning approach' to repatriation and reintegration programmes of this kind, with strategies and contingency plans drawn up for a range of different scenarios that might transpire in any situation. Rather than 'handing over' reintegration projects at some unspecified point down the line, the report advises that other agencies, including development agencies, need to be closely involved as partners right from the start.

Yet, for effective partnerships between UNHCR and other humanitarian and development partners to be possible, there is a need to clarify the channels through which aid for reintegration assistance and protection efforts are to flow; particularly (as is often the case) in situations of extreme political instability, weak public institutions or no functioning or internationally recognized state. In these cases, it is likely that aid will continue predominantly in the relief mode, i.e. as short-term and project-based assistance. This, in turn, puts the sustainability of the overall reintegration effort into some doubt (Macrae, 1999: 1).

The processes of repatriation and reintegration also need to be underpinned by consistent agreed standards, both technical standards (e.g. relating to the provision and monitoring of basic services) and protection standards. Refugee return and reintegration is an intensely political process, since it represents such an integral component of state reconstruction and legitimacy, while at the same time usually suiting the interests of asylum countries keen to divulge themselves of their refugee 'burden'. Where international pressure favours refugee returns in the context of state reconstruction, there is a danger that political considerations will overshadow any humanitarian ones. According to Petrin:

'The problem with promoting repatriation is that return has now become an end in itself ... [and therefore] conducted apart from considerations as to whether it is in the best interest of the refugee communities and if emerging states and/or international donors are capable of providing enough support for the returnee population to be absorbed' (2002: 15).

Concerns raised by the IDC in its 2002-3 Afghanistan report highlight the potentially blurred line between voluntary and forced repatriations:

'DFID has stated that there is no firm evidence of people being forcibly returned to Afghanistan from neighbouring countries, but the evidence we heard seems to indicate that host countries are putting pressure on refugees to leave' (International Development Committee, 2003a: paragraphs 80-81).

In its response to the Committee, the Government underlines its concern to ensure that refugee returns are sustainable so as not to overload the fragile capacity and infrastructure in areas with a potentially high number of returnees, and promises to support agencies working with refugees and IDPs (International Development Committee, 2003b: para. 39). Given the enormous political pressures acting on the return process, it is important for humanitarian, protection and development agencies involved to set standards against which they can assess when and where to assist returns (or not) and on what basis, and design appropriate actions on behalf of refugees. DFID and other donors that are concerned to see that refugee returns should be stable, could

play an important part in helping to develop a stronger international 'return and reintegration regime' founded on clear protection criteria and standards.

The IDC's Afghanistan report notes that if refugees are to return home, they will want conditions to be as good as or better than those they have experienced in exile. Improved security, the Committee notes, is what will trigger people to return, but 'it is only the creation of viable livelihoods that will keep them in Afghanistan and prevent them from becoming displaced' (International Development Committee, 2003a: para. 99). On the basis of interviews among Afghan communities in Iran, Petrin concurs that security remains refugees' principal concern. Lack of security in the regions may result, therefore, in secondary migration to Kabul (Petrin, 2002: 8). This, in turn, will place additional pressure on efforts to establish sustainable livelihoods for returning refugees.

As observed in ECHO's Angola evaluation, the mass return of IDPs did not end Angola's humanitarian crisis, but rather shifted it to a different form. As suggested by the Mozambique experience (where, significantly, a sustainable peace *was* secured):

'the two years of return and reintegration after a long-running conflict can be the most dangerous for war-affected people, and requires in many ways an intensification of humanitarian aid for a certain period, not a relaxation' (ECHO, 2003b: 48).

Although increased humanitarian and development resources may be available for the highest profile refugee and IDP return situations such as Afghanistan, reintegration efforts in lower-profile 'transition' or protracted crisis situations are less likely to attract so much donor interest. Humanitarian agencies' need to establish clear standards to guide and support their return and reintegration interventions is equally great in these lower-profile situations, particularly where lack of aid resources might prevent them from providing adequately for returnees' protection and livelihood needs.

According to an evaluation of UNHCR's repatriation and reintegration programme for Guatemalan refugees, plans for a gradual and responsible 'phase-out' of UNHCR assistance were truncated by funding shortages, and, as a consequence, UNHCR's withdrawal from some areas was somewhat abrupt. The report suggests that the early development of minimum indicators for returnees installation in their communities could have focused efforts more effectively when funding was still available. The impact of the sudden drop in donor funding indicates that 'multi-scenario planning' should clearly take account of the potential fluctuations in donor support. The programme appears to have been hampered throughout by a constant mismatch between rates of refugee return and the rates and timing of donor funding: '[t]hese ups and downs of returnee movements were not fully anticipated and there was a lack of administrative mechanisms to reserve resources for funding shortfalls' (UNHCR, 1999: Preface).

Given the potentially very negative impact of any sudden withdrawal of agency support for returning refugees and/or IDPs, DFID and other donors share a responsibility to support appropriate planning processes and programme changes in the field if they are intending to cut or reduce funding for a particular return programme.

Experience in Liberia (UNHCR, 2001b) and South-East Asia (Ballard, 2002) highlights the importance (where possible) of involving local authorities and local actors and refugee themselves in the planning and implementation of return programmes, with decisions on project identification and resource allocation to be decentralized so as to be taken as close as possible to the point of delivery. The lesson-learning exercise in Liberia noted that local authorities are easily intimidated by UNHCR and other international agencies, due to their operational capacity and access to resources, and thus, if sustainability is to be achieved, particular care needs to be taken to ensure that local authorities and local actors gain ownership of return programmes and develop their capacities, allowing international agencies to eventually withdraw.

As always, beneficiary participation is signalled as a key challenge. The Liberia report notes that beneficiary consultation and participation can begin prior to return, to improve needs assessment and to help returnees gain a realistic expectation of the help that they will receive from different international, national and local agencies and authorities. And, as in other areas of refugee and IDP assistance, education and training need to be given a high priority.

The evaluations of ECHO's programmes in Afghanistan and Angola both note the importance of targeted initiatives designed to address some of the specific protection needs of returning refugees and IDPs. In Afghanistan and Pakistan, Legal Advice Centres have been established, with the majority of interventions resulting in a resolution of legal problems for refugees without recourse in host countries and civil or family disputes for returnees and IDPs within Afghanistan. The organizations supporting these centres report a high impact in terms of resolving conflicts between refugees and local residents. They also note additional spin-offs from the initiative, including capacity-building for local judges, lawyers and others within the legal profession, and in terms of individuals acquiring knowledge about their individual rights (ECHO, 2004a: 48). In Angola, family tracing and reunification efforts have proved significant protection activities. The evaluators note that, while not particularly cost-effective per case, family reunification sends an important signal as regards peace-building and the restoration of Angolan society, and it may reduce the risk of future violence by supporting the reintegration and re-socialization of separated and war-affected children (ECHO, 2003b: 7).

#### Recommendations to DFID:

- (i) To avoid 'best-case scenario planning' and instead work with partner agencies and NGOs to adopt a 'multi-scenario planning approach' to refugee repatriation and reintegration programmes, leading to the development of a range of strategies and contingency plans for a variety of different scenarios that might transpire.
- (ii) To involve development agencies in the formulation of repatriation and reintegration programmes right from the start, and work to clarify the channels through which aid for reintegration assistance and protection efforts are to flow.
- (iii) To support the strengthening and clarification of both technical and protection standards to be applied by all agencies involved in any aspect of 4Rs programming, so as to help agencies assess when, where and how to assist refugee returns (or not) and

design appropriate actions, and to help to ensure that refugee returns are stable and sustainable.

(iv) To ensure that priority is given to ensuring the protection and security of returning refugees

(v) To ensure that DFID and other donor funding of return and reintegration programmes is flexible and reliable (particularly in lower-profile situations of refugee return) to reduce mismatch between rates of return and rates of donor funding. Where funding may be reduced or cut, to ensure that appropriate planning processes and programme changes are in place in the field.

(vi) To seek to involve local authorities and local actors and refugees themselves in the planning and implementation of return programmes, including beneficiary consultation and participation prior to return to improve needs assessment and help returnees gain a realistic expectation of the help they will receive from different organizations and authorities.

(vii) To prioritise support for education and training among returning refugee populations.

## 9. SUMMARY OF RECOMMENDATIONS TO DFID

### Re. the need for improved assessment, monitoring and analysis:

- To actively support effective capacity-building in the area of social science skills among partner agencies and NGOs to significantly improve field staff ability to carry out participatory social and political analysis. Stronger context analysis will support better understanding of the causes, dynamics and implications of forced migration, and enable agencies to incorporate this understanding into programming on behalf of forced migrants. DFID's support in this area might include specific attention to supporting the ability of implementing agencies to use DFID's Conflict Assessment Framework. Given the risk of information overload within humanitarian agencies, it is important for DFID to think strategically about the specific types of field-based assessment, monitoring and analysis that require the most support.

### Re. the need for improved cross-Government analysis and strategy (coherence):

- To use the CPPs as a key resource to support closer liaison and cooperation with FCO and MoD to develop more effective responses to particular conflict-related situations of forced migration and to develop more general commonalities of understanding and approach to forced migration issues between the three Departments.
- To engage more closely with the Home Office and the Cabinet Office, with the emphasis on joint long-term and strategic scenario planning, e.g. to explore jointly with the Home Office how changes in refugee policies in the UK and other EU / OECD countries might impact on standards and forms of refugee protection and assistance in poorer countries, and what the longer-term implications of any changes in the international refugee regime might be worldwide.

### Re. the need to strengthen beneficiary / primary stakeholder consultation and participation and protection-focused or rights-based humanitarian action:

- To devote significant resources to developing effective methodologies and guidance for improved on-the-ground consultation and participation of refugees, IDPs and other primary stakeholders to support improved needs assessment, improved understanding of the causes and consequences of forced migration and develop appropriate responses, including protection activities, and to identify and target the most vulnerable people within beneficiary populations.
- To work with and actively support partner agencies and NGOs to strengthen their capacities to pursue effective participatory approaches.
- To work with implementing agencies to strengthen their protection activities on behalf of forced migrants and vulnerable groups within displaced and non-displaced populations, including active capacity-building in the area of rights-based programming to enable agencies to consider more comprehensively where and how needs- and rights-based programming can be combined to achieve improved protection outcomes.

- To strengthen partner agencies' and NGOs' accountability for more effective participatory and protection-focused action on behalf of forced migrants through, e.g., partnership agreements, monitoring and reporting requirements, and evaluations.

Re. humanitarian coverage in situations of forced migration, and needs-based versus group-based humanitarian programming:

- To work actively with partner agencies and NGOs to improve the quality of on-the-ground needs assessments in situations of forced displacement to ensure more effective humanitarian coverage among both displaced and non-displaced populations.
- To clarify DFID's own position on needs-based versus group-based assistance and protection in situations of forced migration, including clarification of how needs-based assistance efforts should or can link with more group-based protection activities, and to ensure that the practice of implementing agencies regarding needs versus group-based programming in the field is examined in evaluations of DFID-funded humanitarian action on behalf of forced migrants.
- To continue to work proactively to improve donor coordination in situations of complex and large-scale displacement, for example, by actively seeking to determine if humanitarian needs are being met in all geographic areas and among all vulnerable groups and taking whatever remedial action is possible where significant gaps are found in humanitarian coverage.
- To ensure that any closer cooperation with FCO, MoD or Home Office in the area of forced migration (e.g. through CPPs) does not result in any distortion of DFID funding of assistance to different refugee and IDP emergencies as a consequence of the particular strategic, political or defence concerns of the other Departments.
- To review how far DFID and its partner agencies, NGOs and other donors have gone towards implementing the recommendations of the 1996 JEEAR, including those relating to coverage of displaced and host communities.

Re. the assistance and protection of vulnerable groups:

- To work with partner agencies and NGOs on developing more effective mechanisms for communicating protection and other priorities to field staff and to better support the ability of field staff to balance and respond to apparently competing priorities, including the protection and assistance of different vulnerable groups.

Women:

- To extend the work that DFID is already doing with UNHCR on strengthening the application and implementation of policy guidelines on refugee women to other partner agencies and NGOs.

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- To work to ensure that staff levels and capacities in the field are sufficient among all implementing agencies to ensure the adequate protection of refugee women.
- To ensure strengthened accountability of DFID-funded implementing agencies for the protection of refugee women through, e.g. partnership agreements, monitoring and reporting requirements, and targeted evaluations.

Children:

- To match work that DFID is currently pursuing with UNHCR on refugee women and the elderly with parallel work on improving the protection of refugee children.
- To prioritise support for refugee education and training, which is of central importance to the protection of children and for refugee rights and livelihoods more generally.
- To strengthen accountability for the protection of refugee children through partnership agreements, monitoring and reporting mechanisms, and evaluation.

Urban refugees:

- To ensure that self-reliance among urban refugees is treated as a separate issue from protection.
- To support positive efforts to enable urban refugees to develop sustainable livelihoods wherever possible.
- To actively advocate for secure legal status for urban refugees and support efforts to strengthen their protection, including the protection of vulnerable groups within urban refugee populations.

IDPs:

- To ensure clarity in understanding among staff and implementing partners of the specific group-based protection needs of IDPs, as a separate issue from the material needs of IDPs (which may or may not vary significantly from those of non-displaced populations); and to work to ensure that the specific protection needs of internally displaced populations are effectively assessed, monitored and responded to wherever possible.
- To explore and clarify what a protection focus to IDP programming means in practice in the field – e.g. distinct protection activities, such as monitoring, civil registration, action to resolve land disputes, etc.
- To clarify which agencies DFID prefers to work with to ensure that the protection needs of IDPs are met (UNHCR and/or other?) and work to develop the capacities of partner agencies to provide effective protection for IDPs.
- To clarify which agencies are best suited to take the lead in providing material assistance to both displaced and non-displaced populations in specific situations of large-scale internal displacement.



- To actively support efforts to achieve self-reliance and sustainable livelihoods for internally displaced populations (with effective protection and rights-based activities), and, wherever possible, work to avoid the establishment of indefinite care and maintenance programmes and settlement of IDPs into camps.

Re. refugee and IDP livelihoods in protracted displacement situations:

- To advocate actively with governments and local authorities concerned for the promotion of refugee and IDP self-reliance and integration on the basis of evidence that refugees and IDPs who have been able to lead a productive life, receive an education, develop skills and accumulate resources are usually better prepared and equipped to return home than those who have been confined for long periods of time in camps surviving only on minimum levels of humanitarian assistance.
- To support efforts to adapt livelihoods-based programming and analysis for application to protracted refugee and IDP situations, both to help track the impacts of aid on livelihoods and the local political economy, and to strengthen humanitarian programming for both displaced and non-displaced populations.
- To provide appropriate funding and support for high quality projects and programmes promoting self-reliance and sustainable livelihoods among displaced populations, which may require more money per capita for a given year than care and maintenance programmes. To work to develop agencies' capacities in this area, particularly to ensure that livelihoods support projects are based on strong situation and market analysis. Strong supporting analysis should enable sound assessment of the feasibility of livelihoods support, and should help to achieve sustainability, avoid adverse impacts on the local political economy, and avoid the development of exploitative employment or commercial patterns.
- To expect to have to plan for protracted displacement situations rather than for short-lived crises, and in the context of longer-term refugee and IDP protection and assistance, to support an 'essential needs' or 'essential rights' approach which recognizes that, following the initial humanitarian crisis that caused their displacement, forced migrants have a right to develop their broader human functions and capabilities beyond simple survival.
- To prioritise support for IDP and refugee education and training in camps and settlements to help provide forced migrants with employment and other income-generating opportunities, both in their areas of displacement and to help them to reintegrate on return.
- To support further investigation of the significance of remittances among displaced and other vulnerable conflict-affected populations so as to help design policies that might help to maximise their positive impacts in terms of supporting livelihoods among displaced and non-displaced populations; to consult with the Home Office and work to develop joint understanding and joint strategies in this area.

Re. refugee livelihoods and resettlement in developing countries:

- To ensure that no resettlement of refugees to developing countries is ever encouraged outside the framework of a fully comprehensive and sustainable integration programme.

Re. refugee livelihoods, 'transition' processes and the 'connectedness' of humanitarian and development programming in situations of forced migration:

- To seek to ensure that programmes concerned with supporting 'transition' from emergency assistance to reconstruction and recovery activities link down effectively to the local level to support sustainable livelihoods for displaced populations and returning refugees and IDPs.
- To ensure that conflict analysis is incorporated as a central component of all CAP and other poverty reduction and development planning mechanisms, and to ensure that conflict analysis is not confined only to those countries designated as 'conflict-affected'.
- To bring displacement issues more fully into the mainstream of DFID's own conflict analysis and poverty reduction / development planning, and to support and encourage closer attention to displacement among institutional partners, development partners (e.g. in PRSP processes) and other donors.

Re. refugee and IDP return and reintegration: seeking 'durable solutions':

- To avoid 'best-case scenario planning' and instead work with partner agencies and NGOs to adopt a 'multi-scenario planning approach' to refugee repatriation and reintegration programmes, leading to the development of a range of strategies and contingency plans for a variety of different scenarios that might transpire.
- To involve development agencies in the formulation of repatriation and reintegration programmes right from the start, and work to clarify the channels through which aid for reintegration assistance and protection efforts are to flow.
- To support the strengthening and clarification of both technical and protection standards to be applied by all agencies involved in any aspect of 4Rs programming, so as to help agencies assess when, where and how to assist refugee returns (or not) and design appropriate actions, and to help to ensure that refugee returns are stable and sustainable.
- To ensure that priority is given to ensuring the protection and security of returning refugees.
- To ensure that DFID and other donor funding of return and reintegration programmes is flexible and reliable (particularly in lower-profile situations of refugee return) to reduce mismatch between rates of return and rates of donor funding. Where funding may be reduced or cut, to ensure that appropriate planning processes and programme changes are in place in the field.

- To seek to involve local authorities and local actors and refugees themselves in the planning and implementation of return programmes, including beneficiary consultation and participation prior to return to improve needs assessment and help returnees gain a realistic expectation of the help they will receive from different organizations and authorities.
- To prioritise support for education and training among returning refugee populations.

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**Thematic Paper V: Lessons Learned from Specific Emergency Situations**

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## Regional Paper I: Sub-Saharan Africa - Great Lakes Region

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## ABBREVIATIONS

CRS	Center for Refugee Studies, Moi University, Kenya
CSFM	Centre for the Study of Forced Migration, University of Dar es Salaam
DFID	Department for International Development, United Kingdom
DRC	Democratic Republic of Congo
EANSFM	East African Network for the Study of Forced Migration
EAC	East African Community
EU	European Union
GLR	Great Lakes Region of Africa
HDR	United Nations Human Development Report
HIPC	Highly Indebted Poor Country
ICTR	UN International Criminal Tribunal for Rwanda
IDP	Internally Displaced Person
IGO	Intergovernmental Organisation
ISIM	Institute for the Study of International Migration, Georgetown University
KDH	Kibondo District Hospital
LDC	Least Developed Country
MDG	UN Millennium Development Goals
MONUC	UN Peacekeeping Force in the Democratic Republic of Congo
NRP	(Tanzania) National Refugee Policy
OAU	Organisation of African Unity (defunct)
OECD	Organisation of Economic Cooperation and Development
PEDP	Primary Education Development Programme
RCK	Refugee Consortium of Kenya
RHA	Refugee Hosting Area
RLP	Refugee Law Project, Makerere University, Uganda
SADC	Southern Africa Development Community
SALW	Small Arms and Light Weapons
SPRAA	Special Programme for Refugee Affected Areas
UN	United Nations
UNAMIR	United Nations Assistance Mission for Rwanda
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
UNOCHA	United Nations Office for the Coordination of Humanitarian Assistance
WFP	World Food Programme

## EXECUTIVE SUMMARY

For the purposes of this paper the term Great Lakes Region (GLR) shall be construed to mean the 6 Sub-Saharan countries located around Lakes Albert, Kivu, Tanganyika and Victoria, that is to say, Burundi, Democratic Republic of Congo (DRC), Kenya, Rwanda, Tanzania, and Uganda. Together they account for nearly three quarters of the 4,285,100 persons of concern to UNHCR (as at January 1<sup>st</sup> 2004). This is not surprising, considering that in the region are found 2 (Burundi and DRC) among the continent's largest refugee generating countries and pre-eminent countries of asylum (Tanzania, Kenya and Uganda). Forced displacement has not only been of a phenomenal magnitude, it has been accompanied, especially in Rwanda and Burundi, by other numerous tragedies, including rapacious wars and genocide. It is in this regard that some observers prefer the expression 'regional and global flashpoint' since the term 'protracted refugee situation' hardly captures the enormity of the problem. Attention to the problem of forced displacement in the region is therefore appropriate and necessary.

Accordingly, the paper begins by capturing the magnitude, scope and trends of forced displacement before moving on to the question of causes and consequences. Close attention is given to the controversial issue of the correlation between forced displacement, on the one hand, and such variables as armed conflict, poverty and human agency, on the other. It then proceeds to examine the question of responses by a variety of actors, namely, government, intergovernmental organisations, NGOs, civil society and academia. Under this rubric is also the issue of UN Millennium Development Goals. Within the question of responses some attention is given to measures, especially of a legislative and policy nature, taken by individual States. Taking Tanzania as an illustration, the paper takes a critical look at some of the considerations States advance in justifying what essentially has become a more *restrictionist* approach to refugee protection and assistance.

The paper winds up with general observations and policy recommendations. Given the trends in the last four decades, it is reasonable to suggest that the problem of forced migration is unlikely to experience a drastic reduction in the foreseeable future so responses have to be formulated accordingly. The paper further points out the multiplicity, interlinkages and complexity of the causes of forced displacement and accordingly supports those initiatives that address the problem of forced displacement holistically. Finally is necessary to distinguish the root causes (which hold the key to a meaningful and durable solution to the problem) from 'immediate' causes or 'triggers'. No doubt, refugee presence of the type and magnitude found in the GLR has an adverse impact on the natural environment, security, social services and local administration institutions. Close scrutiny however indicates that where substantial and sustained 'developmental' interventions by humanitarian agencies have met with appropriate political good will, considerable progress has been achieved in ameliorating the negative impact of refugee presence. The 3 known durable solutions – local integration, resettlement and repatriation require revisiting. Resettlement is not available to most and repatriation is frustrated by the continued absence of peace in countries of origin. Tanzania, generally known for its extraordinary hospitality has adopted a National Refugee Policy which places emphasis on repatriation and sees local integration as being a mere tool of temporary protection. All this suggests that other, innovative approaches have to be devised and among those being mooted is a more proactive regional foreign policy (in stemming forced displacement) and bringing conflict torn

countries into existing economic integration systems. Burden-sharing and continued international cooperation are key in keeping alive the hospitality and generosity of countries of asylum in the region. There is a strong case in the GLR for enhancing development assistance and yet donor fatigue is evident and reflected in the challenges confronting countries as they try to meet the UN Millennium Development Goals (Goal 1 – halving poverty; and Goal 8 – addressing the special needs of LDCs). If poor nations increase their exports by only 5%, it would generate USD 350 billion, which is more than 6 times the total Overseas Development Aid (ODA) doled out by rich nations to the poor annually. Generosity is to a large extent a function of economic well-being. The poorer countries of asylum continue to be, the more we are likely to see an erosion of the quality and standards in the treatment of asylum seekers, refugees and IDPs.

## 1. INTRODUCTION

In the context of this paper, the 'Great Lakes Region' (GLR) of Africa is understood to mean those Sub-Saharan African countries located around 4 'great' lakes, namely, Victoria, Tanganyika, Albert and Kivu. These countries are Burundi, Democratic Republic of Congo (DRC), Kenya, Rwanda, Tanzania and Uganda. This is worth pointing out since at times a more expansive approach is taken of the term GLR and an illustration is the forthcoming international conference on the GLR organised by the UN Security Council and to be hosted by Tanzania to which Angola, Zambia and Central Africa republic have also been invited.<sup>1</sup>

The GLR deserves attention for a host of reasons but the principal one is its status as a global and continental flashpoint of forced migration. Tanzania alone, had as at April 2004, a refugee population of over 600,000<sup>2</sup> or nearly 76% of the 4.6 million "persons of concern to UNHCR" in Africa or twice the total number of asylum seekers in 2000 in 15 European Union countries. As will shortly be shown, no other geographical region on the continent has a forced displacement problem of the scale and magnitude seen in the GLR. Related to the enormity (and chronic nature) of the problem of forced displacement is the equally endemic, violent conflicts raging in the region, in Burundi and DRC, in particular. The civil war (1990-1994) and the genocide (1994) in Rwanda left nearly one million dead, while the ongoing conflict in Burundi has claimed more than 300,000 lives since 1993. And this was hardly the only genocide to have been visited on Rwanda.<sup>3</sup> There have been cyclical genocides in Burundi too, even if rarely acknowledged. In neighbouring DRC, a civil war that began in 1996 rapidly turned into an internationalised non-international armed conflict<sup>4</sup> following the direct involvement of, among others, the armed forces of Angola, Burundi, Namibia, Rwanda, Uganda and

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<sup>1</sup> This expansive view of the GLR is consistent with the reality on the ground, in that it captures more fully all the prominent countries of asylum and countries of origin in the area. In a forthcoming 'International Conference of Peace, Security and Development in the GLR' (organised by the UN Security Council and to be hosted by Tanzania), Angola, Central African Republic, and Republic of Congo have been invited while Ethiopia, Gabon, Mozambique, Namibia, South Africa, Sudan and Zimbabwe have applied to attend.

<sup>2</sup> Speech by the Minister for Home Affairs in Parliament, Government Printer, July 2004, p 47.

<sup>3</sup> For a deeply analytical and critical work see Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*, Kampala, Fountain Publishers, 2001.

<sup>4</sup> Earning the cliché of being Africa's First World War.

Zimbabwe,<sup>5</sup> but in terms of human and natural resources, the GLR countries are among the most endowed despite their low ranking on the UNDP's Human Development Report of 2003 Human Development Index (HDI).<sup>6</sup>

The GLR is deserving of DFID's attention also on account of the historic and other strategic ties most if not all GLR countries have with the United Kingdom.<sup>7</sup>

## 2. OVERVIEW OF VOLUME, SCOPE AND CATEGORIES OF FORCED DISPLACEMENT

Data on forced displacement in the GLR shows considerable variation and therefore the figures given in this paper must be taken to be estimates. The variation is on account of a host of factors but the most common would seem to be the general absence of a system of registering residents, be they citizens or aliens, and equally, monitoring and quantifying intra-border movement. Possibly for political reasons, few governments want to acknowledge the presence of IDPs and where they do so, numbers tend to be played down. A case in point is the status of the IDP problem in Rwanda. While independent observers such as the Brookings Institute maintain that the problem persists, the Government's Repatriation Commission insists that the problem of IDPs was definitively resolved years back. In the case of Tanzania there is the additional problem of what are termed 'old case load' refugees. Government figures on refugees include the 197,948 Burundi refugees inhabiting the western Regions of Tabora and Rukwa since the 1970s. UNHCR on its part does not recognise their status as refugees and therefore does not include them in its data base. Data betrays variation also because forced displacement is, in real life, both rapid and fluid such that a head count is rendered difficult. For example at the height of the genocide in Rwanda roughly 250,000 persons crossed into Tanzania on April 24, 2004 "in what has been described by the UNHCR as the fastest and largest" movement in living memory.<sup>8</sup> Finally, is the speed with which the status of displaced persons does change. Conceptually, it is not difficult to imagine today's IDPs, merely on account of crossing an international frontier, becoming refugees the next day, or erstwhile refugees becoming 'returnees' or even IDPs with such rapidity that databases lag behind. Data on forced migration in the GLR also reveals a rich variety of categories of displaced persons. While the bulk comprise refugees and IDPs, these are not the only groups. There are for an example, 'returnees' and the so called irregular movers, that is refugees who without authorisation leave the country of asylum, usually in search of what they perceive to be a more attractive refugee regime in another country.

In summary, the 6 countries of the GLR have a total population of asylum seekers, refugees and IDPs of between three and five million and the first major influx of refugees

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<sup>5</sup> For details see Mwesiga Baregu (ed.), *Crisis in the Democratic Republic of Congo*, Harare, Sapes Books, 1999.

<sup>6</sup> The countries of the GLR are ranked in the following manner in the Report: Burundi (171), DRC (167), Kenya (146), Rwanda (158), Tanzania (160), Uganda (147).

<sup>7</sup> Kenya, Tanzania and Uganda are part of the Commonwealth. The UK is Rwanda's (a former Belgian colony) largest bilateral development partner. For details see DFID, Rwanda: Country Assistance Plan, DFID, February 2004.

<sup>8</sup> Rutinwa, B., "Refugee Admission and Eligibility Procedures in Tanzania: The Law and Practice" in Centre for the Study of Forced Migration, "Review of Refugee Related Policies and Laws, December 2001, p 11.

going back to 1959, is over four decades ago. It is on account of this fact that the GLR is sometimes referred to as a 'global flashpoint' of displacement. Global flashpoint perhaps better describes the situation since the scale, magnitude and prolonged nature of forced displacement in the GLR can barely be captured by the term 'protracted refugee situation' by which is meant a situation involving over 100,000 refugees for over 12 years.

With this overview it is propitious to bring into spotlight the 6 countries comprising the GLR, the focus being the volume, scope and categories of displaced persons.

## 2.1. Tanzania

Neither a refugee producing country nor a country with an IDP population (of any significance), Tanzania is also a country with the longest history as a country of asylum and with the largest refugee population, regionally and globally. As at April 30, 2004 Tanzania was home to 627,262 refugees<sup>9</sup> with the following breakdown: Burundi (469,000), Congolese (152,180), Somalis (3,377) and a host of other nationalities (1,905). Of the five refugee hosting Regions (Tanga, Kagera, Kigoma, Tabora, and Rukwa) home to refugees in Tanzania, Kigoma continues to be host to the majority (346,601) with Burundi, at 276,161 constituting the single largest national group followed by Congolese (152,180). Given the continued politically precarious situation in both Burundi and the DRC, chances of a speedy, mass repatriation for the greater majority would appear modest such that it is fair to say that for the short to medium term, Tanzania is likely to continue to be a major country of asylum for Burundi and Congolese refugees and asylum seekers. In a subsequent section of the paper, we shall return to the question of policy and legislative measures the Tanzanian government has devised to cope with the situation.

## 2.2. DRC

A prominent refugee-generating country, the Democratic Republic of Congo (DRC) is, at the same time, a significant country of asylum and this is not surprising given the fact that 7 out of the 9 countries with which the DRC shares borders are eminent refugee generating States. Save Tanzania and Zambia, the remaining neighbouring States, namely, Angola, Rwanda, Burundi, Central African Republic, Republic of Congo and Uganda are notable countries of origin. As at 2002 the DRC was home to 332,978 refugees with Angolans (186,879) as the single largest national group. There are in addition, 2,335,000 IDPs. But another and more recent count places the number of refugees (along with asylum seekers) and IDPs respectively, at 241,000 and 3,400,000. DRC is another country with a history of violent conflict going back to 1960, when it gained independence from Belgium. The first wave of Congolese refugees into neighbouring countries of the GLR began in this early period. The current IDP and refugee problem was triggered by the 1996 onslaught against the regime of dictator Mobutu Sese Seko by the Allied Democratic Forces for the Liberation of Congo-Zaire (ADFL) led by Joseph Kabila. According to Prof. Baregu, kleptocracy, state collapse, disintegration of national society, fragmentation and polarisation of some ethnic communities had reached such proportions as to give rise to numerous political

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<sup>9</sup> Source: Speech by the Minister for Home Affairs, Hon. Omar Ramadhan Mapuri, in the July 2004 session of Parliament. Note that the figure includes old case load refugees from Burundi living in settlements in Tabora and Rukwa Regions of western Tanzania and who total 197, 948.

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movements and organisations seeking to 'liberate' the country,<sup>10</sup> but the alliance of forces that toppled Mobutu was to be short-lived. Laurent Kabila fell out with both Uganda and Rwanda, key partners in the execution of the war that brought Kabila into power. The later invaded the DRC in 1998 prompting Angola, Namibia and Zimbabwe to send troops under the terms of the SADC Protocol on Politics, Defense and Security in a conflagration with notable consequences for mass displacement. With procrastination, the UN Security Council did eventually (following a 2000 decision) deploy a modest contingent of the UN Peacekeeping Force (shortly, MONUC) and a Government of National Unity (GNU) was installed on the basis of the Global and Comprehensive Agreement on Transition in the Democratic Republic of Congo signed in Pretoria on December 16, 2002. Despite these laudable peace-building measures, the north eastern part of the country remains ravaged by insecurity and violent conflict. A close and long observer of the crisis in the DRC, Prof Baregu notes that while the signals coming from the DRC are "mixed suggesting that the transition [to democracy and stability] is not yet irreversible," he is particularly concerned with the fact that there remain "many incompatibilities between competing actors and interests".<sup>11</sup> This being the case, it is unlikely that we would soon see a repatriation of Congolese refugees on the dramatic scales that occurred in Rwanda, meaning that data as regards Congolese refugees in the GLR for the short to medium term, is unlikely to show a radical variation.

### 2.3. Rwanda

Along with Burundi and the DRC, Rwanda has the dubious reputation of simultaneously being a country of asylum and source country. As at April 30, 2004 Rwanda hosted 33,608 refugees from the DRC in Kiziba (15,684) and Gihembe (17,924) camps in addition to 1,842 Burundi refugees hosted at Kigeme camp (749) and in Kigali urban (1,093).<sup>12</sup> Also found in the urban areas are refugees from Angola, Eritrea, Ethiopia, Chad, Kenya, Liberia Somali and Uganda numbering about 1,205. Figures on IDPs are contentious. What is indisputable is that the 1994 genocide displaced a total of between 2 and 2.5 million Rwandese who sought refuge mostly in the DRC, Tanzania and Burundi.<sup>13</sup> The exact number then, as is the case now, of IDPs, varies from one source to the other. Some place it at around 150,000, others at 192,000. From the point of view of the Rwandese Government the problem of internal displacement was officially over by the end of 2000 (Global IDP Project: 2002). When interviewed, UNHCR stated that it was unaware and retained no statistics on IDPs.<sup>14</sup> There are in addition, a total of 1,576 asylum seekers.

Although not falling within the immediate subject matter of the study report it is fair to note the presence in Rwanda of 'returnees' (that is returned ex-refugees from Burundi, Congo Brazzaville, DRC, Kenya, Tanzania, Uganda and other countries). In the last ten years a total of about 3.3 million ex-refugees have returned home and 1.85 million of

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<sup>10</sup> Baregu, M., "The DRC in the Great Lakes Conflict Formations: Challenges, Options and Dilemmas", Paper presented to the National Meeting of National NGOs, Bagamoyo, Tanzania, August 30 – 31, 2004.

<sup>11</sup> Baregu, *ibid. passim*.

<sup>12</sup> Figures obtained from an interview with UNHCR Officials, Kigali, June 2004.

<sup>13</sup> Others headed for such disparate destinations as Belarus, Central African Republic, Congo Brazzaville, Egypt, Gabon, Malawi, Mozambique and South Africa. For details see Annual Repatriation Statistics of Rwandan Refugees by Country of Asylum for January 1994 – December 2003 issued by the Rwanda Repatriation Commission.

<sup>14</sup> Field visit to Rwanda June 27 – 30, 2004.



these, have done so with assistance from UNHCR. Beyond the nationality criteria, data is not segregated either by gender or any other equally important social indicator.

The earlier figures on Rwandese refugees are testimony to a dramatic and phenomenal exodus of Rwandese from their country following the 1994 genocide, but equally spellbinding has been the return home of Rwandese refugees. Data from all countries, and especially those hosting large populations of Rwandese refugees, such as the DRC, Burundi and Tanzania, show drastic reductions. Data shows that between January 1994 and December 2003 a total of nearly 3.3 million Rwandese refugees returned home (with or without UNHCR facilitation). The determining factor and nature of the return is however the subject of a subsequent part of this study report.

## 2.4. Burundi

According to the UNHCR, in Tanzania, Rwanda and DRC alone, there are a total of 542,335 Burundi refugees. In turn, Burundi had as at May 2002, 475,500 IDPs with the following population distribution by province:

**Table I: Distribution of IDP Population by Province**

Province	IDP Population
Makamba	99,558
Bururi	87,851
Rutana	77,901
Bujumbura	28,677
Muramvya	27,250
Bubanza	14,202
Muyinga	8,945
Kayanza	7,573
Gitega	5,361
Kirundo	5,031
Cankuzo	4,495
Ngozi	4,489
Ruyigi	2,322
Karuzi	2,042
Mwara	182

*Source:* Global IDP Project, Internally Displaced People: A Global Survey (2<sup>nd</sup> ed), 2002

As the data makes evident, one of the major sites is the capital. Nationally the problem is more marked in the southern provinces (Makamba, Bururi and Rutana) which together account for 256,040 of the national IDP population. These 3 Provinces along with Muyinga and Cankuzo straddle the 451 kilometre overland boundary between Burundi and Tanzania.<sup>15</sup> It is also worth noting that the later provinces (along with Ruyigi, Cankuzo and Muyinga) border Tanzania's western flank, which might explain why Tanzania continues to host the largest Burundi refugee group found anywhere. By

<sup>15</sup> Tanzania's common border with its western neighbours Burundi, DRC and Rwanda stretches for a total of 1,146 kilometers most of it overland.

December 2003 the IDP population had shot up to 545,000 (from the May 2003 figure of 475,500). Burundi is at the same time a country of asylum and has a refugee, and asylum seeker population of about 42,000, mostly from the DRC.

## 2.5. Uganda

Like Burundi, but unlike the rest of the GLR countries, the problem of IDPs is numerically more serious than that of refugees. According to UNOCHA, as at March 2002 there were 550,000 IDPs, the greater majority of whom were in the country's northern districts. Government figures released in August 2003 put the IDP population at 854,148 spread as follows:

**Table II: Distribution of IDPs by Districts**

District	Number of Camps	Total Number of IDPs
Gulu	33	379,419
Kitgum	6	108,950
Pader	20	189,525
Katakwi	52	104,254
Lira	*	47,000
Soroti	*	25,000
<b>TOTAL</b>	<b>111</b>	<b>854,148</b>

Source: Twesigomwe: 2003: 7.

\*Rather than camps, IDPs are hosted in such facilities as schools, churches, and as squatters

By 2004 the number of IDPs had shot up to 1,239,682 while the refugee population along with those seeking asylum totalled 198,000, down from 204,933 in the previous year.

## 2.6. Kenya

Although there is consensus on the presence of IDPs in Kenya, exact figures are almost non-existent and not surprising because there has never been a systematic registration, but also, on account of two additional factors. On the one hand, is the spontaneous nature of return and resettlement movements, and continuing small-scale displacements in recent years, on the other. However, the Global IDP Project estimates that by 2001 more than 200,000 Kenyans had fled their homes in the Rift Valley.

As for refugees, one estimate is from 230,000 with the following distribution: Dadaab Camp (110,000) and Kakuma Camp (100,000). This figure, given by UNHCR, is challenged by some observers, for among other things, not taking into account 'unregistered' refugees and these observers opine that a more realistic figure would be 500,000.

More recent estimates place the refugee population at 240,000 dispersed between Dadaab Camp (140,000), Kakuma Camp (85,000) and urban centres (15,000). Added to this figure are nearly 1,200 IDPs located in Kieni (Nyeri District) (1,000) and Bungoma

(200). No figures on asylum seekers are available, neither has it been possible to discern the gender composition of the displaced or isolate the most vulnerable.

**Table III: Summary of Refugee, IDP and Asylum Seeker Populations**

Country	Refugee Population	IDPs	TOTAL
Tanzania	778,184	N/A	778,184
DRC	241,000	3,400,000	3,641,000
Uganda	198,000	854,148	1,052,148
Kenya	240,000	1,200	241,200
Burundi	42,000	475,000	517,000
Rwanda	30,863	N/A	30,863
<b>TOTAL</b>	<b>1,530,047</b>	<b>4,730,348</b>	<b>6,260,395</b>

*Source:* USRC website, UNHCR website and IDP Project website

### 3. CAUSES AND CONSEQUENCES OF FORCED MIGRATION

#### 3.1. Immediate and Root Causes

In explaining the causes of forced migration, observers stress the necessity of distinguishing manifestations from root causes as well as from 'triggers' or 'immediate' causes in order that symptoms are not addressed at the expense of 'core' causes. In the context of the GLR, by and large, the immediate cause of forced migration (as opposed to root cause) is armed conflict and the attendant problems of insecurity and dissipation of governmental authority along with lawlessness. Refugee influx from Somalia (1991), Rwanda (1959, 1963, 1994), DRC (1960, 1996-8) and Burundi (1972, 1993) are all directly connected with one common 'immediate cause': insecurity engendered by armed conflict or related breakdown of law and order.

And indeed in a study<sup>16</sup> conducted by the Economic Research Bureau (ERB) of the University of Dar es Salaam on behalf of UNHCR in settlements inhabited by Burundi refugees in western Tanzania, armed conflict was cited by 99% of respondents as the reason for flight. The study also reveals that refugees would be ready to repatriate only if the following conditions are met: creation of a genuinely national army (91%), democratic governance (8%), presence of international peace keeping force, assistance from international humanitarian agencies (0.3%), and right to participate in running the government (0.3%). There can be little doubt that war is regarded as the largest single threat.

#### 3.2. 'Tribalism' and Conflict

The issue of distinguishing root from immediate causes is important, but so too is the correct characterisation of the wars themselves. There is an increasing group of observers who call to question the inevitability of conflict in an ethnically heterogeneous community and further challenge the 'incompatibility' between socio-

<sup>16</sup> Economic Research Bureau, Study on Burundian Refugees in Settlements in Tanzania, March 2001.

political pluralism, and responsive governance and democratic practice. Quoting the UN Secretary General's Representative for Internally Displaced Persons, and, Chief Emeka Anyaoku, Secretary General (then) of the Commonwealth, a Senior Adviser in UNDP's Emergency Response Division, concludes that rather than wishing away the diversity which represents African reality, the approach should be "openness and accountability in the governance system...consensus among the significant component units of a pluralistic society".<sup>17</sup>

The 1992/2002 war in Sierra Leone is for example, widely regarded as an instance of violent conflict driven by *economic factors* (specifically, attempts to control mining of alluvial diamonds). Research however shows that the 'root causes' of the war lie in political decay, corruption, injustice and social exclusion of young people.<sup>18</sup> Equally, in Burundi, Rwanda and to some extent the DRC, forced migration is presented as a consequence of an 'ethnic/tribal war' between *bahutu* and *batutsi*. The view however of most renowned observers of those conflicts is that it is an oversimplification to term the conflicts as merely or exclusively 'ethnic' even if they manifest themselves as bloody confrontations between the ethnic groups in question.<sup>19</sup> Rene Lemarchand is blunt: Tribalism as a conceptual tool for comprehending the conflicts is "useless" he argues. And adds that if "hutu and tutsi increasingly tend to define each other in terms of mutually antagonistic categories, this is not because of ancestral enmities but because ethnic identities have acquired a moral dimension: martyred; or threatened minority"<sup>20</sup> The conflict, he contends, was "accompanied or precipitated" by political factors, namely, a "sharp reversal of political fortunes suffered by the majority party in Parliament, the predominantly Hutu *Front Democratique du Burundi* (FRODEBU) and the spectacular reassertion of Tutsi supremacy under the banner of the *Union du Progres National* (UPRONA) and its allies"<sup>21</sup>

The Canadian General who headed the UN Military Observer Mission (UNAMIR) in the heydays of the genocide in Rwanda concedes genocide did occur, but is emphatic in disagreeing with those who see the civil war in that country as a 'tribal war'.<sup>22</sup> Similarly, Gerard Prunier, the renowned French historian and observer of Rwanda.<sup>23</sup> Joseph Nye provides a useful conceptual framework in understanding these so called 'ethnic wars'. He defines communal conflicts or ethnic wars as wars in which belligerents define themselves in part along cultural lines such as language, religion, or similar characteristic". Invariably, he argues, ethnic wars occur where established

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<sup>17</sup> Amoo, S.G., "The Challenge of Ethnicity and Conflicts in Africa: The Need for a New Paradigm", New York, UNDP, January 1997, p 7 .

<sup>18</sup> Archibald, S. and Richards, P. (2003) "Converts to Human Rights: Popular Debate About War and Justice in Rural Central Sierra Leone" Paper presented to International Conference on Forced Migration and Human Rights organised by the Social Science Research Council (New York) in Sierra Leone, November 4-6, 2003.

<sup>19</sup> It has to be acknowledged that the jurisprudence of the UN International Criminal Tribunal (ICTR) based in Arusha has through several judgments most notably in Prosecutor v Jean Paul Akayesu and Prosecutor v Jean Kambanda, has held that genocide did occur in Rwanda. In turn, the Convention for the Prevention and Punishment of the Crime of Genocide of 1948 defines genocide as: "any [act] committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group ..."

<sup>20</sup> Lemarchand, R., "Burundi: Ethnic Conflict and Genocide", Woodrow Wilson Center Press, 1997.

<sup>21</sup> Lemarchand, op cit.

<sup>22</sup> Dallaire, R. (Lt Gen), "Shake Hands with the Devil: How Humanity Failed Rwanda", Toronto, Random House Publishers, 2003.

<sup>23</sup> Prunier, G., "The Rwanda Crisis: History of a Genocide", London, Hurst & Co, 1995.

mechanisms for mediating conflicts break down following a weakening of the State from adverse economic conditions, loss of legitimacy, or outside intervention.

### 3.3. Elites and Conflict

Conflict, it is sometimes argued, is the further outcome of manipulations of radical “elites who incite and distort ethnic/nationalist consciousness into an instrument to pursue their personal ambitions”.<sup>24</sup> This argument would suggest that ethnicity is so malleable as to suit any *agent provocateur* and, that non-elites have no sound conception of their own interests. All these ideas are quite contentious. What then should be a more acceptable conceptual framework in addressing the question of the role of human agency in explaining conflict?

Researchers recommend a ‘human needs’ perspective to conflict. The central and novel thesis to their theory is that beyond biological needs of food and shelter, are other and equally vital needs. These relate to basic socio-psychological human needs such as, and in particular, identity, security, recognition, participation and autonomy. According to this school of thought, conflicts, and deep-rooted conflicts in particular, are a result of demands on individuals and groups to make certain unacceptable adjustments in behaviour. The reason for the impossibility of the adjustments lies in the fact that at stake are “deep value-laden motivations and needs which cannot be compromised”.<sup>25</sup>

Critical to the approach is the acknowledgement that the so called ‘ethnic conflicts’ are in reality primarily attributable to two factors: violation of universal, basic human needs for group identity, security, recognition, participation and empowering autonomy, and secondly, the absence of appropriate policies and institutions to facilitate attainment of these needs.

The same argument can be made with the aid of *constructivism* for, as the *constructivist theory* holds, ethnicity is not an immutable fact that inevitably leads to war. Ethnicity is “socially constructed in the sense that symbols, myths and memories can be altered over time”. Nye proceeds to illustrate this on Rwanda where the pre-colonial distinction between the aristocratic Batutsi and peasant Bahutu had become blurred through intermarriage and social change, but was reinforced by Belgian colonialists and missionaries.<sup>26</sup> *Constructivists* finally argue around four assertions which constitute the dynamic of ethnic wars. Firstly, ethnic symbols and myths create divisions. Secondly, economic rivalries or the weakening of State authority create fears for group survival. Thirdly, elites or leaders then mobilize support by appealing to ethnic symbols; and finally, any number of events can trigger the violent clash.<sup>27</sup> With this framework in mind it becomes much easier to comprehend the conflicts taking place in the GLR. And Rwanda (and for that matter, Burundi, too) is a ready illustration. While it is true that mass killings erupted on April 6, 1994 with the fatal attack on the jet carrying the State President, General Juvenal Habyarimana (and his Burundi counterpart, Cyprien

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<sup>24</sup> Amoo, S.G., “The Challenge of Ethnicity and Conflicts in Africa: The Need for a New Paradigm”, New York, UNDP, January 1997, p 10.

<sup>25</sup> Amoo, *ibid.*, p 12.

<sup>26</sup> Nye, J., “Understanding International Conflicts: An Introduction to Theory and History” (4<sup>th</sup> ed), New York, Pearson Addison Wesley, 2003, p 151

<sup>27</sup> For a more detailed discussion of *constructivism* see Scott Burchill *et al.* “Theories of International Relations” (2<sup>nd</sup> ed), New York, PALGRAVE, 2001 pp 209 - 230

Ntaryamira and several other high ranking Government officials), a rabid media campaign had been underway in which Bahutu were being exhorted to exterminate all *inyenzi* (the Kinyarwanda word for cockroaches).<sup>28</sup>

Amoo gives cognisance to this *instrumentalist approach*, that is, the role of human agency in triggering violent conflict by inciting and distorting ethnic/nationalist consciousness with the aid of the 'instrument' of ethnicity. And indeed, Dallaire and Mamdani describe in painful detail the role of extremists in stirring the genocide in Rwanda in 1994.<sup>29</sup> Amoo however questions this instrumentalist approach for its patronising premise, among other reasons. According to Amoo, instrumentalists incorrectly presume that "enormous masses of people" in Africa "do not have a sound conception of their own interests" when in reality, "non-elites are far from ignorant about their politics".<sup>30</sup> Nye makes an important observation in this respect, since he notes that despite allegiance to social groups not any difference with other group members is sufficient to compel them to kill.<sup>31</sup> To understand how that watershed moment is reached we have to turn to Amoo again. He makes the pertinent observation that "conflicts arise out of demands on individuals and groups to make certain adjustments in behaviour that are unacceptable and probably beyond human tolerance and capabilities".<sup>32</sup>

A dramatic illustration of this could be the situation of Rwandese refugees in Uganda. At home, the Habyarimana regime incessantly stated that the country had an acute shortage of land and that refugees had no right of return, effectively stripping them of their fundamental right to citizenship and participation in the governance of their country, not to mention equally important cultural rights. At the other extreme, life in the country of asylum was increasingly becoming unbearable. Mamdani writes for an example how successive regimes in Uganda, engaged in "state repression of the Banyarwanda", subjected them to a "pogrom" and "expulsion" leading to 35,000 languishing "in border camps, their future uncertain".<sup>33</sup> Ultimately they became the target of state hostility and popular suspicion.

### 3.4. Poverty and Conflict<sup>34</sup>

Uganda's State President is on record as saying that "our conflicts are caused by the poverty in which most of us labour. People feel that if their group is in power access to resources is easier and that is why the struggle for power is such a fierce one".<sup>35</sup> The reference to poverty as a major cause of conflicts is made on the basis that all the countries in violent conflict are at the same time leading nations in so far as poverty is

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<sup>28</sup> For details see the judgement of the Rwanda Tribunal (ICTR) in the so called 'Media Cases'

<sup>29</sup> See R. Dallaire, "Shaking Hands with the Devil", Toronto, Random House Publishers, 2003, in particular p. 293, 324 and M. Mamdani, "When Victims Become Killers", Kampala, Fountain Publishers, 2003 especially pp 189, 190, 191

<sup>30</sup> Amoo, S.G., "The Challenge of Ethnicity and Conflicts in Africa: The Need for a New Paradigm", New York, UNDP, January 1997, p 9, 10, 11

<sup>31</sup> Nye, op cit., p153

<sup>32</sup> Amoo, op cit., p 12.

<sup>33</sup> Mamdani, op cit., pp 166, 167, 168, 169.

<sup>34</sup> A subsequent section will discuss measures taken within the context of the UN Millennium Development Goals and the nexus with the question of poverty eradication.

<sup>35</sup> H.E Yoweri Kaguta Museveni, Address at the Opening of the Seminar on "Building Peace in Eastern Africa", Entebbe, December 16, 2002.

concerned. Sierra Leone, until recently in a decade long carnage, ranks 174<sup>th</sup>, the lowest on the UNDP's Human Development Index. Burundi, Rwanda and DRC fair equally poorly. True and obvious as it may sound, one small but important detail is overlooked. It has to be accepted that not all the 38 African countries on the UNDP Index are engaged war or represent 'Failed States'. Secondly, that rather than being (always) the cause of conflict, poverty is both "the deliberate creation and the unintended consequence" of conflict. Studies on armed conflict time and time again have shown how contemporary conflicts target and victimise "civilian objects" rather than "military objectives".

By wreaking havoc on agricultural activities, health services, water sources and other 'objects indispensable to the survival of the civilian population' war directly threatens livelihoods and self-sufficiency. An overview of the impact of war on the economy of the DRC is revealing. Writers point to a 15% negative growth in GDP, itself the result of "decrease in production in almost all the sectors of the economy". More importantly, they attribute the dismal condition of the economy to "destruction of resources of production such as physical capital and human capital and to substantiate, point to the 2.5 million Congolese who have died and nearly 1.8 million displaced since 1998. They place the inflation in 2000 at 540%, considered "very high" by Consumer Price Index (CPI). So, rather than poverty leading to displacement, it would appear that it is unmitigated socio-economic disasters created by armed conflict that determine forced migration.

### **3.5. Forced Displacement & the Problem of Small Arms and Light Weapons**

In forum after forum, displaced persons and refugees in particular, are invariably associated with the trafficking of small arms and light weapons (SALW). Interestingly, despite the notion's prevalence, experts can barely find cogent proof. The indubitable fact is that the problem of proliferation of SALW is a common and prevalent one for the GLR. In the DRC, 750 out of every 1,000 deaths are imputable to war, 1.8 million people have been displaced, 80% of public infrastructure has been laid to waste. This is perhaps inevitable given the DRC's 20% share in the global illicit trade in arms. A study by the Graduate Institute of International Studies of Geneva estimates that there are 30 million guns in circulation in Sub-Saharan Africa. Within East Africa, Tanzania and Uganda are believed to hold 780,000-1,280,000 and 630,000-950,000 guns respectively, while Kenya's share is between 530,000-960,000.

Although at third place, a closer examination reveals Kenya to be a case warranting special attention. Between 1995-1999 police were able to recover 3,551 firearms from criminals while a further 11,000 guns change hands on the black market annually. In the Kenyan capital alone, while Police seize between 1,800-2,000 unlicensed guns per month an additional 5,000 illegal weapons are in circulation, or one illegal weapon for every 560 Nairobi residents. Far more alarming is the situation in Northern Kenya where with approximately 40,000 illegal weapons, guns are as common as the walking stick.<sup>36</sup>

As is the case elsewhere, refugee presence (particularly but not confined to Somalis) in Kenya is seen as a 'major contributory' factor in the proliferation and illicit trade in

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<sup>36</sup> For a detailed study see E. Mogire, "Refugees and the Proliferation of SALW in Kenya", Centre for Refugee Studies, Moi University (Eldoret, Kenya), Occasional Paper Series Vol 1 no 4, 2003.

SALW. Refugees are blamed for the illegal importation, illicit export, sale, and use of SALW in the commission of other offences such as homicide, cattle rustling, drug trafficking and car jacking.

A cautious approach is warranted. If the link between refugee presence and proliferation of SALW has to acquire credibility then it is critical that the following factors are given consideration. *Firstly*, weapons seized in the country of asylum must bear resemblance with those that are stocked, or in circulation in the country of origin. *Secondly*, data on seized weapons should reveal their owner. *Thirdly*, even where refugee possession of weapons is established, thought should be given to the motives for possession. As a number of studies show, criminal intention is not always the reason for weapon acquisition. In some occasions it is to defend oneself and ones family from all manner of foes including bandits and involuntary conscription.

Let us turn to Tanzania for a minute. A recently concluded study<sup>37</sup> found that the link between refugee presence on the one hand, and insecurity owing to proliferation of illicit SALW, on the other, is widely held to be a fact. However closer examination of relevant data makes it plain that the proportion of refugees involved in criminal activities and in particular, murder, armed robbery and illegal possession of arms and ammunition (these are the more 'serious offences'), is not as dramatically huge as is commonly held. The study found that the vast majority of seized illegal weapons constitute Tanzanian, home-made muzzle-loading guns (*gobore*, in the vernacular) and that refugees are no more likely to commit criminal offences than are members of the host communities since the ratio of refugee convicts to the general refugee population is comparable to the equivalent ratio among Tanzanian nationals.

It would be misleading however, if the foregoing were to be taken as playing down the impact of refugee presence. Indeed there is anecdotal evidence to the effect that among the spontaneously settled refugees in Kigoma town from Burundi, Rwanda and DRC are elements engaged in illicit gun running.<sup>38</sup> However we still must interrogate extant notions and data, contextualise the problem and make appropriate conclusions and policy recommendations. One such conclusion is that it is not in all cases that refugee presence is necessarily the key factor in the proliferation of SALW.

The major contributory factor lies outside, rather than inside, the areas of refugee settlement. One such critical factor and one that is often cited by researchers and practitioners alike is the fact of proximity to theatres of war. Related to this is the incapability of belligerent States to monitor and control the flow of weapons. Weapons are not only freely available. They can be procured at give away prices. In Kenya, for as little as \$64, one is able to obtain an AK-47 assault rifle.<sup>39</sup> In the refugee-hosting areas of northwestern Tanzania, the price tag for an AK-47 is between \$10 to \$20.<sup>40</sup>

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<sup>37</sup> Centre for the Study of Forced Migration, University of Dar es Salaam, "The Impact of the Presence of Refugees in Northwestern Tanzania", Dar es Salaam, September 2003.

<sup>38</sup> Felleson, Mans, "Prolonged Exile in Relative Isolation", Uppsala, Uppsala Universitet, 2003, p 20.

<sup>39</sup> Mogire, E., "Refugees and the Proliferation of Illegal SALW in Kenya", Eldoret (Kenya), Moi University Press Occasional Paper Series, Vol 1 No 4, 2003, p 3.

<sup>40</sup> Willems, R., "Embedding the Refugee Experience: Forced Migration and Social Networks in Dar es Salaam", Ph.D. Dissertation, 2003.



## 4. OVERVIEW OF NATIONAL RESPONSES IN TANZANIA, KENYA AND UGANDA

### 4.1. Tanzania

It was not until September 2003 that Tanzania, adopted its first ever refugee policy guidelines.<sup>41</sup> The fact that throughout its 37 years of existence as an independent state and a country of asylum it never had a similar document raises the question of the determinants of the National Refugee Policy (NRP). These are variously set out in the NRP. Practice had come to show that government could not continue with any measure of consistency, coherence and effectiveness, working by relying on a multiplicity of impromptu oral instructions in response to the new challenges. The challenges in question are the impact of refugee presence in 4 areas:

- Economic development;
- Security;
- Environment; and
- Social services

Beyond these rather specific challenges are concerns of a more general nature. The first one, relates to the desirability of providing a vision, general framework and guidelines to inform the law on refugees. It would appear that Government has also come to the realisation that its international obligations to asylum seekers and refugees are not always consistent with national interests and therefore the need to reconcile the two. Two additional concerns: The first has to do with the desire to reiterate certain principles of refugee law about which Government feels strongly and in that way, reaffirm commitment to the existing international refugee regime. Secondly, to enunciate (or lend support to) emerging approaches in resolving the refugee crisis as it affects the GLR. So, which principles does the NRP reiterate and which new durable solutions does it advocate? Four principles are pertinent: Firstly, is the principle of 'non-refoulement'; Secondly, is the principle of 'asylum'; The third is that of 'international cooperation and burden sharing', and finally, the 'anti-subversive' principle originally articulated in the 1969 Organisation of African Unity (OAU) Convention Governing Specific Aspects of the Problem of Refugees. As for new approaches to solving the refugee crisis, several are advanced, and it is through these that a policy shift is particularly discernible. Take for example the mundane issue of status determination, in which the standard practice had been to grant status by way of the 'group determination' system. The NRP now declares that 'Government ... will work out mechanisms that will require all refugees to present themselves to authorised officers for documentation'<sup>42</sup> We see similar deviations from established practice on the question of 'durable solutions'. It needs to be recalled that Tanzania in the past had won international accolades, including the prestigious Nansen award<sup>43</sup> for its exemplary hospitality to refugees including, the mass grant of citizenship through naturalisation.<sup>44</sup> The NRP has the opaque declaration according to which "[a]ll rules relating to naturalisation shall have to be adhered to before an application by a refugee for

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<sup>41</sup> The National Refugee Policy, adopted by the Ministry of Home Affairs on September 15, 2003.

<sup>42</sup> National Refugee Policy (NRP), para 9.

<sup>43</sup> Awarded to Tanzania's President (then), Mwalimu Julius Kambarage Nyerere in 1983

<sup>44</sup> Gasarasi, C., "Mass Naturalisation and Further Integration of Rwandese Refugees in Tanzania: Process, Problems and Prospects", Vol 3 No 2 Journal of Refugee Studies, 1990, 88.

naturalisation can be considered by the Government”<sup>45</sup> Two further matters are pertinent in showing policy shifts. Again, contrary to the established practice of offering ‘local integration’ (as exemplified by the mass grant of citizenship mentioned earlier and other acts of generosity of the erstwhile open door policy) the NRP sees in “local settlement” merely a “temporary solution rather than a permanent one”<sup>46</sup> and goes on to emphatically state that “voluntary repatriation of refugees [is] the best solution to the refugee problem”<sup>47</sup> And as we will presently show, the emphasis on voluntary repatriation as the only acceptable solution is quite consistent. But the solution that clearly stands out and therefore stands out as cogent proof of a policy shift is the question of “safe zones” articulated severally by the NRP. But the pertinent section reads: “The Government of Tanzania will continue to appeal that safe zones be created within countries generating refugees” so as to “alleviate the burden on host countries”. But safe zones not only relate to anticipated cases of forced displacement but are also meant to absorb refugees who are currently in Tanzania. As the NRP elaborates, “Tanzania will admit asylum seekers and refugees for not more than one year within which arrangements should be made to take them back to the established safe zones in their countries of origin.”<sup>48</sup>

Two final issues are worth our attention. These relate to refugee education and employment policy. Consistent with the spirit of advocating for voluntary repatriation as the only acceptable durable solution, the NRP is explicit in declaring the policy on refugee education as one meant to facilitate repatriation. Accordingly, the NRP advocates for a refugee school curriculum and examinations based on the system pertaining in the country of origin,<sup>49</sup> but also calls for a system of education that is parallel to, and not an integral part of the Tanzania system.<sup>50</sup> Pertinently, it advocates for an curriculum with “peace and reconciliation” as a primary focus.<sup>51</sup> Finally, on employment, the NRP begins with an acknowledgement of the significance of gainful employment to refugee protection generally as well as its potential in improving the national “economy and betterment of life and living standards”. However, it quickly proceeds to state the underlying principle should be to provide such employment opportunities so as to “facilitate meaningful reintegration in their countries of origin when they are able to return” since the Tanzania “labour market is generally in crisis and faces many challenges.”<sup>52</sup> It states in conclusion that in so far as “refugees are concerned, the government will allow small income generating activities to be undertaken within the camps.”<sup>53</sup>

Many recent studies point out to the ‘securitisation’ of the refugee by which is understood the heightened attention and preoccupation with what are believed to be the ‘security’ implications of refugee presence. The NRP in this respect is no different and perhaps serves as an ideal illustration. There are no less than five specific references to the problem in the NRP. In its foreword the NRP is emphatic in its faithfulness to the OAU Refugees Convention’s anti-subversive clause. Government, the NRP states,

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<sup>45</sup> NRP, para 11

<sup>46</sup> NRP, para 15

<sup>47</sup> NRP, para 14

<sup>48</sup> NRP, para 15

<sup>49</sup> NRP, para 30

<sup>50</sup> NRP, paras 16, 31

<sup>51</sup> NRP, para 29

<sup>52</sup> NRP, para 17

<sup>53</sup> NRP, *ibid.*

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commits itself to denying support to “refugees in whatsoever way to sabotage, attack or attempt to remove by force Governments of countries of origin”. The NRP’s ‘Mission Statement’ in turn cites “national and state security” in addition to “law and order” and “ever rising criminality in refugee hosting areas” as matters of “national interests and priorities”. ‘Security’ is also cited as one of four challenges that have necessitated the formulation of the NRP<sup>54</sup> (the other three being, economic development, environment and social services). Finally, security considerations will also lie at the core of the screening of asylum seekers among whom could be persons prejudicial to “national security, law and order”.<sup>55</sup> Let us now look more closely and objectively at the security implications of refugee presence for Tanzania. It is fair to begin by pointing out that certain characteristics of the country are pertinent to security. First is the fact of close proximity to Burundi, DRC and Rwanda, countries which have seen prolonged violent clashes, cyclical genocide, and mass displacement. It is also worth noting that the overland borders with Burundi and Rwanda as well as the median boundary on Lake Tanganyika with DRC are long and porous. Thirdly, that the Tanzanian administrative Regions of Kagera, Kigoma and Rukwa bordering conflict prone neighbours and home to over 95% of the refugees found in Tanzania, are very remote (located about 2,000 kilometres from the centre of political power, Dar es Salaam) and highly underdeveloped. Finally, there is the phenomenal magnitude of the refugee problem. Whereas, the earlier influxes (of the 1950/60s) involved comparatively modest numbers, recent flows have ranged from 100,000 to as high as 800,000 bringing the total refugee population at one point to a one million high.

The security implications have become particularly dramatic if not tragic in Tanzania’s external relations, especially with Burundi. More contentious has been the assertion according to which rising criminality in Refugee Hosting Areas (RHAs) should be attributed to refugee presence per se. A recent study conducted by researchers of the Centre for the Study of Forced Migration, University of Dar es Salaam, found little if any evidence to support such a nexus. In the main, the study showed that within the RHAs of Kigoma and Kagera Regions there are refugees who are criminals. Data on crime from the Police, statistics on inmates and court cases clearly confirms this. However, close examination also reveals that the number of refugees tried and convicted for (the most serious) criminal offences is not as dramatically huge as is commonly believed. Data for Kagera Region for 2000 on murder, armed robbery and illegal possession of firearms and ammunition, indicated that the contribution of refugees was 3%, 4% and 10.5%, respectively. Another prevalent assertion in this regard, is that rising criminality in RHAs is largely fuelled by weapons illegally brought into the innocent country by refugees.<sup>56</sup> The CSFM study cited earlier did indeed establish the RHAs as Regions with a marked problem of proliferation of illegal weapons but did not succeed in establishing a direct link between refugee presence and the proliferation of arms. Researchers were not convinced about the nexus for the simple reason that the preponderant majority of weapons seized by the Police, are of the type associated more with local inhabitants than refugees. Take for example the data on weapon seizures in Kagera Region for the year 2001. Of a total of about 1,150 captured weapons more than a 1,000 were the home made muzzle loaded rifles, known to many communities in Tanzania as *gobore*. The study also made comparisons between the

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<sup>54</sup> NRP, para 4

<sup>55</sup> NRP, para 27

<sup>56</sup> See for example the Speech by the Minister for Home Affairs in the July session of Parliament made in July 2004, para 20.

ratio of refugee inmates and the refugee population generally so as to gauge the level of criminality within the refugee community. A similar exercise was carried out in respect of Tanzanian inmates in the RHAs. The result was that whereas 0.0053 per cent of the refugee community within Kasulu District were convicted felons, the comparable figure for Tanzanians in the same District was 0.0046 per cent, leading to the reasonable conclusion that the two respective figures are comparable and suggest that a refugee is no more likely to commit a felony than would a Tanzanian. The study accordingly began considering other possible factors and found two that better explain the rising criminality in the RHAs. The first and perhaps the more important is close proximity to conflict prone countries (or, the 'contagion of conflict' as Hammerstad terms it) coupled with the long, porous nature of the common boundary with these countries. The second, and related factor is the location of the camps close to an already unmanageable border.<sup>57</sup>

Besides the problem of 'refugee warriors' is the related issue of paramilitary activities or the harbouring and feeding of armed elements.<sup>58</sup> If one takes into account the fairly huge populations found in camps, the porous nature and vastness of camps and contrasts this with the skeletal, ill-equipped staff available to ensure law and order, one begins to appreciate why refugee presence is viewed from the prism of 'security'.<sup>59</sup> Indeed, there have been cases of refugees being found with offensive weapons in the camps, the murder of civilians and destruction of property. In the resultant deterioration of security, Government officials are known to resort to stringent and restrictive measures such as clamping down on any contact between refugees and communities in the surrounding RHAs, freezing the issuance of permits allowing refugees to leave the camp area and the closure of barter trade between refugees and host community members.<sup>60</sup>

As regards Tanzania's responses to refugees, both in terms of legislation and practice, one can identify two distinct periods. There was the *de facto* open-door policy of the 1960s – 80s, and the restrictive approach from the 1990s to the present.

The magnanimity and tolerance of the "open-door" policy sharply contrasted with some of the draconian provisions one finds in the law of that time, the Refugees (Control) Act, 1966. Between the 1960s – 80s, refugees were given liberal recourse to group determination of status, land was allocated not only for housing but also for farming, schools and hospitals were built for the refugees, and finally, the right to seek naturalisation was extended almost universally. Former South African President, Nelson Mandela pays glowing tribute to Tanzania's policy of those years in his autobiographical work 'Long Walk To Freedom'.

What accounts for the discrepancy between law and practice? How does one also explain the shift from a *de facto* open-door policy to a *de jure* restrictive regime?

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<sup>57</sup> The NRP does in this respect commit itself to locating camps at a distance of "at least 50 km from the border". While close proximity to borders has the security implications discussed, voluntary repatriation becomes a lesser logistical nightmare on account of the relatively short distance refugees have to cover.

<sup>58</sup> Hammerstad, A., "Making or Breaking the Conflict Cycle: The Relationship Between Underdevelopment, Conflict and Forced Migration", 2004.

<sup>59</sup> Incidentally, all the five camps in Kibondo District of Kigoma Region are positioned in close proximity to the border and are administered by a lean administrative team of officials from the Ministry of Home Affairs. The five Camp Commandants (for Mtabila, Mtendeli, Kanembwa, Mkugwa and Nduta) administer over a total population numbering almost 146,000.

<sup>60</sup> As often happens in Kibondo.

Compared to the Refugees (Control) Act of 1966, the 1998 Refugees Act is legally more sophisticated, displaying sensitivity to international refugee law. Nevertheless, in practice, treatment of refugees after the 1998 Act has been increasingly restrictive. Answers to these questions lie in external as well as internal factors: changing political climate, sliding economic fortunes, and the sheer magnitude of the refugee problem.<sup>61</sup>

Besides the changed character of conflicts there are equally changed socio-economic conditions. While the population has continued to grow markedly, intermittent droughts, a debilitating national debt burden, and dwindling returns on exports pose awesome challenges for the economy. Combined with mismanagement and the conditions imposed by multilateral financial institutions, countries like Tanzania have found themselves on the UN lists of Least Developed Countries (LDCs) and Highly Indebted Poor Countries (HIPC). Since the legendary “African hospitality” (toward asylum seekers) is a function of availability of resources, the dire economic situation in Tanzania necessarily brought about a reconsideration of the open-door policy. The changed political and socio-economic conditions in themselves might not have led to a policy shift had four other factors not come into play.

*First*, the magnitude of mass influxes has dramatically increased since the 1980s. The resulting demographic imbalance and environmental degradation is not only well documented in study reports but was evident even to the uninitiated residents in the refugee-populated areas. *Second*, barriers against asylum seekers are going up worldwide—a development that has not gone unnoticed in countries such as Tanzania. *Third*, and closely related, is the view that the international community is “shifting” rather than “sharing” the burden of hosting refugees to those countries unfortunate enough to be located near refugee-generating regions. *Finally*, largely for political reasons, government officials in RHAs want to be seen as being responsive to host community complaints related to refugee presence.

The threat of a refugee influx can also be more direct. At the Regional Refugee Policy Workshop, one official noted the perception that “generosities” such as providing land for refugees would dissuade refugees from returning home, lead to a demographic imbalance in favor of refugees, promote the infiltration of refugees into the government as legislators, and create conditions in which “refugees will ultimately consider taking charge of government” (as in the case of Banyamulenge in the DRC).

Many allege that the mass exodus of *batutsi* refugees is associated with a desire by the *bahima* dynasty—purportedly entrenched in Burundi, Uganda, Rwanda and attempting to grab power in the DRC—to establish an “empire” transcending the current international frontiers. Two situations in the region may explain why this highly questionable perception has gained currency.

The ruling elite in Burundi, Rwanda and Uganda are believed to be strains of the *Bahima* peoples, which is then taken to explain these countries’ sympathy and support for the *Banyamulenge* of eastern DRC, who trace their roots to Rwanda. Proponents of the *Bahima expansionism* theory also cite the erstwhile mutual military assistance between the ruling elite in Uganda and Rwanda as further evidence of a conspiracy. They note the conspicuous involvement of Rwandese refugees in the armed struggle

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<sup>61</sup> See also the earlier discussion on ‘Causes and Consequences of Forced Migration’ *supra*.

that brought the incumbent Ugandan administration into power in 1986, and the subsequent assistance Ugandan authorities extended to the Rwandese Patriotic Front's incursion and eventual takeover of Kigali in July 1994. Lastly, the appointment of prominent *Banyamulenge* in Laurent Kabila's Cabinet was also noted with disquiet by proponents of the *Bahima conspiracy*. They insist that it does not bode well for the security of the countries of the region, and hence advocate vigilance with respect to the local integration and particularly, the naturalisation of *Batutsi* refugees. This argument must be taken with utmost caution. There has yet to be a sustained and coherent study supporting the *Bahima expansionism* theory<sup>62</sup> and there are other factors that help to explain the developments described above.

#### **4.1.1. The Refugees Act of 1998**

An examination of the laws pertaining to refugees also offers useful insights into the nature of a country's responses to the refugee issue. Tanzania's legislative history is fairly rich. British colonialists gave the country its first ever refugee specific legislation in 1946. The Refugee War Ordinance was rendered legally obsolete with the 1996 enactment of independent Tanzania's first refugee specific statute, the Refugee (Control) Act, which in turn, was repealed by the Refugees Act, 1998. Tanzania's Refugees Act of 1998 carries a more encompassing (but now antiquated) definition of refugees that was introduced by the 1969 OAU Convention. The Act addresses a number of issues key to the promotion of the rights of asylum seekers and refugees. These provisions, in a fairly bold manner facilitate the implementation of Tanzania's treaty obligations under international refugee law.

The provisions in the 1998 Refugees Act that deserve specific mention are those pertaining to governance of refugee settlements and constitutionality of orders emanating from authorities. The earlier provision sets the stage for participatory, democratic governance through the creation of "Councils" or "Village Committees" to which leaders and representatives will be elected on principles of equality and universal suffrage, without discrimination based on sex, clan, tribe, nationality, race, or religion. The other provision requires authorities to "have regard" for international refugee law instruments.

On closer inspection, however, one finds a number of shortcomings. For example, not only is the establishment of Councils or Village Committees left to the discretion of the Minister. To become operational, they must obtain a "Certificate of Incorporation" from the Director of Refugee Services. Should the application for incorporation be rejected, then appeal lies with the Minister who may legitimately "vary the decision of the Director as he deems appropriate and the decision... **shall be final**" (emphasis added). Provisions relating to discretionary powers and finality of decisions by authorities litter the Refugees Act of 1998.

Ultimately, the Refugees Act of 1998 implicitly recognises a number of key "basic rights and fundamental freedoms" relevant to refugees. These include the freedom of movement, right to own property, and freedom of association. Yet, while doing so, the

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<sup>62</sup> It is for an example widely acknowledged that Laurent Kabila not only politically fell out with both Rwanda and Uganda but such was the deterioration in mutual ties that the latter invaded the DRC in what came to be known as 'Africa's First World War' on account of the alarming number of countries drawn into the war. For the motivations of the parties to that war see M. Baregu, "The DRC in the Great Lakes Conflict Formations" *passim*.

Act laces the enjoyment of these rights and freedoms with restrictions—raising questions about their practical utility to refugees. At this juncture it is appropriate to recall the National Refugee Policy (NRP) and summarise its possible impact as regard the enjoyment of the basic rights and fundamental freedoms proclaimed by the Refugees Act. From the earlier analysis of the NRP it is evident that ‘local integration’ has ceased to be regarded as a permanent, durable solution and with that the possibility of enjoyment of political rights in any significant way. Secondly, is the issue of social and economic rights. These too are unlikely to be enjoyed fully on account of the consistent lack of recognition given to the possible contribution of refugee presence to national development and adherence the practice of encampment or the warehousing of refugees (as opposed to other more liberal and acceptable forms of settlement). We noted the consistency with which policies on refugees be they on education or employment have, as their goal, the repatriation of refugees. These policy tenets, it was argued, are to a large extent informed by the questionable ‘securitisation’ of the refugee problem.

#### **4.2. Kenya**

Like her two fellow East African states, Kenya is party to the 1951 UN Refugee Convention, the Protocol of 1967, and the 1969 OAU Refugee Convention. In terms of specific responses to her obligations arising from international refugee law, Kenya is in a class of her own. Despite an involvement with asylum seekers and refugees spanning nearly five decades, Kenya has neither a refugee-specific legislation nor a national refugee policy. Kenya’s legal framework is not based on consolidated legislation, but draws authority from a host of diverse statutory instruments. There does exist a draft of a bill entitled “The Refugees Bill.” It made its debut in 1992, but overwhelming public antipathy and outright xenophobia toward refugees scuttled the legislative initiative. Fresh efforts were initiated two years later, but for similar reasons, the process floundered. The existing draft to which this paper refers was drawn in 2000.

At the general level, in Kenya one finds legislative and policy shifts similar to those in Tanzania. This includes an aversion to local integration as a solution, ascendancy of individual over group recognition of status, and a tilt towards mandatory residence in camps. But in other instances, Kenya’s response toward refugees has been novel and bold.

The retrogressive trend can be partly explained by the dramatic increase in the magnitude of refugee flows, the changed nature of conflicts, and the interplay of such factors as the proliferation of weapons, brutal inter-ethnic conflicts and local electoral politics. A senior government official makes two significant observations. He contrasts the relatively modest numbers of asylum seekers in earlier periods with the “floods” of the 1990s, and also observes that in those earlier periods asylum seekers were (sympathy evoking) victims of either “colonial rule,” “apartheid” or “oppressive and barbaric regimes.” In contrast, present day conflicts pose a knife-edge dilemma for the Kenyan government. Today refugees are characterised by their violent opposition to their home governments. Offering protection exposes the country of asylum to criticism for supporting subversive acts against a fellow Partner State, contrary to the 1963 OAU Charter and 1969 OAU Refugee Convention.

In Kenya, the initially modest numbers of asylum seekers did not warrant the establishment of a permanent national body. The “manageable” volume of business was

such that it was common for “many refugees (to be) locally integrated,” namely, to “secure employment in the public and private sector, put up business and also mix with rural folks”. And even more, once integrated, the refugees “enjoyed the same rights with Kenyans on provision of services like health facilities and education opportunities.”

As in Tanzania, dramatic increases in the numbers of asylum seekers and the changed character of the conflicts help explain the emergence of restrictive legislation. The insistence on having refugees reside in camps, as opposed to settlements and urban areas, and the mass dismissal from the public sector of refugee professionals, were in large part directly influenced by the overwhelming size of refugee flows and the related political and security challenges. The acute shortage of arable land, insufficient social services in the urban sector, deepening rural and urban poverty, and high rate of unemployment, are additional factors.

It is presumed that once the Refugees Bill becomes enacted into law, it will occupy centre stage in the regulation of asylum and administration of refugees. Given this assumption, it should be viewed as a benchmark for assessing the country's responses to its international obligations. Included is a provision for the rights of refugee women and children and an insistence on their “appropriate protection and assistance” that represents a significant innovation in approach.

Despite these advances, there are holes. Contrary to Kenya's obligations under the 1951 UN Refugee Convention and the 1969 OAU Refugee Convention, there appears to be little effort in the draft Bill to address the rights to education, work, social assistance, and health. The closest the draft Bill gets is the omnibus declaration that refugees and members of their families “shall be entitled to the rights and be subject to the obligations contained in (the 1951 UN Refugees Convention, the 1967 Protocol, and the 1969 OAU Convention).” Neither does the draft Bill provide for legal representation for asylum seekers or refugees—as is the case with the corresponding Ugandan draft—be it during oral interviews where the question of status is being determined, or at the appeal level.

These deficiencies notwithstanding, adoption of the draft Bill represents a bold step. The mere existence of a refugee-specific statute is a welcome change. Even the government acknowledged that its absence was a fundamental shortcoming. Further, the bill has several promising aspects. First are the envisaged institutions. The limitations of the thinly-staffed Eligibility Committee were dramatically exposed by the unprecedented refugee influx of early 1991. In contrast to the Eligibility Committee, which occupied the status of a mere “section” within the bureaucracy, the draft Bill provides for a “Directorate.” This body will be relatively more independent and administratively superior. Thus, it will arguably be entitled to more human, financial, and material resources. There is also provision for a Refugee Appeal Board to which one finds no analogy in the Tanzania Refugee Act of 1998. Granted, one may question the Board's independence, but an aggrieved person is also entitled to appeal to the High Court on a point of law, against a decision of the Board.

Considered in its totality, the legal framework envisaged by the draft Bill places Kenya in a far better position to meet its obligations under refugee instruments than has thus far been possible.



### 4.3. Uganda

Like her two other East African sister states, Uganda lacks a documented national refugee policy. But unlike Kenya, Uganda has a refugee-specific statute in place, the Control of Alien Refugees Act of 1960 (hereafter, the Act). While its existence is important, it is distinguished primarily by the fact that it is archaic.

One observer summarised the Ugandan statute in the following terms: “The Act neither provides for basic rights nor incorporates the provisions of the (UN Refugees Convention).” He adds that the Act “is also completely inconsistent with Uganda’s Constitution [of 1995] and international human rights standards”. Such a view is shared by other researchers and stresses how “the Act treats refugees as undesirable intruders rather than people in need of protection from prosecution.” Also, its application is confined to “aliens” by which is meant persons who are not Ugandan citizens or citizens of the Commonwealth, effectively shutting out asylum seekers from the latter group of countries.

Despite these concerns, there is a welcome discrepancy between the Act’s precepts and actual practice—an incongruence also observed in Tanzania and Kenya. For instance, whereas according to the law the decision to grant asylum is the prerogative of the Minister, in practice, this function has been executed by a collegial body, the Refugee Eligibility Committee, on which also sits a representative of the UNHCR. Likewise, while the Act is explicit in its demand for mandatory residence in camps, in practice, this requirement applies “only to a spontaneous large influx of refugees,” while individuals whose asylum applications are successful reside in places of their choice. In addition, the enforcement of a number of provisions would preclude the integration of refugees. Instead, the practice has been to facilitate “local integration” of refugees, including their absorption into the labour market, military, and police. Lastly the authorities have rarely resorted to the draconian disciplinary or police powers the Act confers.

A Refugee Bill has been drafted which, if passed into law, would repeal and replace the archaic Control of Alien Refugees Act. Drawn in 1998 and revised in 2000 and 2001, its preamble reads:

“An Act to amend and **consolidate the law** relating to refugees to conform to **international conventions and obligations** in relation to the status of refugees and their **rights and obligations**, and to provide for the **administration and regulation** of refugee matters, and for other matters connected with the above” (emphasis added).

The envisaged statute seeks to fulfil four objectives: First, to bring under one instrument the varied and independent pieces of legislation pertinent to refugees; second, to ensure that these laws correspond to rules of international law that are applicable to refugees; third, to ensure that refugees are granted the rights to which they are entitled; and fourth, to provide institutions and procedures governing refugees.

The second objective is particularly interesting because it deals with Uganda’s treaty obligations. For a *dualist* legal system, it is more than symbolic that the Bill’s opening statement recognises international law. It may create the conditions for a progressive national judge to seize the opportunity to apply the more advanced and fair, but legally

“alien,” rules of international refugee law to domestic cases. Or it may provide the avenue for the bench to advance the promotion of international refugee law by lending a favourable and forward-looking interpretation of existing municipal laws.

At the core of international refugee law are the principles relating to asylum, *non-refoulement*, protection, non-discrimination, international cooperation, and durable solutions. It is heartening to find provisions in the Bill recognising, the right of asylum, and prohibiting *refoulement*, expulsion, or extradition. In a markedly novel development, the Bill also acknowledges “gender discriminating practices” as a ground for granting asylum. In another and no less important development, the Bill goes beyond the corresponding provision in the Tanzanian statute by requiring key national institutions to be guided by a broad spectrum of legal texts and related instruments.

While recognising group determination of status, the Bill also contains the traditional clause that precludes persons who have occasioned serious violations of international law, including crimes against humanity, war crimes, and crimes against the peace. The prominence given to the UNHCR in the Bill also deserves noting, bearing in mind the obligation of states signatory to the UN Refugee Convention to cooperate with this UN agency. UNHCR’s role both in the Appeals Board and the Eligibility Committee is of exceptional significance in promoting respect for the law.

There exists no legislation in the region that adopts a *laissez faire* attitude regarding the right of movement of refugees. Invariably, all tend to take a restrictive approach, motivated by a policy of “containment” and so too does the Ugandan Bill under discussion. However, it does demand that the restrictions be reasonable, non-discriminatory, and consistent with the 1969 OAU Refugee Convention.

Like the Kenyan equivalent, the Ugandan Bill distinguishes itself by its specific provisions for the rights of refugee women and children. Finally, the Bill is distinct in the bold and consistent manner with which it addresses the conventional solutions to the refugee crisis, namely, local integration. Property rights are explicitly recognised, as are the right to education, the right to practice one’s profession, and the right to seek naturalisation.

Unfortunately, the boldness with which the Bill addresses economic, social, and cultural rights is replaced with a distinct timidity and ambivalence in respect to civil and political rights. Refugees are entitled to the rights enshrined in such international human rights instruments as the 1979 Convention on the Elimination of all Forms of Discrimination Against Women and the 1981 African Charter on Human and Peoples’ Rights, and yet their “right of association” is confined to “non-political and non-profit making associations.”

## **5. ROLE OF INTERNATIONAL GOVERNMENTAL ORGANISATIONS, CIVIL SOCIETY AND INTERNATIONAL FINANCIAL INSTITUTIONS**

### **5.1. International Governmental Organisations (IGOs)**

Of all the IGOs active in the GLR in respect of the question of forced displacement, none has such a presence and possibly, influence, as the UNHCR. In Kenya, UNHCR

has responsibility for the screening, status determination and related governmental duties. In Tanzania, UNHCR has a major presence in all the RHAs and is actively engaged, directly or through so called implementing agencies, in a variety of service provision programmes. The 1994 genocide in Rwanda pushed over 500,000 asylum seekers into Tanzania's Ngara District within Kagera Region. While the relief operation mounted in response was largely swift and effective, it soon became evident that a major discrepancy had emerged in the standard of living and quality of services enjoyed by refugees as compared to that of the local population. This gave birth to an ambitious project in 1994 titled 'Special Programme for Refugee Affected Areas (SPRAA). SPRAA had 3 clusters of concerns:

- Environmental protection and management;
- Rehabilitation of school buildings and health facilities; and
- Capacity building for local authorities

A total of USD 20,966,514 was spent between 1995-2003 in Kagera Region alone.<sup>63</sup> The CSFM study cited earlier on found evidence that, contrary to the widely held opinion, the contribution of UNHCR and other IGOs (particularly, WFP and UNICEF) in ameliorating the adverse impact of refugee presence in northwestern Tanzania is considerable. The study in particular cites the road network, health facilities, and the education sector has having benefited the most and with tangible outputs to show. With IGO support for example, Ngara District was able to climb up from the bottom in national ratings on Primary School Leaving Certificate Examination results. From the 112<sup>th</sup> position in 1998, Ngara District scaled to the 9<sup>th</sup> in the span of 4 years. At the Regional level the District's performance has been equally astounding. From the last position in 1999 it occupied 2<sup>nd</sup> position in 2002.<sup>64</sup> In the health sector, there is the dramatic transformation of the Kibondo District Hospital (KDH). Not long ago it had ill equipped, poorly staffed, unsanitary wards with barely any running water or stable power supply, but has since witnessed considerable changes.<sup>65</sup> With funds from WFP, UNHCR, EU (and the Bill Gates Foundation) KDH now has the following facilities:

- Steady supply of safe, running water;
- Incinerator and solid waste disposal system;
- Increased bed capacity and new equipment in the Maternity Ward and Delivery Room;
- Provision of food for in-patients;
- Guaranteed source of electricity; and
- Regular visits by Specialist Medical Doctors.

While on mission in the RHAs one often hears the complaint that the presence of refugees and particularly the transmission of relief aid and other materiel to refugees has had an adverse effects on the road network (let alone airstrips and ports in the RHAs). Our experience and observations has generally been that while considerable damage was occasioned to the transport network by cargo planes, water vessels and trucks, a

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<sup>63</sup> UNHCR, Support to Refugee Affected Areas in Western Tanzania 1995 – 2003, UNHCR October 31, 2003.

<sup>64</sup> Centre for the Study of Forced Migration, University of Dar es Salaam, "The Impact of the Presence of Refugees in Northwestern Tanzania", September 2003, pp. 32, 33.

<sup>65</sup> Centre for the Study of Forced Migration, University of Dar es Salaam, *ibid.* pp 28 – 31.

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considerable effort has been made to rehabilitate the same. Through interviews it became evident that while the conditions of the roads in the area may compare poorly to other parts of the country (the northern and southern corridors, for example), roads in the RHAs, Kigoma in particular, are comparably better now than they were before the arrival of refugees. Evidence comes from the local host community members themselves, for example, many concede that it takes a relatively shorter time to travel from Kigoma to Kibondo than was previously the case. They also concede that there are now far more bus service providers travelling at greater frequency between the various towns in the Region as well as such far off destinations as the municipality of Mwanza on the shores of Lake Victoria. In Kigoma, UNHCR rehabilitated the 94 km long Nyakanazi-Kibondo road, the main artery connecting Kagera and Kigoma Regions and between 1995 and 2002, the agency spent close to USD 4 million on road construction in Northwestern Tanzania, aside from nearly USD100,000 spent on road maintenance in RHAs.

## 5.2. Non-Governmental Organisations (NGOs)

Of the NGOs active in the RHAs one must isolate the Tanganyika Christian Refugee Services (TCRS), Norwegian Peoples Aid (NPA) and the International Rescue Committee (IRC). Also present and active in the RHAs are REDESO, UMATI, SAEWU, AFRICARE, CARE, CONCERN, and TWESA. The CSFM study details their individual involvement but also points out at their constraints. By far their most common and serious constraint would appear to be weak or absent coordination and information sharing between themselves and on occasion between these individual actors and governmental authorities at the local level. For example, we were able to observe how the government drawn Ngara District Development Plan details the individual contribution of the various NGOs active and present in the District, while the comparable document for Kibondo District contains no such inputs from NGOs. Because NGOs generally operate on the basis of time bound projects with little leverage in utilisation of project funds it is not uncommon to encounter an NGO abandoning one project for another even if when there is a clear demand from the beneficiaries for its continuity. Institutional rivalry is equally common as is duplicity in the work of NGOs. What would appear to bother governmental authorities at the local level is what they perceive as the absence of 'transparency' and 'accountability' by these important stakeholders.

Compared to the magnitude of the problem of forced migration in the GLR it is fair to say that there are few indigenous civil society organisations with an explicit and exclusive mandate for forced displacement. In Kenya, probably the most high profile civil society body is the Refugee Consortium of Kenya (RCK) with offices in the capital. It produces a quarterly newsletter 'Refugee Insights', runs a legal aid clinic and workshops and undertakes advocacy work as exemplified in its presentations for the adoption of a refugee-specific legislation.<sup>66</sup> The Centre for Refugee Studies (CRS) has been particularly active in teaching and research and publishes, since 2002, CRS Occasional Paper Series on a variety of topics on forced displacement.<sup>67</sup> The Refugee Law Project (RLP) is a unit of the Faculty of Law, Makerere University and particularly active with training, legal aid, research and advocacy. It was established in November

<sup>66</sup> See for example, RCK, *Refugee Insights*, Issue No 6, October – December 2003, pp. 3-5.

<sup>67</sup> They include Occasional Paper No 1 on 'Refugees in Law and in Fact, Occasional Paper 2 entitled 'Blaming the Environment: Ethnic Violence and Political Economy of Displacement in Kenya'.

1999 with the aim of protecting and promoting the rights of forced migrants in Uganda. Among its publications is the Refugee Law Project Working Paper series.<sup>68</sup> RLP also maintains a website.

Established in 1995, the Centre for the Study of Forced Migration (CSFM) has been engaged in 4 main categories of activities: teaching, training, research and advocacy. In 2000 it launched a 'Summer School' on forced migration targeting field personnel in the GLR. Following an agreement with CRS and RLP, the Summer School began to be held on a rotational basis among the 3 institutions. The School, which draws its Faculty exclusively from the Region, admits an average of 35 participants although the demand is far higher. Funds permitting, CSFM will host it in 2005. The School's principal financiers have been the Ford Foundation (2000 – 2002) and the Andrew Mellon Foundation (2003 – 2005). Among the major studies undertaken by CSFM was the 2001 study commissioned by the Office of the Prime Minister with funding from the EU, this sought to examine the impact of refugee presence in 5 areas: status determination, education, employment, local integration and governance at local level. A second study was the joint work with, among others, the Refugee Studies Centre, University of Oxford, and the Institute for the Study of Forced Migration (ISIM), Georgetown University titled 'Complex Forced Migration Emergencies: Towards a Humanitarian Regime'. Finally, there is the 'Impact of the Presence of Refugees in Northwestern Tanzania' study commissioned by a group of 7 humanitarian agencies.<sup>69</sup>

A number of loose, fledgling networks of indigenous civil society organs exist but perhaps the most pertinent is the East African Network for the Study of Forced Migration (EANFSFM) co-founded by CRS, CSFM and RLP. Among the most debilitating factors these institutions encounter none is more threatening than the shortage of human resources, financing, premises and equipment. The case of CSFM may be indicative of the general situation in the region. Firstly, permission from the pertinent University authorities to establish the Centre was given only following assurances that at no point in time would the Centre seek direct financial assistance from the University. This has meant that the Centre is unable to acquire or rent premises demanded by existing and anticipated activities. Neither can it expand its human resources beyond a Research and Administrative Assistant working full time. Financial constraints also mean that the acquisition of equipment (such as computers, printers) and their maintenance become insurmountable challenges in the absence of alternative sources of funding. These in turn jointly conspire to retard research outputs considerably.

### 5.3. UN Millennium Development Goals

Global thinking on matters of development have to a large extent come to be dominated by the what are called UN Millennium Development Goals (MDGs) adopted at the 2000 session of the General Assembly.<sup>70</sup> The Millennium Declaration purports to offer a

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<sup>68</sup> See for example L. Hovil *et al.*, "Refugees in Arua District: A Human Security Analysis", RLP Working Paper No. 3, September 2001.

<sup>69</sup> Africare, Concern, IRC, MSF-Spain, NPA, OXFAM, and TCRS. The 7 came under the Refugee Interested Network Group (RING).

<sup>70</sup> The original International Development Targets (IDTs) were derived from a series of UN global conferences during the 1990s. At the 2000 UN Summit representatives from over 180 countries formally agreed to an augmented set of targets with corresponding indicators. Tanzania was represented at the

common and integrated vision on how to tackle some of the major challenges facing the world. The eight challenges that States have set themselves to achieve by 2015 are:

- Eradicate poverty and hunger;
- Achieve universal primary education (UPE);
- Reduce child mortality rate (MR);
- Improve maternal health;
- Combat HIV/AIDS, malaria and other diseases;
- Ensure environmental sustainability; and
- Develop a global partnership for development.

The MDGs have a clear implication in the question of forced displacement. In one way or another each of the eight goals is a critical factor in the dynamics of forced migration. In our view, MDG Goal 1 (the eradication of poverty and hunger) and MDG Goal 8 (the development of global partnership for development) more than any, have a direct bearing in the discourse on the causes and consequences of displacement and thereby on durable solutions. Take the issue of poverty.

Discussing the 'push factors' in countries of origin, we pointed out armed conflict, generalised violence and the insecurity they engender as the most immediate and prevalent factor. We also added that there is a school of thought which attributes these armed conflicts to grinding poverty<sup>71</sup> (but also as 'ethnic' and/or 'resource based'). With regard to the poverty nexus we cautioned that available information is far from conclusive. It was pointed out for example, that it is indeed true that all the conflict prone countries in the GLR (Rwanda, Burundi, and DRC, in particular) rank very low on the UNDP's Human Development Index. But relying on this 'poverty criteria' in isolation from other variables is questionable since not all countries at the rock bottom of the list of 'the poorest of the poor' are locked in conflict. And yet it cannot be disputed that 'poverty' is a critical factor in understanding and addressing the conflicts raging in the GLR. As we argued, conflicts found in the GLR tend to be of an internal nature (despite the involvement of 'foreign elements'), with over 90% of their casualties being civilians. Another and more pertinent characteristic of the conflicts in the GLR are their grave effects on economic growth and livelihoods. By addressing these problems, namely of per capita income, income inequality, inequalities beyond income and reducing hunger in the rural areas of conflict-prone countries, conditions may be created that would facilitate a speedy and irreversible repatriation of refugees. It may be recalled that repatriation facilitates a return to cordial relations between source and host country governments (when the home country is denied the excuse to question the motives of the host country in granting asylum as in the case of Tanzania/Burundi and Tanzania/Rwanda bilateral relations). Repatriation also provides the manpower, both skilled and unskilled, necessary for nation building. Here the nexus between poverty and conflict is seen less from the 'push' angle (as a cause of forced migration) but more from the 'pull' side, that is a factors that would attract refugees to repatriate - bringing peace dividends, encouraging economic growth and significantly alleviating the burden on countries of asylum.

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Summit and is among the first countries to produce a progress report as required under the terms of the Millennium Declaration adopted by the General Assembly.

<sup>71</sup> A ready example is the UNDP's Human Development Report series.

Just as Goal 1 (poverty eradication) is critical to the discourse so too, is Goal 8 (global partnership for development). As we have pointed out earlier all the six countries (save Kenya) comprising the GLR belong to the UN's LDCs category with a debilitating debt burden. Two of them, Rwanda and Burundi, are landlocked. We also know that Goal 8 seeks to:

- Develop an open, rule-based, predictable, non-discriminatory trading and financial system;
- Address the special needs of LDCs, landlocked (and small island) developing countries, including the launch of a programme of debt relief for the Highly Indebted Poor Countries (HIPC);
- Deal comprehensively with the debt problems of Developing Countries through national and international measures;
- In cooperation with developing countries, develop and implement strategies for decent and productive work for youth;
- In co-operation with pharmaceutical companies, provide access to affordable drugs in developing countries; and
- In co-operation with the private sector, make available the benefits of new technologies, especially information and communication

What of the status and the prospects for the implementation of this laudable goal? The 2002 UNDP Human Development Report justifiably, and generally, draws a sceptical picture. It notes for example that around \$56 billion is given as development assistance each year by industrialised countries. This amounts to 0.5% of the GNP of the countries on the Development Assistance Committee (DAC) of the OECD, and significantly, substantially less than the 0.7% agreed at the UN General Assembly in 1970. There are serious constraints with regard another key target - trade and foreign investment. The Report observes how, despite a general increase in foreign direct investment (from 0.9% to 2.5% of GDP of recipient countries), developing countries, and LDCs in particular, received only a drop in the ocean.<sup>72</sup> Likewise on employment, while the UNDP Human Development Reports (2002 and 2003) contain no data on the situation of unemployment among the youth in the GLR, anyone travelling through the countries and particularly urban areas, is always struck by the promiscuous presence of young persons and adolescents clustered in groups around street corners with no apparent preoccupation.

Writing for the *International Herald Tribune* recently,<sup>73</sup> Tanzania's State President, Benjamin Mkapa, gives an indication of what it takes to accomplish the MDGs. The article stresses three factors: political will and good governance in the poor countries; local ownership of initiatives, achieved through direct participatory democracy in setting priorities, planning, implementation and evaluation; and a supportive *international environment*, particularly as regards direct aid, debt relief, enhanced market access and reform of agricultural subsidies in rich countries. It is probably because of the continued absence of an enabling international environment that only modest achievements have been recorded. President Mkapa shows for an example, how "tremendous successes" were achieved in relation to Goal 2 (attainment of universal primary education) in a record time. Good governance led to increased revenue

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<sup>72</sup> UNDP, Human Development Report, UNDP, 2002, p 31.

<sup>73</sup> In a piece (July 2004) entitled 'A Better Way to Help the Least Development Countries'.

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collections but also facilitated the adoption of clear and coherent policies, namely the Primary Education Development Plan (PEDP). But the country also received debt relief under the World Bank's enhanced HIPC Initiative which in turn prompted more donors to provide financial assistance directly into the national budget or into a pooled fund for the PEDP. As a consequence, the number of children in school increased by 50%; gross enrolment ratio rose by 27%; 31,825 classrooms and 7,530 teachers' houses were constructed; 17,851 new teachers were recruited with a further 14,852 sent to upgrading courses; pass rate at school examinations rose from 19.3% in 1999 to 40.1% in 2003; and around 12,689 school committees were trained to build capacity for local implementation of projects and management of the schools.

One can say there is emerging consensus on the decisive role an enabling international environment can play in allowing LDCs to achieve the MDGs. Equally there seems to be consensus on the prospects, with more and more observers projecting rather modest progress in the bulk of countries, particularly the poor.

The authoritative UNDP Human Development Report (2002) identifies that many countries have made progress. However much of the world, generally the poorest countries, seems unlikely to achieve the goals. In particular, 33 countries with 26% of the world's people are failing on more than half the Goals. The Report however isolates Goal 2 (universal primary education) and Goal 3 (gender equality and empowerment of women), eradication of hunger (part of Goal 1), and improving water supplies (part of Goal 7) as the areas with the most optimistic chances. Also, given the gains on universal primary education and gender equity and their importance to the general question of development, it can be reasonably concluded that this augurs well for the remaining 7 Goals. But the Report quickly serves a caveat. It notes with alarm that current positive trends notwithstanding, more than 40 countries, with 28% of the world's people, are not on track to halve hunger and that 25 countries, with 32% of the world's people, may not halve the share of people lacking access to an improved water source. Most pressing, the Report observes, are prospects on reducing the mortality rate among children. 85 countries with more than 60% of the world's people "are not on track to achieve the goal".

## 6. CONCLUDING REMARKS AND POLICY RECOMMENDATIONS

1. With a total population of around 1,530,047 refugees and asylum seekers and a further 4,730,348 IDPs, the six GLR countries of Tanzania, Burundi, DRC, Kenya, Rwanda and Uganda together constitute the area with the largest displaced population in Sub-Saharan Africa. It is also a problem that has increased astoundingly over the last four decades. The GLR is at the same time a region of considerable economic potential given its vast natural and human resources. Sustained international attention on this region is therefore warranted. If neglected the threats confronting the GLR could predictably be a source of a major humanitarian catastrophe, the 1994 genocide in Rwanda is testimony to this.
2. The search for appropriate policy responses to the problem of forced displacement in the GLR must acknowledge the *multiple* nature of causes (economic, political, social, geopolitics) and the *dynamism in their interplay*



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such that responses must also assume a 'multi-pronged' character. Policy responses have to be designed in such a manner as to distinguish between root causes (political and economic marginalisation, gross and systematic human rights abuses, statelessness), triggers (economic decline, unemployment, armed conflict) and manifestations (social stigma, extremists propaganda) in order for the appropriate policy responses to be effective and sustainable.

3. Accordingly, those initiatives resolving the problems confronting the GLR countries in a holistic, comprehensive manner deserve unwavering support. The experience of the GLR has been and continues to be that instability initially generated by internal factors in one country rapidly spreads to create a dynamic of conflicts in the entire region. The initiative taken by the UN Security Council to convene an international conference on the GLR in November 2004 is a step in the right direction and similar initiatives (e.g. by the African Union, EU) deserve the unwavering support of the international community, including DFID.
4. Generally, the *Open Door Policy* of earlier decades known for its egalitarian considerations has given way to a 'restrictionist' refugee regime, the existence of forward-looking national laws on refugees notwithstanding. As justification for the policy shift, governmental authorities cite the purported adverse impact of refugee presence on security, environment, infrastructure, social services and local administration. Research findings generally acknowledge this correlation but dispute a linear, simplistic interface. Governments should therefore be encouraged and supported to undertake independent, expert studies on this correlation.
5. A major characteristic of the new policy response in a number of countries in the GLR is the effective rejection of local integration as a durable solution and in particular, the granting of citizenship to erstwhile refugees. Instead, prominence is given to repatriation (and to a lesser extent resettlement), and the establishment of 'Safe Zones'. Along with this is the entrenchment of 'encampment' (as opposed to 'self-settlement') and the adoption of parallel (rather than integrated) social services (education and health in particular). This is another area where Governments should be encouraged and supported in carrying out independent studies durable solutions that are realistic, appropriate and effective. For example, research in northwestern Tanzania seems to indicate that if harnessed well, interventions by humanitarian agencies in the area of education and health can bring significant benefits to refugees and host community members alike.
6. Legislation and practice in the GLR increasingly is making the enjoyment of the right to work complicated. Yet studies have repeatedly shown that despite the availability of food aid and services in places of encampment, forced migrants prefer freedom and the autonomy to decide and rebuild their own lives. By suppressing the creative energies of refugees, relief programmes become expensive and wasteful in both human and financial terms. Enjoyment of the right to work, presently curtailed by encampment policy, work permits and restrictions on the freedom of movement should therefore be reviewed.

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7. In contrast, 'self-settled' refugees in rural areas (e.g., western Tanzania) have converted the inhabited local area into a major breadbasket for the country further bringing into question the virtues of the encampment policy so prevalent in the region. Observers cite Egypt, Gambia, Kenya (urban refugees), Uganda (Moyo District), Zambia (Maheba), Cote d'Ivoire to illustrate the positive impact of self-settlement on the refugee hosting areas, the nation at large, and individual refugees. Case studies do exist and countries with an exclusively encampment policy should be encouraged and supported in drawing the appropriate lessons. There is also consensus among many authoritative observers that the prevalent 'relief and maintenance' should be displaced by a 'developmental' approach.
8. Addressing the root causes of the conflicts in the GLR entails adopting structural measures around three key issues. *Firstly*, decentralisation and devolution of governmental authority and responsibility. Governments in Africa, and the GLR included, assume authority and consequent responsibilities so much that "the African government promises all, satisfies few and antagonises most". Without the means necessary to satisfy boundless demands, the government is left with little choice other than coercion to suppress these. Devolution can reduce this source of tension and the ensuing conflict.
9. Secondly, the temptation to impose national unity and attain a 'post-ethnic' state should be resisted. 'Enforced integration' has proven to be counterproductive and costly. Rather, the approach should be one of 'benign integration' that is, by policies and measures drawn with the participation of those communities being integrated. Critically, the said policies and measures should not threaten or restrict the values and needs of the concerned communities.
10. Thirdly, governance and political exclusion is a major constraint. Ideally, elections ensure popular participation in governance but also represent an opportunity to bring about change in the leadership. The 'winner takes all' electoral system prevalent in Sub-Saharan Africa may be perverted and rob elections their legitimising function. This may happen where the majority ethnic community succeeds in monopolising power to the permanent exclusion of minority groups (or vice versa). The unintended result therefore of an otherwise 'free and fair' election could well be the 'tyranny of the majority'. Conversely, it is undemocratic, politically objectionable and historically unwise for a ruling minority to imagine their hold on power will be sustainable with the majority relegated to the periphery of the national polity and their basic socio-psychological needs ignored or suppressed.
11. Characteristic of migration in the GLR is that it is cyclical, induced by war, with the greater bulk of victims being civilians, often, poor, rural inhabitants and the most vulnerable. It is critical to check this cycle of impunity (if indeed it exists) by giving national legal articulation of a well-known war crime. Both IDPs and refugees are at times the victims of the practice of mass deportations. All States of the GLR are signatories of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 (not to mention the Statute of the International Criminal Court, 1998), which does recognise such an offence.

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12. Perceptions on IDPs and more so refugees have undergone a dramatic change over the last decade or so. A strategic approach should be to create an atmosphere in which policy-makers take decisions on an informed basis utilising state of the art analytical tools. In tandem, members of the general public should be exposed to dissemination campaigns whose purpose is to allow them to acquire as objective and accurate an understanding as is possible of displaced persons. Equally campaigns should help displaced persons to appreciate the environment within which they find themselves and more importantly, the expectations of host communities.
13. It is not rare to be confronted, especially in the refugee hosting areas (RHAs), with employees of such key government institutions as the Immigration, Police, Judiciary, Local Government, who despite a routine and intensive engagement with refugee matters, lack the basic knowledge and skills (let alone equipment) essential to the competent and effective discharge of their duties. Training of this cadre, and the general teaching of refugee law, presents itself as an indisputable priority. Host States have legitimate (and some questionable) security concerns. But by and large, this is an area in which the international community shows considerable reluctance to fund, as is clearly the case in Tanzania.
14. Conceptually imprecise, politically controversial as they may be, the principles of international co-operation and burden sharing constitute key elements in permitting economically, politically and socially challenged host countries to fully meet their obligations. Continued discourse on the practical ramifications of these principles should be encouraged. When they are given lip service or ignored all together they prompt already overwhelmed host states to adopt extraordinary measures (such as 'safe zones') whose ultimate result is a further deterioration in the standards of treatment asylum seekers and refugees are able to enjoy, not to mention increased tensions in inter-State relations.
15. The problem of proliferation of Small Arms and Light Weapons is real and huge so much so that one GLR nation, the DRC, is the "most dangerous country" on account of the high rate of weapons related deaths. More research has to be conducted to identify source countries, transit points and buyers, as a first step towards keeping out lethal weapons from an already volatile space. France, China, the USA and Russia (pre-eminent members of the very UN body entrusted with the maintenance of international peace and security) are the world's leading merchants of arms. The value of all arms transfer agreements with developing nations in 2001 was nearly \$16 billion, with the USA raking in 43.6% of these agreements. Developed nations should be asked to reign in their arms merchants.
16. The virtue of economic integration in spurring development and enhancing the competitiveness of the global market has been long accepted, and this explains the proliferation of economic integration blocs globally. Presently, Rwanda, Burundi and the DRC are poised to join Tanzania, Kenya and Uganda in the East African Community (EAC). Sceptics point to the possibility of extant conflicts in these countries 'spilling over' to the territories of the existing Partner States. Optimists, on the other hand justifiably focus on peace dividends, enhanced market opportunities and socio-cultural dynamism from having the

Burundi, DRC, and Rwanda inside, rather than outside the EAC. In this respect, efforts to strengthen and expand the EAC deserve support.

17. By its very nature, forced displacement requires the inputs of a variety of actors. In GLR one cluster of stakeholders is hugely disadvantaged. While at the centre are Governments, IGOs and a handful of indigenous NGOs, a motley crew of ill-equipped, poorly-staffed civil society bodies (including academics) struggle to remain at the periphery. Centre for the Study of Forced Migration (Tanzania's only public research institute) depends for funding solely on the unpredictable generosity of foreign based charity organisations. Capacity building for research institutions and civil society bodies in the GLR is a matter deserving enhanced attention.

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## Regional Paper II: South Asia

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**Regional Paper II: South Asia**

## **1. DEVELOPMENT OF FORCED MIGRATION IN THE REGION**

### **1.1. Refugees**

For more than the last five decades South Asia experienced population movements of various sorts. The politics of partition triggered off large-scale migration in 1946-47 with about 8 million Sikhs and Hindus moving from the newly created state of Pakistan, and 6-7 million Muslims from India to Pakistan. In 1971 about 10 million Bangladeshis sought refuge in India to flee the persecution of the Pakistani military forces. In all the above cases the receiving governments provided much needed assistance. While international support was virtually non-existent in 1947, such support was crucial for the care and maintenance of refugees in 1971.

The region also received people from Burma, Tibet and Afghanistan. Although following the overthrow of the Taliban, many Afghan refugees returned home, an estimated one million stayed back in Pakistan. In 1978 and later in 1991-2, Bangladesh experienced two major influxes of refugees from its neighbour, Burma. On both occasions about a quarter of a million of the ethnic Muslim Rohingyas were forced out by the Burmese military from the adjoining state of Arakan of Burma.

In the post-independence period, the South Asian states also experienced refugee inflows from their neighbours. To escape violence of communal riots in the early 1980s and later the civil war, hundreds of thousands of Sri Lankan Tamils sought refuge in the neighbouring south Indian state of Tamil Nadu.

The discriminatory policies of the Bhutanese government against the ethnic Lhotsampas of southern Bhutan had led to an exodus of about 100,000 to neighbouring Nepal in the early 1990s. The bulk of these refugees have been living in the Jhapa camps of south-east Nepal; enjoying the support of the Nepali state and the international community.

The discriminatory policies leading to military action of the Bangladesh rulers against the ethnic hill people of the south-east led to the creation of 64,000 refugees, seeking shelter in the Tripura state of India. Following a peace agreement between the political leadership of hill people and the Bangladesh government in 1998, the refugees returned to Bangladesh.

### **1.2. IDPs**

South Asia also hosts a large number of internally displaced persons (IDPs). IDPs are created by many factors: human rights violations, environmental degradation and ill planned development initiatives. This paper, however, deals with the IDPs who are victims of human rights violations, committed both by state and non-state actors.

The Tamils in Sri Lanka's<sup>1</sup> north and east constitutes the largest stock of IDPs in South Asia. UNHCR estimates that about 1.2 million people were internally displaced in Sri Lanka. 78 percent of the displaced are Tamils, 13 percent are Muslims and 8 percent are Sinhalese. (Senanayake, 2003)

In India it is estimated 250,000 Hindus and Muslims of Kashmir, are internally displaced. To escape violence in the hills, these people mostly moved to the adjoining provinces, some to major metropolitan areas of India. Conditions that gave rise to generation and movement of hill refugees from Bangladesh to India also created an unspecified number of IDPs in the hill districts of Bangladesh. In the mid 1970s, demographic engineering of settling Bengalis from the plains to the hills, by the state, preceded this.

Constructions of dams contributed to the displacement of a large number of people in South Asia.<sup>1</sup> As these projects are generally located in remote hill districts they adversely affect the marginalised lower caste, tribal and poor communities. Displacement has led to their loss of livelihood, assets, habitat and severance from the traditional ecosystem that sustained them. In most cases project planning did not account for appropriate and adequate compensation packages. The non-governmental sector also generally has limited programme coverage in the areas where they relocate themselves.

### **1.3. Un-Registered Asylum Seekers**

This category of people does not fall into any of the other groups of forced migrants such as refugees, asylum seekers or IDPs. They crossed international border claiming persecution in the host country but did not get any opportunity to place their case before any competent authority. In other words, they have been denied the right to stake a claim for refugee status in their country of current stay. Unofficial estimates suggest that Bangladesh hosts tens of thousands of Rohingyas from Burma, while Nepal and India hosts about 20,000 and 7,000 Bhutanese respectively.

These groups of unregistered people are in a vulnerable situation as they do not have documents authorising their entry and stay in the countries they are currently located. They do not enjoy any protection of UNHCR or host governments and are not formally entitled to any basic facilities offered by UNHCR and other international agencies like food, shelter, health and education. Legally, they cannot be engaged in any gainful activity. Although the authorities tolerate their stay and have not formally taken any step to forcibly repatriate them, absence of formal recognition of their status makes them vulnerable to ill treatment, harassment and exploitation.

## **2. FACTORS CONTRIBUTING TO FORCED MIGRATION**

If one analyses forced migration situations in South Asia one finds an array of factors contributing to it. Firstly, forced migration was an integral part of the state formation process in the region. Politics based on religious division led to the birth of India and Pakistan in 1947. Communal riots among Hindus, Muslims and Sikhs contributed to the

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<sup>1</sup> The Kaptai Dam Project (1957-62) in the Chittagong Hill Tracts led to the displacement of 100,000 hill people and loss of 40 percent arable land of the district. 40,000 Chakmas had to seek refuge in North-East India. 21,000 families were uprooted and relocated in the states of Rajasthan, Haryana and Punjab when the Pong Dam inundated their homes in India in the late 1980s. In addition, the Arun III project of Nepal, Kalabagh and Bhasha dams in Pakistan, Mahaveli Project in Sri Lanka and Sardar Sarovar and Tehri projects in India were all controversial development initiatives. that in most affected the marginalised lower caste, tribal and poor communities.

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massive movement of minority groups who fled their habitual place of residence to protect life and liberty.

Secondly, occupation by foreign powers has been another important cause of forced migration. The Chinese annexation of Tibet and the Soviet occupation of Afghanistan led to large refugee exodus to their neighbouring countries.

Thirdly, the use of coercive force by the state has also generated forced migration. The exodus of the 10 million Bengalis in the wake of Bangladesh's independence was triggered off by the brutal military suppression of Bengalis' aspiration to form their own government following the first ever general elections in then East Pakistan. Likewise, the Bangladesh military's campaign in the hill districts in the 1980s also contributed to refugee flows to India and internal displacement. Campaigns by the military and non-state actors in Sri Lanka, Nepal and in the Kashmir province of India have also created internal displacement in all these countries.

Fourthly, in many instances force was used to quell the linguistic, cultural or ethnic aspirations of minority groups. The refusal to accommodate the aspirations of the minority groups (or the majority group in case of Bengalis in Pakistan) often led to their launching of political struggle within the formal political process. The persistent rejection of the minority groups has led to radicalisation of such movements, only to be challenged the by coercive power of the state apparatuses controlled by the majority. Such situations have often escalated to generalized violence, uprooting people and triggering forced migration - international and internal. The Bengali's struggle for self-determination within the framework of Pakistan, the Tamils' struggle in Sri Lanka, the hill people's struggle in independent Bangladesh and the Kashmiris, Rohingyas and Lhotshompa's in India and Pakistan, Burma and Bhutan respectively, are all testimonies to this effect.

### **3. CHARACTERISTICS AND DIRECTIONS**

#### **3.1. Shared Ethnic, Religious and Linguistic Identity**

Generally, various groups of forced migrants of South Asia share some common characteristics. In most cases, they share same religious, ethnic or linguistic traits. Religion was the single most binding factor of those uprooted and displaced during the state formation period of 1946-48. The overwhelming bulk of those who migrated to India were the Hindus and the Sikhs. Likewise, the Muslims constituted the reverse flow from India to Pakistan.

The forced migrants from outside the region also enjoyed shared ethnic or religious bonds. The Tibetan refugees were the followers of Dalai Lama and the Rohingya and the Afghan refugees were Muslims. It is interesting to note that in the first two instances although they constituted the majority in Tibet and Arakan regions respectively, the denial of their autonomous status, settlement policies pursued by the central government of China and Burma and the militarization of these territories created conditions for members of these ethnic-religious groups to flee. The case of the Afghan refugees was somewhat different. Initially their movement was induced by the presence of a foreign occupation army and later by the extreme religious orthodoxy of their co-religionists.

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The militarisation and the resultant ethnic conflict and later coming into power of the religious zealots, the Taliban, had forced the Afghans to move.

Common ethnic and religious traits were also the hallmark of the refugee populations that were generated within the region. The groups of refugees from the hill districts of Bangladesh who sought shelter in India in the 1980s belonged mostly to the Chakma community. Likewise, the Sri Lankans who were fleeing the civil war were mostly Tamil Hindus and the Bhutanese who sought refuge in southern Nepal were all ethnic Lhotsampas.

Ethnic, religious and linguistic traits were shared by various groups of the internally displaced population as well. The IDP of Sri Lanka belonged to the Tamil ethnic group. Likewise, Kashmiri Pundit IDPs were all Hindus. The bulk of the IDPs of the Chittagong Hill Tracts (CHT) region of Bangladesh also belonged to the Chakma ethnic community. Civil war, insurgency and counter-insurgency operations also displaced members of other communities. A substantial number of Muslims of northern Sri Lanka were uprooted by the Tamil separatists in execution of their plan for the creation of Tamil land in the region. Likewise, the operation of the Indian security forces and non-state agents in the Kashmir state has displaced a segment of the Muslim population there. The activities of the Maoists engaged in guerrilla warfare and the excesses committed by the Royal Nepali Army in its counter insurgency operations has displaced an unspecified number of the Nepalis in many districts.

### **3.2. Group Movement**

An important characteristic of the refugee and asylum seekers of South Asia has been their tendency to move in large groups. The processes through which they get uprooted make them vacate their habitual place of residence and move in large groups.

During and in the immediate aftermath of the communal holocaust that engulfed the region during the partition of 1947 people belonging to various religious faiths began moving into areas, which they considered safe and secure. In most cases, they moved as groups. Belonging to a group provides a degree of security during the course of the movement. Historical and literary narratives of partition of the subcontinent chronicle movement of massive numbers of people across the newly demarcated border between India and Pakistan.

Banding together has been a major feature shared by various refugee groups both from outside and generated within the region. This feature marked the flights of the Tibetans, Chakmas and Sri Lankan Tamils into India, the Afghans into Pakistan, the Rohingyas in Bangladesh and the Lhtotshampas in Nepal. However, in all cases after the initial flight in large numbers, refugee flows are likely to continue in small numbers.

### **3.3. The Issue of Return**

When conditions in the country of origin mark substantial improvement and the sources of threats to life and liberty (that contributed in the refugee flow in the first place) cease to exist, the refugees return home rather quickly.

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Immediately after the liberation of Bangladesh the bulk of the ten million refugees in India went back. Such return was spontaneous and quick, and was not contingent upon manpower, structures and institutions that were envisaged for the facilitation of organised return. The fall of the Taliban regime in Afghanistan was also marked by large numbers of Afghans returning to the country. Of course, due to uncertainty prevailing in the country about a third of the refugees are yet to go back.

The progress in peace talks between the State and the Liberation Tigers of Tamil Eelam (LTTE) was also followed by the return of the refugees from Tamil Nadu in India. Similarly, repatriation of the hill refugees to Bangladesh from India took place within a short time following signing of an agreement between the political wing of the insurgent Shanti Bahini and the Government of Bangladesh.

In the country of origin where there is a lack of substantive improvement in conditions, where sources of threats to life and liberty continue to exist and the state and non-state agencies pursue their coercive policies refugees feel unsafe to return and prolong their stay. The caseloads of the Tibetans in India, Lhotsampas in Nepal and the Rohingyas in Bangladesh are pertinent examples.

#### **4. MOVEMENT OF FORCED MIGRANTS**

##### **4.1. Routes and Destination**

As in other large-scale refugee situations, immediate neighbours became the most important destination of all refugee flows in South Asia. Despite the fact that the partition refugees were generally welcome in their destination countries and support services were extended to them, the trauma of communal riots and concomitant uncertainty, and their sheer volume contributed to major hardships in their movement. The rail route that existed at the time across Punjab and Bengal ferried the bulk of the refugees from major towns. Many refugees used steam ships that operated between the Calcutta port and Goalundo. People of the bordering villages, however, crossed borders by foot with their material belongings on their shoulders or on bullock carts.

Most of the post-independence refugee groups had to negotiate difficult terrain to reach their destination. Many had to overcome rugged ground. Of all the groups, it was the Tibetan refugees who had to negotiate the most difficult terrain, to reach their destinations in India and Nepal. The Afghan refugees also had to pass through difficult Hindukush Mountains before entering Pakistan.

The Chins and people of other nationalities of Burma generally cross Burma's long north-western border with India by foot. The rough topography and the deep jungles posed major challenges. Rohingya Burmese from the Arakan had to cross the Naf river to reach the Teknaf region of Bangladesh. Crossing the river was not difficult. Patrolling of the border by the NaSaKa, the Burmese Border Guards, and the Bangladesh Rifles further increased their risk. The Nepali speaking Lhotsampa refugees from Bhutan had to cross Indian territory near Darjeeling to reach their destination in southern Nepal. The Chakma refugees of Bangladesh also had to negotiate hill and forest conditions to reach their places of destination in the plain lands of Tripura in India.

## 4.2. Secondary Movements and Migration Networks

The forced migrants do not necessarily end their journey once they reach a safe country. While most may choose to remain in their first port of call that brings in security, others may decide to move on. In a very few cases these secondary movements are documented and regular where refugees may secure asylum or other authorization to travel to a third country through valid means. In most other instances they proceed through an irregular route.

The decision regarding secondary movement may be guided by several factors. The migrants may be denied entry in the country of first asylum, as happened to Lhotsampas in India and move on to a second destination. In situations of mass influx, which is often the case in the region, the authorities of host countries usually put the refugees in camps that entail many restrictions such as on freedom of movement, freedom to pursue income-generating activities and seek employment and freedom to organize. Though in the camps residents are provided with basic rations, medical services and sometimes opportunities for education, they need cash to buy vegetables, fish or other foodstuff, toiletries and other items. All these make some households explore opportunities to enhance income. Some work outside the camps illegally, but continue to live in the camps; others move out of camps, risking losing their refugee status.

For those who command some resources, further migration can be yet another option. The secondary migration of Rohingyas from Bangladesh to Malaysia, Pakistan and Saudi Arabia is commonly recognised phenomenon. These migrants may, on the one hand, send remittances to the families left behind in the first country of destination; they may also secure jobs and sponsorship for facilitating subsequent migration of other family members. In many instance they secure their travel documents often concealing information about their own country of origin.

Social networks of the migrants play a major role in secondary migration. There exist extensive support institutions in many countries particularly if the community concerned is engaged in a political struggle. The settled migrants belonging to those communities consider it as their obligation to help settle a fellow community member. Such support could be in the form of providing shelter, securing work, directing to access social security, health care and other services. Sometimes political or religious groups help them with the expectation that they could be potential recruits to their cause. The Tamil diaspora of Sri Lanka has been particularly active in many developed countries. The Tibetan and the Burmese diaspora, though relatively small in number, have also had effective community networks, that support new migrants.

## 5. NUMBER OF FORCED MIGRANTS

**Table 1: Refugees, Asylum Seekers, and Others of Concern to UNHCR, End 2002**

Country	Refugees	Asylum Seekers	Returned Refugees	Internally Displaced Persons	Returned IDPs
Bangladesh	22,025	22	-		22,047
India	168,855	501	-		169,356
Nepal	132,436	11			132,447
Pakistan	1,227,433	1608			1,229,041
Sri Lanka	28	13	466	447,080	236,206

Source: 2002 UNHCR Population Statistics (Provisional)

The above table indicates the size of forced migrants in South Asian countries. Barring Sri Lanka, all the countries under the study host a sizeable number of refugees. In 2002 both India and Nepal host more than 100,000 refugees, while Pakistan sheltered a staggering 1.22 million.

South Asia is not an attractive destination for individual asylum seekers. The figures above indicate that only Pakistan and India had to consider a small number of asylum applications, 1,608 and 501 respectively. The share of the other countries was negligible. Sri Lanka hosted 11.83 percent of global total of IDPs making it the largest IDP generating country in South Asia. UNHCR figures do not suggest existence of IDPs in other South Asian countries.

**Table 2: Number of IDPs in Selected Countries**

Country	Number of IDPs	Estimate Date
Bangladesh	150,000-520,000	Oct. 2003
India	650,000	May 2002
Nepal	100,000-200,000	Oct. 2003
Pakistan	45,000	June 2002
Sri Lanka	386,000	Dec. 2003

Source: Global IDP Survey

The Global IDP project takes a broader definition and includes not only the victims of human rights violations, but also those affected by ecological factors and human induced disasters. Under this widened definition the number of IDPs is calculated to be higher in India and Bangladesh than of Sri Lanka.



**Table 3: Warehoused Refugees in Selected South Asian Countries**

<b>Years Since Outflow Began</b>	<b>Population</b>	<b>Current location</b>	<b>Number</b>
24	Afghans	Iran and Pakistan	2,100,000
21	Sri Lanka	India	100,000
15	Burmese	India	50,000
14	Tibetan	Nepal	20,000
12	Bhutanese	Nepal	114,000
12	Indian Kashmiris	Pakistan	17,000
10	Burmese	Bangladesh	22,000*

Source: USCR World Refugee Survey 2004;

\*Based on UNHCR estimates.

In the recent past refugees placed in closed camps have drawn international attention. The USCR World Refugee Survey Report 2004 makes a detailed case about the conditions of the “warehoused refugees”. The practice has been defined as “keeping refugees in protracted situations of restricted mobility, enforced idleness, and dependency” with their lives put on indefinite hold. USCR argues that such practice of “condemning people who fled persecution to stagnate in confinement for much of the remainder of their lives is unnecessary, wasteful, hypocritical, counterproductive, unlawful, and morally unacceptable.”

The USCR report informs:

In South Asia hundreds of thousands of refugees remain warehoused in varying conditions. Over 100,000 Sri Lankan refugees have remained in India without rights for up to 20 years. In Nepal, some 114,000 Bhutanese refugees have been encamped since 1992 without hope of a durable solution or a change in conditions. ... Denied the right to work, to own property, to have a livelihood, the enforced idleness has taken a harsh toll on the refugees' lives. (UNSC, 2004)

The report, however, notes that the Pakistani government is moving forward to improve protection. Although Afghan refugees do not enjoy legal rights, the Pakistani government largely tolerates their employment and free movement, and allows them access to courts. In contrast Afghans refugees in India, do not enjoy any Convention rights.

## **6. DIMENSIONS OF VULNERABILITY: WOMEN AND CHILDREN REFUGEES**

Women and children constitute a very large segment of any refugee population. Despite this they still remain the least researched areas in refugee studies. (Hans, 2001) Although over time, agencies such as the UNHCR have become more gender sensitive, women's needs still remain to be adequately addressed in framing policies and programmes, particularly by the national authorities in South Asia.

## 6.1. Women

Rape constitutes a major threat to vulnerable groups such as refugees or internally displaced women. Soldiers, militants, camp officials and male refugees often become sources of such threats. In addition, women belonging to forced migrant categories are also subjected to sexual humiliation, trafficking, forced marriage, prostitution, abduction and domestic violence.

In many refugee situations in South Asia women suffered sexual assaults. In Sri Lanka, the security forces, the LTTE and the Indian Peacekeeping Forces were responsible for such assaults. When they were in India, the country of refuge, these women were subjected to abuse by the security forces. The Rohingya women refugees experienced similar treatment in the hands of Burmese security forces before and during flight, and by the Bangladesh security forces, camp officials and fellow refugees during their stay in camps. The combatants in Afghan war deliberately targeted the Afghan women. Bangladesh security forces committed sexual and other abuses against the Chakma women that triggered their flight to India. The Lhotsampa refugee women also faced rape and molestation in the hands of the Bhutanese security forces during flight.

Women headed households with young and adolescent female members remain particularly vulnerable in all stages of their flight. Incarceration of their spouse on flimsy grounds by the national authorities remains a major source of insecurity for the Rohingya refugee women in camps as well as Afghan urban refugee women. Bangladesh authorities often employ this method to extract consent for 'voluntary repatriation'.

Poor design of camps can also adversely affect women in terms of privacy and security. Their vulnerability increases if latrines and sources of water are located at a distance and if the camps are poorly lit. Distribution of food rations only through men put women at a disadvantage. Women heads of households were made to offer sexual favours to claim part of the ration that were withheld by camp officials in collusion with the refugee leaders. (Khandaker and Haider, 2000: 61)

Although in most countries refugees are not allowed legal employment, many male refugees find jobs or self-employment opportunities. Women refugees face problems in accessing them due to lack of skills, education and training.

Traditional male domination and deep-rooted cultural practices continue to survive in displaced situations. They become major constraints for agencies that are committed to enhance the position of refugee women and children. Values and beliefs against girl child's education and skills development of women and practices of early marriage, polygamy and dowry are some of the major impediments in improving the condition of the Afghan and Rohingya refugee women. When Afghan refugee women in India began joining and opening beauty parlours that they carved out as a niche for themselves, they faced major resistance from religious heads of the community.

There are also instances where refugee women were empowered despite their vulnerability. Hans (2001) notes that through their creative ability "women refugees have learned to network with local communities and mastered the art of negotiating

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with local bureaucracies". (Hans, 2001: 5) The Lhotsampa refugee women have also demonstrated that how even under adverse conditions they themselves can effect change in their life through collective initiative (Sharma, 2001: 4).

## **6.2. Children**

Refugee children also face a fair share of problems. They are subjected to violations of rights to life, health, education, and an adequate standard of living and need protection from abuse, exploitation, neglect, oppression, discrimination and recruitment into the military. (Levine, 1997: 6) It was in the late 1980s that the issue of refugee children gained serious attention, following the adoption of the Convention on the Rights of the Child.

To avoid recruitment by the guerrilla groups many of the Tamil refugee children in India live outside the camps. These destitute children miss out on the educational opportunities offered to camp residents and become susceptible to getting involved with criminal syndicates. Others join fishing communities.

In Bangladesh, for the first seven years the authorities did not allow UNHCR open schools for refugee children. It was only after a protracted persuasion by UNHCR and NGOs that the authorities relented. In the absence of formal schooling the refugee community organised informal schools so that the children could be educated. Lack of resources precludes many urban refugee families from sending their children to schools in India. As accessing education in the English medium incurs high costs, refugee households who could commit resources to children's education could only place them in Hindi schools. This however would not help in their eventual resettlement.

## **7. SECURITISATION OF FORCED MIGRANTS**

In South Asia states have to tread a difficult course in dealing with the forced migrants. Though refugees and asylum seekers are generally considered to be persons of humanitarian concern, in some instances they are also viewed as security threats.

Baral and Muni have identified the following reasons for viewing refugees as security threat:

- inherent tension among refugee groups along clan, regional, religious and ethnic loyalties;
- likelihood of getting involved in petty crimes and criminal syndicates;
- competition with local population for scarce resources;
- likelihood of having an influence on local politics;
- likelihood of engaging in armed struggle against their own countries of origin. (Baral and Muni, 1996: 25)

In South Asia many instances of forced migration are triggered by violent armed conflicts. Sometimes militants who are parties to the conflicts take shelter as refugees and asylum seekers without the knowledge of the host country. Their presence among the Afghan in Pakistan and the Sri Lankan Tamils, particularly among the post-1990 caseload has been noted. At other times, the host countries use these people to achieve

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their political objectives in their home country. The imparting of training and supplying of arms to the militant Afghan refugees by Pakistan and Tamil refugees by India is widely acknowledged.

Refugees have also been alleged to be involved in trafficking in drugs, small arms, women and children, and have been said to be contributing to the deterioration of the law and order situation in their host countries. The proliferation of drug use in Pakistan after the Afghan refugee inflow, the widespread illegal proliferation of guns among the Afghan and Tamil refugees, the armed fights among the Tamil groups in India and criminal activities in localities that host the Rohingyas are some of the examples that are often cited. However, a close examination of the cases would reveal that refugees' own role in such matters is marginal. (Chandran, 2003:153)

Influx of refugees may be considered as a threat to the livelihoods of the community that hosts them. A rise in the price of essentials, a drop in wages, and environmental degradation are some problems that are attributed to refugees in the receiving community. While these observations generally hold true for most of the refugee case loads in South Asia, it is equally true that refugee situations also bring in resources to the local community that create jobs, contracts and demand in the market, bring in cheap labour for construction, agriculture, manufacturing, transport and service sectors.

In situations where migrants' stay in the host country becomes prolonged, their impact on its political scene may create a cause for concern. This issue becomes particularly complicated for the ethnic or religious composition the group concerned. The local leaders have used the Afghan refugees in Pakistan as vote banks to further their own political interests. The large flow of the Pashtun Afghans into the Baluchistan province in Pakistan generated fears among Baloch leaders that they may become a minority in their own land.

The South Asian states view cross-border migration as a bilateral issue under the framework of national security. It is this mindset that has precluded migration to be on the agenda of any regional forum or dialogue.

## **8. STATE RESPONSE**

### **8.1. India**

India has been a host nation of refugees from across several bordering countries. Tibetans from Tibet, Bengalis from the then East Pakistan, Tamils from Sri Lanka, Chakmas from independent Bangladesh and Chins from Burma are some of the major refugee groups that took shelter in India.

The escape of the Dalai Lama and exodus of some 100,000 Tibetans took place soon after the Chinese rule in Tibet was firmly established. Over 98,000 Tibetan refugees were successfully resettled in several Indian states. These refugees have been provided assistance to build their houses. Infrastructural and educational institutions along with civic amenities were also created for their rehabilitation.

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In 1971, India was faced with the mammoth task of providing shelter to 10 million refugees from Bangladesh who were fleeing from massacre by the Pakistani forces. The refugees were mostly hosted in the camps set along the bordering districts of West Bengal, Tripura and Assam. With the support of the international community, India mobilized a massive relief operation. After Bangladesh became independent most of the refugees voluntarily repatriated within a year of their arrival.

The ethnic tension between the majority Sinhalese population and the minority Tamils have over time led to a series of Sri Lankan Tamil outflows from the island nation. The geographical proximity and ethnic affinity of the south Indian state of Tamil Nadu made it a safe haven for the Sri Lankan Tamils. They arrived in India in different phases and in all cases the flows were linked to the Sri Lankan Army's operation in the Liberation Tigers of Tamil Eelam (LTTE) controlled areas. The Indian government's Sri Lanka policy also had major ramifications for the refugees. The competitive nature of the Tamil Nadu politics and the central government's decision of arming the Tamil militants led to the setting up of a large number of militant camps in the state. (Suryanarayan, 2003: 42) Overtime, the Tamil Tigers emerged as one of the most effective guerrilla fighting forces in Asia. However, the assassination of the Rajiv Gandhi by the Tamil guerrillas brought about a major change in the India's treatment of the refugees. The LTTE was outlawed and the state government demanded immediate repatriation of all Tamil refugees. The central government responded by exerting pressure for repatriation and by curtailing some of the entitlements of the refugees.

India also hosts a good number of Burmese refugees. Soon after the military crackdown on the pro-democracy movement thousands of students and other political activists crossed into the bordering north-eastern states of Manipur and Mizoram. Over the years, the two states became sanctuaries of the persecuted ethnic communities of the Chin and the Arakan states of Burma. US Committee for Refugees estimates the number of Chin refugees in India to be between 20,000 and 40,000. (USCR, 1996: 104) In most cases, these refugees have been fending for themselves. The recent improvement in the relations between India and Burma with commitment to curb and contain insurgency in the border region and the opening of cross border trade between the two countries may have adverse repercussions for the Burmese refugees. (Datta, 2003:131)

India's treatment of refugee groups varies significantly. While the Tibetans were encouraged to settle permanently, India always insisted the temporary nature of protection to other refugee groups. The Tamil refugees enjoy free housing, medicine and education. Clothing and utensils are also provided free of cost, while rice and kerosene are supplied at a subsidised rate. The state government has permitted Tamil refugees to take up work outside the camps, a privilege not accorded to any other refugee groups. Compared to other refugee groups in India the Chakma refugees and Chins received the least favourable treatment. The UNHCR is given a very limited mandate, looking after the cases of hardly 9.3 percent of the total refugees in India. (Lama, 2000: 38) While the agency has been allowed to set up an office in New Delhi it has not been granted access to any of the refugee groups or camps. It was only after an international outcry that UNHCR was allowed a nominal presence in the departure centres for Sri Lankan Tamil refugees.

In the absence of formal legal structures and procedures, the Supreme Court of India and National Human Rights Commission played a key role in safeguarding and promoting the rights of the refugees. In quite a few instances these two institutions have restrained the government from forcible expulsion of refugee groups and repatriation of individual refugees.

### ***8.1.1. Economic Boom and Forced Migration***

India is currently experiencing a major economic boom. All macro economic indicators point to a relatively sustained growth in the foreseeable future. A pertinent question therefore is what implications this phenomenon would have on forced migration. In addition to the massive growth in its indigenous manufacturing sector, the large non-resident Indians in the developed world have been credited for India's accelerated economic growth for their investments in the information technology and communications and other sectors. The country has also created a major niche in capturing outsourcing of contracts of companies based in the developed world.

It is true that this success in the economic realm has contributed to the major growth in the ranks of the Indian middle-class. However, it may be a little too early to positively impact on forced migration patterns in the country and in the region. The economic boom is yet to touch the 375 million people that still live below the poverty line in the country. It will take a while for this boom to positively impact on the neighbouring countries that produce a good section of forced migrants. One may however argue that India's economic growth could further induce forced migration. The energy requirement for the burgeoning economic sectors may demand building of more dams and other infrastructure facilities. These, in turn, may lead to further displacement.

## **8.2. Nepal**

The Lhotsampa refugees from Bhutan first moved into Indian districts of Darjeeling and Jalpaiguri for shelter. After being chased away by the Indian authorities they moved into the eastern parts of Nepal. The Nepalese government admitted the refugees and set up camps and subsequently invited the UNHCR to manage them. The services provided in these camps such as education, health care, water and sanitation, are considered to be the best in the region. A series of inter-ministerial talks between the two governments have not yielded any meaningful result. While the Bhutanese government demands strict adherence to its own categorisation of refugees that would allow only the return of about 10,000 refugees, the lack of stability and continuity of governments in Nepal seriously undermined their ability to negotiate.

## **8.3. Sri Lanka**

Despite the prolonged nature of the conflict the authorities were little prepared to cope with the pressure when large-scale displacement took place. In 1990, in spite of early warnings of expulsion of the Muslims, little was done. It has been claimed that troops were mobilised to stop Muslims from moving into the South. (Fais, 2002) Even when the government launched an offensive against the LTTE stronghold in the north in 1995, it had no contingency plan to deal with exodus of the civilian population.

The state in Sri Lanka takes some responsibility for the majority of the displaced. But its policy has been largely shaped by the military considerations. The defence apparatus

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“has played a crucial role in determining the extent and nature of the humanitarian response to the displaced”, and also in the timing of humanitarian supplies. (Gomez, 2002:10)

Dry food ration is the principal form of assistance; supplemented by materials for shelter construction. Financial assistance for relocation and resettlement are also available. Analysts note that the provisions do not always reach the IDPs and when they did at times they were of insufficient quantity. The policy of the state of providing insufficient supplies to the IDPs in the LTTE held areas, the refusal of material supply for shelter and the imposition of an economic embargo (including medicine), made these IDPs quite vulnerable to malnutrition and disease. Because of the ethnic nature of the civil war the Tamil IDPs are particularly subjected to arbitrary arrest, detention and torture.

#### **8.4. Politics and Forced Migrants**

Forced migration scenarios in South Asia at times are also affected by developments in other parts of the world. The decision of UNHCR to withdraw from the Tibetan refugee operation following China's admission into the United Nations is an important case in point.

Pakistan received massive U.S. support to finance the Afghan refugees during the Soviet occupation. A section of the Afghan refugees were trained and armed by the Pakistan, with the US support to fight the Soviets. The US support registered a sharp decline with the Soviet withdrawal. Pakistan was left to finance the refugee support largely by itself despite the continued presence of a significant Afghan refugee population as the civil war continued. The 9/11 event and the U.S.'s subsequent re-engagement with the Afghan issue turned the situation in favour of Pakistan. As the fight against the Talibans in Afghanistan advanced Pakistan was bestowed with the honour of being the most important non-NATO ally of the United States and was rewarded with increased cooperation in intelligence and defence, major debt relief and foreign aid programmes. Despite the warming of relationship and increased cooperation between the US and Pakistan, Afghan political leadership believe that the latter continues to be a major source of support to the Talibans. Elements within the military, particularly at the lower echelons and the tribal community in the bordering districts still appear to be sympathetic to the cause of the Taliban.

The Karzai government's control over the whole of Afghanistan remains tenuous. Although elections have been planned and voters' registration process has begun, the feuding of the warlords continues. To a large extent the full return of the refugees will depend on the ability of the government to establish effective control over the territory.

### **9. INSTITUTIONAL RESPONSE**

#### **9.1. International Agencies and NGOs**

The involvement of the UNHCR in providing protection and care to refugees varies significantly from country to country in the region. In a large country like India that has experienced various types of flows the relationship also varied depending on caseloads.

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Although India granted UNHCR permission to open an office in New Delhi, the government does not allow the UN body or international agencies such as the International Committee for the Red Cross access to refugee camps. Initially India allowed the UNHCR provide assistance to the Tibetan refugees. However, to the country's dismay the UNHCR withdrew its activities after China became a member of the United Nations. It is only with regard to the Afghan refugees that UNHCR has been given some role in care and maintenance. India denied UNHCR access to Tamil refugees from Sri Lanka, Chakmas from Bangladesh and Burmese dissidents in Manipur and Mizoram states. Following the progress in peace talks between the government and the Tamil groups, when repatriation process commenced the government granted a limited role to the UN body. But when repatriation of the Chakmas began following the signing of an accord between the Bangladesh government and the representatives of the hill people, the Indian government denied any role of UNHCR or ICRC.

The government of India's differential policy in giving access is also evident in granting permission to NGOs. Initially it allowed NGOs to work with the Tamil refugees, but the assassination of Prime Minister Rajeev Gandhi led to curtailment of NGO involvement. NGOs were not allowed to render services to the Chakma refugees in any major way.

The governments of Bangladesh, Nepal and Pakistan had invited and given access to refugees to UNHCR and other international agencies as soon as the situation demanded. In all three countries the UNHCR was allowed a role in determining status and coordinating assistance programmes.

With their specialised knowledge on health, nutrition and education in distress situations the NGOs have become important partners in providing assistance to the refugees in Bangladesh, India, Nepal and Pakistan. NGO involvement in South Asian refugee situations have resulted in experimentation with innovative programmes that are essential for rendering services to large caseloads with limited resources.

Participation of Refugee Women's Forum in health care services for the Bhutanese refugees in Nepal provides important insights. With adequate training, supervision and follow up, women health volunteers of the Forum has made a major difference in developing an efficient health care service to the refugees and the host community. Making recipients pay for service generates incentives for the volunteers and in turn contributes to the project's sustainability. Likewise involving refugee children in developing health messages also resulted in better success rate in dissemination activities.

The UNHCR's policy of promoting self-reliance of refugees pending a durable solution has made important progress in the Indian case. In this scheme NGOs like the Young Men Christian's Association (YMCA) have developed schemes such as needs assessment and resource assessment of refugee families, job placement, vocational training, language training and forming self-help micro credit groups. Another NGO, the Voluntary Health Advocacy Dal (VHAD) is responsible for health referrals and facilitates refugees' access to local government hospitals.



NGO involvement with women refugees in the region is geared towards:

- developing a community based approach to raise awareness of issues among refugees, UNHCR and implementing partners;
- encouraging women to participate in the decision making and training them to take over the management of activities themselves;
- incorporating activities like income generation, skills training, literacy, micro-credit programmes;
- imparting the idea that access to learning would lead to empowerment and financial independence.

The experience of the Bhutanese Refugee Aiding the Victims of Violence (BRAVVE) is an important success story of a vulnerable group building its own organisation. Founded in January 1993 by a small group of educated Bhutanese refugees, it is now an important membership-based organization running vocational training and credit programmes and supported by a number of international agencies.

## 9.2. UNHCR-NGO Relations

NGOs have become important partners of the UNHCR in protection and assistance to refugees. Despite their involvement with different caseloads in varying sectors and degrees in the countries of the region, some international NGOs feel that UNHCR is yet to uphold the Oslo Declaration on Partnership in Action (ParInAc)<sup>2</sup> in letter and spirit. A section of NGOs view that relations between UNHCR and NGOs are not always guided by the 'spirit of greater accountability, transparency, exchange of information and cooperation' that ParInAc proposes. UNHCR's reluctance to share information about its dealing with the host governments, its failure to take a stand in favour of NGOs when governments limit the latter's role, its reluctance to deal with cases of 'new arrivals', and its policy of promoting repatriation to situations where substantive improvement had not taken place, are some major issues of concern for the NGOs. The NGOs deem that in some instances the UN agency's overemphasis on early return has resulted in return movements in less than favourable conditions.

## 9.3. DFID Perspectives

As an institution DFID is undergoing a major restructuring process. Earlier, the country offices enjoyed a fair degree of autonomy. Sectoral teams at the country level were largely responsible for conceiving a project, developing it, identifying partners, mobilising resources, and executing it with hopes that the project would bring desired effects. With institutional reforms and ever increasing emphasis on the attainment of the Millennium Development Goals some in the agency view that there is a likelihood that the scope to develop and execute projects at the country level would gradually wither away. It is also likely to undermine innovation at the country level. In a sense, those working at the country level would essentially be executing policy directives issued from London.

The impact of the restructuring process is quite visible in DFID offices, one member stated. The staff strength in some field offices has been substantially reduced. The

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<sup>2</sup> International Council of Voluntary Agencies and UNHCR 1994 Oslo Declaration and Partnership In Action (ParInAc) Plan of Action.

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earlier 'hands-on' approach of the agency is giving way to more impersonal corporate approach. Under the new dispensation, with emphasis on trimming administrative costs, DFID is likely to favour entering into partnership with other agencies such as the UNDP. In such a scenario it is possible that bigger projects would draw funding, perhaps at the cost of innovative and smaller ones. Some in the agency view that it would be ideal if a niche can be found between these two approaches.

At the country level the Poverty Reduction Strategy Papers (PRSPs) would also have major implications for DFID's work on issues such as forced migrants. At the behest of the donors many countries are now preparing their PRSPs. Once the PRSPs are ready, donors will essentially mobilise resources for projects that would be included within the scope of the respective PRSPs. If forced migrants are included in the PRSP then projects targeting them are likely to draw resources from agencies such as DFID. But if they do not figure at all in the document then it may become difficult for agencies to support projects that target them.

Traditionally DFID has been a cautious agency in pursuing the rights issue. Though there has been some movement forward in espousing rights issue, admittedly there is not much pressure to move in that direction. The Scandinavians have been more focused in this regard. In the donor consortium meetings and also in the bilateral dealings with the recipient countries they are open and persistent about rights matters.

## **10. CASE STUDY: THE ROHINGYA REFUGEES IN BANGLADESH**

In 1978 and again in 1991-92 Bangladesh experienced the Rohingya refugee influx from her eastern neighbour, Burma. The refugees of the 1978 influx were sheltered in makeshift camps and provided with basic care. Following a bilateral agreement between the two governments the refugees were sent back home within sixteen months of their arrival. The next outflow of the Rohingyas began in November 1991. At the peak of the refugee influx a total of 270,000 took shelter in Bangladesh. The Government of Bangladesh (GoB) admitted the refugees who were eventually accommodated in 20 camps. International non-governmental and UN agencies, including the Office of the United Nations High Commissioner for Refugees, were invited to engage in refugee assistance programmes. At the peak of the refugee situation there were as many as 32 NGOs working in the 20 camps.

A major policy consideration for the GoB had been the 'quick and safe return' of the refugees to their country of origin. The GoB considered the refugee problem to be a short-term one, and signed a MoU with Burma on 28 April 1992. Following a separate agreement between the UNHCR and the Burmese government, the repatriation process gained momentum. By the end of August, 204,000 Rohingya refugees were repatriated (UNHCR Update, 1996)

Over the last ten years while the bulk of the refugees were repatriated, about 21,000 remained in camps under difficult conditions. The repatriation process has virtually come to a standstill, while the number of children being born in the camps exceeds the number of refugees repatriated.

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The refugees have been kept in two camps in the southeastern district of Cox's Bazar. They are provided with dry ration that includes rice, pulses, sugar, blended food and oil, clothes, and fuel for cooking. Field findings suggest that items and food provisions supplied by UNHCR are not considered by the refugees to be adequate to meet their needs. In order to bring a variety to their diet the refugees trade part of their ration for fresh vegetables and fish. A recent Medecins Sans Frontieres-Holland report observes that Rohingya refugees "still live in emergency-like conditions that are substandard and unhealthy". They have been confined to congested spaces, with limited water and sanitary services, and restricted access to education. 58% of the refugee children and 53% percent of the adult population have been reported to be suffering from chronic malnutrition, exposing them to disease and physical and mental retardation.

In order to deny the refugees any sense of belonging in the host country, a series of measures were put in place. It was not until the 1996 that the Government of Bangladesh allowed formal schooling in some camps. In 2000 the distribution of vegetable seeds and chickens among vulnerable households was unofficially approved. The freedom of movement of the refugees has been restricted and they have not been allowed to seek employment and engage in any activities outside the camps.

The GoB from the very beginning insisted that asylum for refugees was temporary and encouraged their immediate return. However, several factors have prompted the UNHCR to suggest temporary settlement of the Rohingya refugees in Bangladesh. These include, (a) the unwillingness of the Burmese authorities to accept the total residual caseload, (b) the reluctance of a large section of the refugees to return to a situation where the incidence of forced labour and violation of rights of the people is still rampant, and (c) the lack of enthusiasm of the donor agencies to continue to fund the Rohingya operation, what they see for an indefinite period, without any durable solution in sight. The UNHCR proposed a policy of temporary settlement, which would entail dismantling the camps and allowing refugees engage in income generating activities. The GoB has so far refused to consider any proposal that calls for allowing refugees to move out of camps on the grounds that as one of the most densely populated countries of the world with major resource constraints, Bangladesh can ill afford any such scheme. It further argues that such a measure may trigger a fresh influx of Rohingya from across the border.

With little prospects for repatriation to the country of origin with dignity in the foreseeable future, the unwillingness of the Bangladesh government to consider temporary integration and the reluctance of the donors to continue with funding the operation, the Rohingya refugees indeed face a bleak future in Bangladesh.

## 11. RECOMMENDATIONS

### 11.1. DFID

DFID should develop a critical appraisal of the role of international agencies, particularly of that of UNHCR, to determine if they should be strictly performing their mandated tasks or be part of wider development tasks.

DFID should ensure that repatriation is conducted and promoted to situations where there has been marked improvement in places of origin that contribute to forced migration in the first instance, that returnees have scope to pursue basic livelihood opportunities and effective international monitoring mechanisms are in place.

In view of increasing tendency of international agencies to de-prioritise protection issues particularly in protracted refugee situations the country offices of DFID should monitor if appropriate and adequate numbers of protection personnel of the mandated agencies are in place. Other agencies such as ICRC may be encouraged to perform such activities.

DFID should encourage governments in both countries of origin and receiving countries to incorporate forced migrants in their Poverty Reduction Strategy Papers.

In protracted refugee situations DFID should consider engaging in infrastructure and services development initiatives (building and renovating schools, roads, culverts, medical centres, community centres, planting of trees) to offset negative attitudes about the refugees in areas that experience mass influx.

The DFID should specifically develop a programme to strengthen the capacity of its country offices to monitor the violations of the rights and the concerns of the forced migrants. Officers should be provided training on relevant standards.

The country offices of DFID through their gender specialists may monitor if gender guidelines in the treatment of forced migrants are being adhered to. Monitoring of the treatment of other vulnerable groups such as unaccompanied children and the aged also needs to be ensured. Local NGOs and support groups may be encouraged to engage in such activities.

DFID should strive to increase the capacities of the non-governmental sector to monitor and document violations of rights of the forced migrants, suggest solution and remedies, further engage other institutions of the civil society, facilitate communication between the authorities and the forced migrants, negotiate with the military authorities during conflict situations to ensure supply of food, health care, sanitation, shelter, clothing and education.

DFID may actively engage in the care and treatment of forced migrants through NGOs and other civil society institutions to ensure that they are treated as per international guidelines.

DFID should actively support skill development, training and credit programmes both in the host countries/areas and in countries/areas of origin where forced migrants return, particularly in post-conflict situations.

## **11.2. Governments of Receiving Countries**

There is an absence of comprehensive policies and guidelines on displacement and relief, protection and assistance issues are dealt with by various ministries and agencies of the government. Governments should consider setting up a central body on forced migrants in their respective countries. The body should have authority over all actors involved in protecting and assisting the forced migrants. Such a body may be entrusted:

- to frame a comprehensive policy on forced migrants modelled on the South Asian Declaration on Refugees of the Eminent Persons Group and the Guiding Principles of Internal Displacement;
- to monitor the implementation of such a policy by the various ministries and agencies of the government;
- to monitor all other policies and practices that affect forced migrants, including those of the law enforcing agencies and the military;
- to integrate concerns about forced migrants in overall government policy and ensure that state agencies focus on these needs when implementing the policy;
- to receive, forward and act upon complaints from forced migrants.

There is a lack of a coherent policy and legal framework in dealing with internal displacement. Often policies are vague and shifting, shaped by political and military considerations rather than on recognition of their rights. States are to be informed about the humanitarian dimension of the IDP problem and the Guiding Principles that have been framed for dealing with them.

Concerned governments should take up the issue of statelessness and de-facto statelessness (the plantation Tamils in Sri Lanka, the Biharis in Bangladesh) of the groups of people who are currently staying in their territories and actively consider giving them legal status such as citizenship to bring an end to their long standing plight. DFID may extend cooperation for their rehabilitation and reintegration by supporting their livelihood programmes.

Governments should facilitate the voluntary return of IDPs to their areas of origin by vacating occupied property, clearing mines, speeding up reconstruction efforts and ensuring compensation packages for resettlement. In relocation and rehabilitation programmes due consideration should be given to livelihood options.

Humanitarian assistance to refugees and IDPs including food, sanitation, shelter and health care should be in conformity with the Sphere standards expounded in the UNHCR Handbook for Emergencies, in particular on caloric need, minimum space and health care.

Agencies of the government concerned with women and children matters should be directed to address the hitherto largely unattended issues of concern to refugee and IDP women and girls of rape, domestic violence, incest, prostitution and trafficking. They

should work in conjunction with women's groups and humanitarian organizations in responding to the specific concerns of refugee and IDP women and girls.

A study may be conducted to understand the problems of those Bhutanese and Rohingyas who have been residing irregularly in Nepal, India and Bangladesh, and claim to be persecuted in their countries of habitual residence and demand refugee status. The study should also look into their vulnerability and coping mechanisms. The findings of the study should be disseminated among the respective governments, UN and other international humanitarian agencies and national civil society organisations to raise awareness about these vulnerable groups.

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## Regional Paper III: Middle East and North Africa

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**Regional Paper III: Middle East and North Africa**

## EXECUTIVE SUMMARY

As a region beset by political instability and repression of opposition groups, widespread discrimination towards ethnic and religious minorities, and war and conflict, the Middle East and North Africa region (MENA) is home to the largest numbers of refugees in the world. Significant flows of refugees and other forced migrants within MENA include Palestinians, Sudanese, Kurds, Lebanese, Yemenis, Iraqis, and Iranians. In addition, there have been huge numbers of refugees from Afghanistan to Iran. This report outlines some of the main flows and characteristics of forced migration in the MENA region in the context of changing international refugee policies, ongoing conflict and instability, shifting patterns of local and transnational practices, and the unresolved Palestinian question. We present region-specific challenges to addressing the vulnerability of refugees and other forced migrants in terms of the problem of Palestinian refugees, an overall lack of rights for non-citizens, the urban nature of the refugee situation in the region, and the transnational circumstances of most forced migrants today. The specific dimensions of vulnerability of forced migrants in MENA are characterized as relating to lack of ethnic and minority rights, gender insecurity, and poor support for children. The report highlights the unclear distinction between forced and voluntary migration from the Middle East, using the case of Iraqis as an example. In the final section, the report presents some of the policy initiatives that are being developed to tackle the challenges highlighted in our thematic overview. In doing so, we present many of the actors with whom DFID may think about developing projects, as well as policy areas where DFID might take the lead in designing innovative approaches. Given the historical patterns of forced migration in MENA and the consequences for refugee, IDP, and host populations as identified above, we suggest that DFID tailor its response strategies along five themes: addressing the Palestinian refugee issue, designing programmes and projects around citizenship and rights, finding ways to assist forced migrants in an urban context, bridging the gap between development assistance and humanitarian aid, and engaging diasporas in reconstructing post-conflict zones.

## 1. INTRODUCTION

As a region beset by political instability and repression of opposition groups, widespread discrimination towards ethnic and religious minorities, and war and conflict, the Middle East and North Africa region (MENA) is home to the largest numbers of refugees in the world. Significant flows of refugees and other forced migrants within MENA include Palestinians, Sudanese, Kurds, Lebanese, Yemenis, Iraqis, and Iranians. In addition, there have been huge numbers of refugees from Afghanistan to Iran.

However, with the exception of the Arab-Israeli conflict and the continued displacement of hundreds of thousands of Palestinians, the issue of refugees and Internally Displaced Persons (IDPs) within MENA has not received much attention. It has not only been largely absent from academic writings on the region, but has also not been a priority topic for policy makers in the UK and elsewhere in Europe. Especially when compared with other regions of concern to DFID such as Africa, Southeast Asia and West Asia, the countries of MENA are considerably underrepresented; in terms of policy towards refugees and the process of forced migration, this deficiency is compounded by the lack

of a 'joined-up' policy towards the Palestinian issue and a hostile stance towards asylum seekers from the conflict zones of Iraq, eastern Turkey, Sudan, and Iran. It must be noted that many of the forced migrants from these zones are also Muslim and have been further penalized under government policies to combat terrorism seen to be associated with Islamist groups and governments.

Reflecting a hardening of policies towards asylum seekers and refugees in Europe and generally, governments of MENA states have adopted increasingly harsh policies towards forced migrants within their borders, as well as those seeking entry. These include strict visa requirements, police round-ups and detention of foreign nationals including many refugees, and in some cases, deportation. Over the last several decades, citizenship requirements in MENA states have narrowed, with the result that second and third generation migrants and forced migrants have fewer rights than their parents enjoyed; this can be seen in policies of 'kuwaiticization' in Kuwait, where non-nationals are able to participate in fewer types of employment, or in the virtual impossibility of becoming a naturalized citizen of Egypt. Changing government policies towards non-citizens are compounded by limited protection for refugees, as most MENA countries are not signatories of the 1951 Convention nor do they have domestic legislation protecting refugees.

In this report, we first outline some of the main flows and characteristics of forced migration in the MENA region in the context of changing international refugee policies, ongoing conflict and instability, shifting patterns of local and transnational practices, and the unresolved Palestinian question. We then present region-specific challenges to addressing the vulnerability of refugees and other forced migrants, which we group under five themes: Palestinian refugees, citizenship rights, an urban setting, development assistance vs. relief aid, and the transnational circumstances of most forced migrants today. Next, we revisit each of these themes to tease out the policy implications for DFID, using examples of successful initiatives and good practice in the region. Finally, we set out our overall policy recommendations for DFID and its partners in the region.

## **2. OVERVIEW OF THE SITUATION OF FORCED MIGRATION IN THE MIDDLE EAST**

This section provides information about refugees and IDPs in the MENA region (See Appendix A for a definition of MENA), and asylum seekers from MENA, particularly those in Europe. While we differentiate between refugees<sup>1</sup> as persons who are forced or obliged to leave their homes or places of habitual residence and who have sought refuge

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<sup>1</sup> In this report, refugees are defined as follows in Article 1 of the OAU convention:

"For the purposes of this Convention, the term 'refugee' shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

The term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

outside their countries of origin or nationality, and IDPs<sup>2</sup> as those fleeing similar conditions but who have not crossed an internationally recognized State border, we note that conceptually the difference may be blurred by unresolved border issues and that many persons in MENA may be both IDPs and refugees during their lifetime.

## 2.1. Refugees

The vast majority of refugees in the Middle East are Palestinians, making up about 2,975,000 of the total of 5,377,400 refugees (U.S. Committee for Refugees, 2003; see Appendix B for a compilation of statistics from MENA)). In addition to an estimated 1,506,000 people in the cities, villages, and refugee camps of the Israeli-occupied territories of the west Bank and the Gaza Strip, Palestinian refugees are hosted by Syria (476,000), Lebanon (403,000), Saudi Arabia (240,000) Jordan (1,170,000), Iraq (100,000), Egypt (50,000), and Kuwait (50,000). Other major populations of refugees are Afghans, mostly located in Iran (2,000,000); Iraqis in Jordan (4,000, though this figure is contradicted by UNHCR statistics, below), Kuwait (15,000), Turkey (700), Saudi Arabia (5,200) and Iran (203,000); Somalis in Egypt (7,000) and Yemen (79,000), and Sudanese in Egypt (20,000) (although Sudan also has a strong labour migration tradition to several Middle East countries). If North African states, with a population of 434,000 refugees, are included in the overall volume, the total figure rises to 5,811,400 in the region. Significant populations include Sahrawis in Algeria (80,000) and Mauritania (25,000) and Eritreans in Sudan (280,000).<sup>3</sup>

The most recent flows of refugees relate to the war, occupation and ongoing violence in Iraq, which account for displacement inside the country (i.e. thousands of people left Falluja and went to Baghdad) as well as to neighbouring countries, such as Jordan, Turkey and Iran.

The Islamic Republic of Iran is known to host the largest refugee population in the world. In 1999, Iranian officials reported that there were over 1.8 million refugees in Iran: Afghans make up the largest group (about 1.3 million) and there are also about half a million Kurdish Iraqis (USCR, 2000, in Harrell-Bond *et al.*, 2003). The most recent war and conflict in Iraq failed to produce the large-scale flow of refugees to Iran that were widely predicted and happened in 1991. However, mainly Iraqi Shi'a from the south as well as Iraqi Kurds continue to escape to Iran. Most Iraqi refugees have settled close to the Iran-Iraq border. Because of the freedom of movement that refugees enjoy in Iran, under five percent of the total refugee population live in camps (*ibid.*).

Jordan is another country which has received a great number of refugees related to war and instability in neighbouring Iraq, Israel and the Palestinian territories. In the wake of the 1991 Gulf War, about one million forced migrants arrived in Jordan, fleeing from

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<sup>2</sup> Internally Displaced Persons will be referred to as IDPs throughout this report. The UN's Guiding Principles on Internal Displacement provide a definition of IDPs:

Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

<sup>3</sup> The main source for this information is the U.S. Committee for Refugees (2003) <http://www.refugees.org/WRS2003.cfm#statistics>. Figures for the number of refugees in the region vary widely. Additionally, it is important to note that UNHCR figures for refugee populations do not include Palestinians.

Iraq and Kuwait (Chatelard, 2002). After the 1991 uprising of Iraqi Shi'a in the south and its brutal repression by the previous regime, thousands of Iraqi Shi'a fled to Jordan. In 1996, UNHCR reported that about 1 – 2 million Iraqis had entered Jordan since the Gulf War (*ibid.*). In the wake of the last war of 2003, thousands more Iraqis left for Jordan. While many of them returned last year, a large number has remained in Jordan and there has been a small yet continuous trickle of Iraqis entering Jordan over the past months. Flows of Palestinian displaced people continue to arrive in Jordan after each Israeli clampdown in the occupied Palestinian territories. During the recent Al Aqsa intifada of 2000, Jordan took measures to control mobility of displaced Palestinians from the West Bank into Jordan.

Turkey, due to its geographical position, has received thousands of refugees from several major wars in the region, including the Islamic revolution in Iran, the 1991 Gulf war, the conflicts in Bosnia and Kosovo and, most recently, Afghanistan. Ethnic Kurds from Iraq and Iran have also sought asylum in Turkey. It is also a major producer of asylum seekers, mainly Kurds, who follow historical transnational pathways to Europe, especially Germany.

## 2.2. Internally Displaced Persons

According to the Global IDP Project (2004), while the Middle East is home to the world's largest single refugee population – the Palestinians – regionally, it has one of the smallest internally displaced populations. Across the region there are an estimated 1.8 million internally displaced persons; this estimate should be treated with caution, however, as many IDPs in the region have never been registered. At the same time, the number includes many descendants of IDPs, reflecting the fact that internal displacement in the region has often spanned over several generations. In fact, over half the internally displaced people in the Middle East have been displaced for at least twenty years (*ibid.*).

The wars between Israel and its neighbours after 1948 caused large-scale displacement, including the internal displacement of Arabs within Israel and of inhabitants of the Golan Heights within Syria. These IDP populations, each of which now totals several hundred thousand, have been displaced for decades and there is little prospect for return any time soon (*ibid.*). Hundreds of thousands of people were internally displaced by the civil war in Lebanon from 1975 to 1990. Some 300,000 IDPs remain unable to return because of continued instability in the southern part of the country, which despite the withdrawal of the Israeli army in 2000 is still plagued by clashes between the Lebanese guerrilla group Hizbollah and Israeli forces. The current state of the Israeli-Palestinian conflict has caused additional internal displacement of Palestinians in the Gaza Strip and the West Bank, such as the 6,000 Palestinians displaced by the wholesale destruction of Jenin refugee camp in 2002 by Israeli forces, while continuing tensions between Israel and Syria have prevented the return of the IDPs displaced from the Golan Heights (*ibid.*).

Historical conflict between the Turkish state and the large Kurdish minority in south-eastern Turkey, estimated to number between 12 - 20 million (US DOS, 2003), has led to the wide-scale displacement of Kurds within Turkey, mostly to shantytowns at the outskirts of larger villages and cities. At the height of the conflict, estimates of Kurdish IDPs ranged from the conservative Turkish government figure of 353,000 to between 1

and 4.5 million by outside observers and Turkish NGOs (UN Mission Report 2004). The Global IDP Project (2004) points out that “internal displacement in the country is also part of a broader rural to urban migration, which was exacerbated by the violence in the southeast.”

The main event affecting IDPs in the Middle East in 2003 was the US-led armed intervention in Iraq followed by the overthrowing of Saddam Hussein's regime. The UN had feared that an additional one million people would become displaced within Iraq as a result of the war. While displacement did not take place on this scale, close to 80,000 people were forced from their homes during the fighting (ibid.). In the wake of the fall of Saddam Hussein, a number of international humanitarian organisations, including some assisting IDPs, established a presence in Iraq. Many left the country in the second part of the year, however, because of growing insecurity and the direct targeting of humanitarian actors. This reduction in humanitarian operations in Iraq has diminished the likelihood of finding solutions in the near future for the many Iraqis who remain displaced.

### **2.3. Development-Induced Displacement**

Over the last decade, research on population displacement by development projects has considerably expanded. However, while researchers of Asia, Africa and Latin America have produced a great deal of writings on resettlement processes and their failures, literature on the MENA region has been relatively scarce (Ben-Achour & Cernea, 2004). This is despite the fact that displacements have become more frequent in the region in recent years, especially in urban settings, due to urban regeneration and infrastructure investments, as witnessed extensively in Lebanon and Egypt, for example (ibid.). Displacement related to rural areas is often linked to water security, i.e. the Ilisu dam on the river Tigris, which threatens to displace thousands of Kurds and the Taiz Municipal and Flood Protection Project in Yemen, which affects the already marginalized *Akhdam* caste (ibid.). Large-scale development projects, such as the South-Anatolia Project (GAP) and natural disasters have also been the cause of displacement (OHCHR, 2002).

### **2.4. Asylum Seekers from MENA in Europe**

In the 1990s, two of the top 10 countries of origin of asylum seekers to Europe were MENA countries, namely Iraq and Iran. In 2000, for instance, there were more than 90,000 asylum seekers coming to Europe from Iran, Iraq and Turkey, accounting for more than one fifth of the total asylum seekers to the EU (Içduygu and Toktas, 2002). Iraq produced more asylum seekers in Europe than any other origin country in 2002, but only half as many in 2003. Iraqis were the third main refugee caseload in the world in 2001 (Chatelard, 2002). Another large group of forced migrants originate in Turkey, and are mainly of Kurdish origin (as are many from Iran and Iraq). Factors relating to instability and conflict, such as ethnic or religious discrimination, human rights abuses, war and a large proportion of internally displaced people relative to the total population account for the large number of refugees and asylum seekers from MENA countries to Europe.

Despite attempts to repatriate Kurdish and Iraqi asylum-seekers by some EU governments, it is clear that both groups are not only extremely reluctant to return under



present circumstances, but that an additional number of Iraqis may be predicted to wish to leave the country as soon as the security situation will allow them to travel to either Jordan or Turkey. Based on informal interviews with Iraqis outside and inside Iraq, there is a growing concern that the security and humanitarian situation will not stabilize in the short run. Despite a trend of return migration during the first months after the fall of the Saddam Hussein regime, Iraqis have increasingly lost faith in both the occupying forces and the process of political transition.

In addition to Iraqi, Kurdish and Iranian refugees and dissidents, recent years have also witnessed an increase in Palestinian migration from the occupied territories, Lebanon, and Jordan to Western Europe. Many of these migrants have been part of transnational social and family networks, which often facilitate the migration process in light of tighter asylum policies and border controls.

### **3. CHARACTERISTICS OF FORCED MIGRATION IN MENA**

This section is designed to help policy makers at DFID identify what we see as the key factors of vulnerability affecting the well-being of forced migrants in the region. Some of these factors are common to forced migrant populations generally, such as the detriments to refugee well-being of being excluded from development resources, the increasingly urbanized setting for refugees, or the global trend towards established and active transnational networks interacting with forced migrant populations in disadvantaged regions; other factors have to do with the history of the region, such as the Palestinian refugee situation and the lack of citizenship rights for large sectors of the populations of MENA countries. These five themes are revisited in Part II with the aim of identifying policy options.

#### **3.1. Significance of Palestinian Refugees**

Several aspects of the situation of Palestinian refugees support the tendency to see them as a case apart from other refugees in the region, and indeed, the global context generally. As the longest running unresolved refugee problem in the world, as well as the case with the greatest numbers of displaced people due to any one conflict, Palestinians furthermore do not come under the auspices of the UN agency, the High Commission for Refugees. This is because the 1948 Arab-Israeli war leading to the mass displacement of Palestinians predates the establishment of the UNHCR, which additionally was limited geographically and to a specific time period. However, the UN agency set up to provide humanitarian assistance to Palestinian refugees, the United Nations Relief and Works Agency (UNRWA) has no protection mandate and as such, Palestinians remain outside of the framework of rights and protection of refugees overall.

At the regional level, the Palestinian refugee case maintains a high profile due to a political stance adopted by the League of Arab States (LAS) for their eventual return to an independent Palestinian state. Three regional wars between LAS countries and Israel have been fought in relation to the unresolved issue of a homeland for Palestinians, while internal political and military disputes have set Arab host governments against Palestinian militias and political interests (e.g. conflicts in Jordan in 1970, Egypt in 1976, and Lebanon in 1978).

Several commentators have argued that the specific situation of the Palestinians has shaped the way regional governments and policy-makers have perceived refugees and IDPs in more general terms. In principle, Palestinians living in Arab League states should benefit from the 1965 Casablanca Protocol (The Protocol), which asked signatories to uphold the Palestinians' right to work, to enjoy full residency rights, and freedom of movement within and among Arab countries. Eventually, the absence of clear and well-defined legislation regulating the status of the Palestinians in the Arab countries has sacrificed their civil basic rights (Shiblak, 1995). To overcome such a restrictive environment, many have chosen to leave, even illegally, an act which in itself may make them more vulnerable, both in terms of living conditions and due to their lack of identification papers.

### **3.2. Obstacles to Refugee Protection**

It has been noted that the options available to refugees in the region are very much shaped by the overall stance of national governments towards the Palestinian refugee question. Several commentators have noted the difficulty of governments to pursue integration of foreign nationals, including refugees, into their societies as long as Palestinians remain politically impossible to integrate. Strategies and experiences of non-Palestinian forced migrants, therefore, are very much shaped by their position as temporary residents with few rights and little protection.

Due to the political and ideological difficulty of naturalizing Palestinians, the notion of naturalization and citizenship rights for any foreigners has not been an integral concept amongst MENA states. The situation is even further complicated by patriarchal and patrilineal notions of identity, which account for the fact that women from MENA who are married to non-national refugees are not able to pass on their citizenship to their partners and children. This, of course, has serious implications in terms of pro-poor policies and processes of development, as non-citizens are often not eligible for national poverty reduction projects.

The initial perception of Palestinians as being a temporary phenomenon and the debate about 'the right of return' has also affected the way regional policy makers have dealt with other refugee groups. Arab countries were instrumental in bringing about the unique role of the United Nations in relation to Palestinian refugees. The UN recognised that it was partially responsible for creating the refugee situation through General Assembly Resolution 181 which recommended the partition of Palestine (Akram, 2001). However, Arab states advocated Palestinian exclusion from the 1951 Convention and from UNHCR's mandate primarily because they were concerned that, if included under the UNHCR mandate, Palestinian refugees "would become submerged [within other categories of refugees] and would be relegated to a position of minor importance" (Takkenberg, 1998).

Rather than basing policies and structures on international conventions and legal treaties, most Arab governments have taken a hands-off approach and left the welfare and survival of refugees to the principles of Islamic charity and Arab hospitality. The outcomes have been contradictory: on the one hand it has allowed a large number of refugees to evade refugee camps, have a relatively high level of freedom and mobility and take advantage of local solidarity networks based on family, kinship, ethnic and

religious ties. This has been the case with Iraqi refugees in Iran, for example, who were able to become relatively self-sufficient. On the other hand, refugees and IDPs in MENA have been extremely vulnerable to poverty, discrimination, repression and the threat of deportation. In Egypt, for example, many Palestinian, Sudanese, Somali, Eritrean and Ethiopian refugees often suffer great hardship and economic deprivation due to the lack of national laws on refugees and the current un-written non-integration policy of the Egyptian government (Zohry, A. and Harrell-Bond, 2003).

With the exception of a few states (Egypt, Iran, Turkey, Israel and Yemen), most countries in the region have not ratified the UN Refugee Convention and its 1967 Protocol. Even those states that signed the Convention of Rights have done this with numerous reservations and often apply very loose interpretations<sup>4</sup> (Morvaridi, 2004).

In addition to the still unresolved Palestinian question, local authorities raised other concerns as well, stressing both domestic and regional constraints such as limited resources and the economic burden newcomers would present to the host country, the need to maintain good relations with neighbouring countries and the fear of becoming a “dumping ground” for rejected refugees from other countries in the area (Zaotti, 2004). Although, by and large, local authorities have accepted UNHCR’s authority and decisions, they have not provided formal guarantees for refugees and they have continued to fall under the legislation applicable to foreigners in general (*ibid.*). At the same time, political expediency, coupled with shortage of funding and more generally the weakening of the refugee regime at the global level, has meant that UNHCR neither has the willingness nor capacity to push for radical change (*ibid.*).

### 3.3. Urbanization of Forced Migrant Populations

As has been noted in other parts of the world, refugees and other forced migrants in MENA are also becoming an urban phenomenon. With the exception of Sahrawi refugee camps in Algeria, most forced migrants in MENA—whether encamped or not—live largely on the outskirts of larger towns and cities or within major peri-urban centres such as Tehran, Istanbul, Cairo, Beirut, and Amman. The long-standing nature of the Palestinian refugee problem has fuelled the development of quasi-permanent encampments, many of which are now urban neighbourhoods in enlarged Middle Eastern cities (e.g. Amman).

The urban setting is crucial to the understanding of the relationship between forced migration, poverty and development in the MENA region. A large number of refugees in the region are settled in urban spaces, where they interact with IDPs and recent migrants from rural areas, as well as with long-term residents. Compared to other recent urban migrants, urban refugees in MENA are vulnerable in terms of their access to protection and to resources, both of which impact on poverty alleviation and development. Kagan (forthcoming) identifies a procedural difference in determining refugee status that differentiates between rural refugees, generally granted protection as

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<sup>4</sup> In Egypt, for example, refugees do not have the right to access state education, free health services or housing benefits. In Jordan, refugees are discouraged from integrating and their residency is limited to a 6 months period after which they are either forced to move to a third country or risk being fined for every day they overstay (UNHCR, 2003). In Iran, distinctions have been made between Afghani and Iraqi refugees where the latter have not been subject to repatriation programmes and have benefited from greater access to resources, including work, education and health care (Harrell-Bond, 2003).

a group, and urban refugees who access protection through an individual status determination process. Unlike in Western countries where recognition is a means of granting asylum, status determination in MENA and other states in the developing world “has often been a means of separating refugees from their host societies and transferring responsibility for their care onto the international community” (Kagan, forthcoming).

Problems arising from the lack of domestic protection for undocumented refugees in cities is matched by the lack of access to resources. Both local governments and international aid/policy organisations differentiate between citizens with rights to access resources (e.g. government sponsored health care or inter-governmental agency programmes in poverty reduction) and refugees. In Egypt, for example, there are free health clinics for impoverished Egyptians, while refugees are not allowed to use these facilities. Refugees are also often excluded from the distribution of subsidized foods and goods and the allocation of ration cards.

The strain on urban resources is particularly problematic in a situation of war and conflict, as can be witnessed by the hardships facing IDPs in Baghdad and Kirkuk, for example. Kurds deported from Kirkuk and other Kurd-majority cities by Saddam's Arabization campaigns throughout the 1990s were forced to live in make-shift camps on the edge of war-torn cities in Iraqi Kurdistan (Zanger, 2002).

### **3.4. Exclusion from Development Resources**

Generally speaking, forced migration increases poverty and hinders development. This is particularly true in the context of MENA countries where states have failed to integrate refugees into state structures and institutions in which poverty reduction programmes are administered. At the same time, non-state providers, such as NGOs, charitable organizations, religious associations and international organizations are often at odds with the state. In many MENA countries, but most notably in Egypt, it appears that it is predominantly non-Egyptian nationals who work with refugees, while Egyptian professionals are involved in poverty reduction programmes for nationals.

The strain on urban resources is particularly problematic in situations of war and conflict, as can be witnessed by the hardships facing IDPs in Baghdad and Kirkuk, for example. It is worth pointing out that forced migrants in MENA countries (like all foreigners in general) pay legislated higher prices for housing, schooling, and often health care. As such, they do provide a significant economic contribution to local economies. Some of the money available to refugees within MENA countries is based on remittances sent by their relatives living abroad, and can therefore be counted as foreign currency earnings.

### **3.5. Transnational Features of Forced Migrant Populations**

Several commentators describe the Middle East currently at the crossroads of various new migration trends and changes in migration orders. Moving away from a migration system mainly based on labour market demands (Gulf Cooperation Council (GCC) oil-producing countries) and needs on the one hand, and war and conflict, on the other hand (Palestine, Iraq, Turkey), the Middle East has increasingly become part of a complex and globalised migratory system. Transnational networks based on family, friendship,

religious, ethnic, village or political ties have come to play a major role in shaping current migration flows and patterns. Gender also intervenes in differentiating and shaping transnational projects, practices and possibilities of movements, with refugee women and men experiencing membership in both the country of settlement and origin differently. Despite, and sometimes even as a reaction to, the tightening of migration control policies throughout the EU, these networks facilitate movement from the MENA region to the EU.

Whether Palestinian networks based on family and village ties (Dorai, 2003), Lebanese networks based on ethnic and religious affiliation (Pedersen, 2003), networks of Kurdish migrants or Iraqi Shi'a religious affiliation (Chatelard, 2002), these networks often defy border controls and economic logic. However, in most cases, transnational social networks represent solidarity networks that shape the development and organization of migratory processes in both the country of origin and the destination country. Dorai (2003), who has carried out an in-depth study of Palestinian migrant networks between refugee camps in Lebanon and European countries (initially Germany, Denmark and Sweden, but more recently the United Kingdom and Belgium) argues that these solidarity networks, along with the social capital and information they facilitate, often develop locally first before they take on a transnational dimension. This has been true for Palestinian refugees in camps in Lebanon as much as Iraqi Shi'a in Baghdad or in the south of Iraq.

#### **4. DIMENSIONS OF VULNERABILITY OF FORCED MIGRANTS IN MENA**

For reasons mentioned previously—namely, a regionally underdeveloped civil society, ongoing conflict and violence in many parts of the region, an inadequate protection regime, rapid and inequitable urbanization, and the lack of access to citizenship and naturalization for foreign nationals, refugees in MENA are among the most underprivileged and marginalized social groups with poor access to services and little recourse to their rights. In terms of protection, living in MENA as an undocumented person contributes greatly to both political and socio-economic marginalisation. While areas of refugee vulnerability overlap with other populations in MENA, such as ethnic and religious minorities, rural migrants, and others, often xenophobia and racism are compounded by extreme insecurity over residency and access to services. While UNHCR has extended some level of protection to populations “of concern” but without refugee status, MENA still hosts a significant number of stateless individuals who fall outside of state and international protection<sup>5</sup>.

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<sup>5</sup> The Universal Declaration of Human Rights unequivocally states that “everyone has the right to nationality” and that “no one shall be arbitrarily deprived of his nationality” (Article 15). Article 1 of the Convention relating to the Status of Stateless persons of 1954 defines a stateless person as one “who is not considered as a national by any state under the operation of law”. As it was considered a limited definition only to the de jure stateless persons, the 1961 Convention on the reduction of Statelessness adopts the same definition of stateless persons and fills in the gap of the 1954 convention by recommending that ‘persons who are stateless de facto should as far as possible be treated as stateless de jure to enable them to acquire an effective nationality.’ In Takkenberg (1998), Weiss differentiates between de facto statelessness, which refers to the lack of an effective nationality, and de jure statelessness. Weiss explains that, ‘A person may either be stateless at birth, as a result of the fact that he does not acquire a nationality at birth according to the law of any state, or he may become stateless subsequent to birth by losing his nationality without acquiring another’ (Takkenberg:1998:176). Palestinians, denied their rights in their nationality and the right to be naturalised in countries of habitual

In terms of specific characteristics of the region, vulnerability according to gender stands out. The role of migrant women as domestic workers constitutes one of the main forms and characteristics of the feminization of migration flows from MENA to Europe. Many women migrants remain totally at the mercy of their employers if they do not have immigration status. Refugee women working in domestic labour markets in MENA (specifically, Egypt, Lebanon, and Gulf countries) are even more vulnerable, where even gaining residency does not offer them protection from unscrupulous employers. While much research on gender and refugees highlights a particular concern toward the vulnerability of women and children (e.g. to sexual violence, trafficking, and access to humanitarian resources), the urban characteristics of refugees and access to informal labour markets in some MENA countries indicate that men may be vulnerable in specific ways. In Cairo and Beirut, for example, refugee women have been able to access the niche labour market of domestic employment (Abderahman, 2002; Wani, 2002) while their husbands are often unable to find work.

Children of forced migrants in MENA are also vulnerable. In most MENA countries, women are unable to pass along their nationality to their children, so even those with mothers from the host society married to forced migrants cannot avail themselves of the protection of their governments nor access services, including education. There is generally no provision for the protection of unaccompanied minors and other especially vulnerable children. Indeed, recent research in Cairo has indicated that children locked into their homes by their single working mothers may be at great risk of household accidents, threats from neighbours, and other dangers.

## 5. THE MIGRATION-ASYLUM NEXUS IN MENA

Policy makers may aspire to make clear distinctions between economic and forced migrants, but many migrants have multiple motivations for moving. The 'Migration-Asylum Nexus' reflects a growing recognition that it is increasingly difficult and perhaps even undesirable to distinguish between forced and voluntary migration. The history of the Iraqi diaspora is a case in point.

Oppressive policies of the regime of Saddam Hussein, especially the persecution of Kurds in the north and the Shi'a in the south, Arabization programmes, as well as the general oppression of political opposition account for the large numbers of Iraqi refugees since the mid 1970s. The Iran-Iraq war (1980-1988), the Gulf crisis starting with the invasion of Kuwait in August 1990 and the subsequent Gulf war in 1991, as well as the recent war (2003) and ongoing conflict have all contributed to internal displacement and refugee flows within the region as well as to Europe and elsewhere.

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residence, are stateless people. This legal in limbo status renders them vulnerable to mobility and to acquisition of their rights. Furthermore, most of the Arab countries discriminate against the rights of women, to pass on her nationality to her husband or her children. For example, when a Jordanian woman is married to a Gazan (a Palestinian refugee from Gaza strip), a holder of a temporary passport, children are included in his passport and not hers. Hence, the children are de jure stateless. Many Arab countries have not yet ratified the law permitting Arab women, more specifically when they become a refugee, to pass on her nationality to her children.

However, it is important to stress that Iraqi refugees are a good example of the fact that the analytical distinction between forced and voluntary migrants is not as clear-cut as policy-makers would like us to believe. In 1996, 4 million Iraqis were reported to live abroad (USCR, 1996, in Chatelard, 2002). Although a large number of Iraqi refugees have fled for clear political reasons related to oppression by the previous regime (mainly Kurds and Shi'a), a large number of Iraqis left the country during the 1990s due to a combination of factors, including political repression, ongoing conflict (especially in the North and South) as well as a severe economic crisis due to the imposition of comprehensive economic sanctions put in place between 1990 and 2003. For those parts of the population, like Kurds, Shia, and to some extent Christians, who have been collectively denied access to scarce resources, emigration becomes clearly motivated by a mixture of both economic and political factors (*ibid.*). But even Sunni Arabs were being denied political rights and were suffering from the dire economic situation caused by the comprehensive sanctions regime.

Around an estimated 50,000 Iraqi refugees have returned to Iraq out of their own accord (Romano, 2004). These refugees mainly returned during the initial 6 months period after the downfall of the Saddam Hussein regime, when the security and humanitarian situation was slightly better and prediction more optimistic than during the recent months. In addition to these numbers, UNHCR and IOM have assisted the return of 2,800 refugees who were previously based in Saudi Arabia and a similar number from Jordan, Syria and Lebanon. However, due to the dire security situation, the lack of assistance and adequate housing as well as insufficient finances, many of these returning refugees have now become new IDPs (Romano, 2004).

The legacy of the previous regime, 13 years of comprehensive sanctions, ongoing political instability, lack of security, violent insurgencies, unemployment and deteriorated infrastructure are all factors that account for widespread poverty within Iraq. Virtually all Iraqis are poor by any standard. Under these circumstances, it is not difficult to predict a continuous flow of forced migrants inside Iraq as well as to its neighboring countries. This will be particularly the case once the security situation on the roads to Iraq's borders has improved. Many people are held back these days by the fear of road-side bombs and sniper attacks. Based on informal interviews with Iraqis there exist both a desire to return as well as to leave the country once the security situation improves (Romano, 2004).

## **6. MENA REGION POLICY FRAMEWORKS AND RESPONSE STRATEGIES**

DFID has only recently begun to think about ways of incorporating migrants and forced migrants into its development, poverty reduction, and pro-poor policies, but several strategies may be identified to support DFID's aims in this arena. In general, we urge DFID to take a stronger advocacy role given the complementarity of DFID's areas of funding with the special characteristics of forced migration in the Middle East. Necessarily, we raise the issue of DFID's response to heightened security concerns around migration from the Middle East to the UK.

Currently, DFID is able to support only three on-the-ground programmes in the Middle East—Yemen, Iraq, and Palestine. Existing programmes in Jordan and Egypt are due to close within the next 18 months. DFID's capacity in the region for addressing forced

migration is thus quite thin, especially given the nature of mobile populations that span more than one country. However, the renewed attention given to refugees in the region has spawned initiatives and programmes among and within NGOs, IGOs, and host governments, offering DFID the possibility of working with implementing partners to address key issues of concern.

In this section, we draw on our collective experience in the region to present some of the policy initiatives that are being developed to tackle the challenges highlighted in our thematic overview. In doing so, we present many of the actors with whom DFID may think about developing projects, as well as policy areas where DFID might take the lead in designing innovative approaches. Given the historical patterns of forced migration in MENA and the consequences for refugee, IDP, and host populations as identified above, we suggest that DFID tailor its response strategies along the lines of the five themes outlined in Section 3; that is, the Palestinian refugee issue, the lack of a citizenship option for most refugees, the urban setting for forced migrant populations, the blurring of the humanitarian relief/development assistance distinction, especially for long-term refugees, and the transnational quality of most forced migrant populations.

### **6.1. Addressing the Situation of Palestinian Refugees**

DFID's policy response to the protracted disruption of everyday life for Palestinian refugees in MENA has been addressed through the ongoing support of UNWRA, initially designed as a relief operation but later taking on the role of a development agency. Funded by states, UNWRA nevertheless has been given the responsibility for negotiating policy on behalf of its funders despite its lack of a protection mandate for Palestinians. In the context of the breakdown of peace talks between the state of Israel and the Palestinian Authority and Israeli hostility towards UNWRA, states need to do much more not only to address the development needs of increasingly impoverished Palestinians in Israeli-occupied territories, but also to lobby on behalf of Palestinians' human rights.

DFID already spends half of its framework on supporting the work of UNWRA. DFID officials describe current policy as supporting UNWRA in its policy discussions with Israeli and other governments. Could DFID take a more active role in shaping policy, particularly within the context of the relief aid/development assistance debate? Further, could not DFID—given its strong financial support of UNRWA's activities—advocate more openly for Palestinian rights? As we have shown, the acute lack of protection for most refugees in the Middle East and in particular of Palestinian refugees has directly contributed to their severe socio-economic vulnerability. Supporting the human rights of Palestinians more explicitly falls under DFID's existing mandate to address the root causes of poverty.

DFID might also find ways to support other regional partners in their support of Palestinian development initiatives. In Egypt, for example, the UNHCR has begun work with Palestinian NGOs to develop projects for the most vulnerable members of the Palestinian refugee community there following a survey of Palestinian livelihood strategies carried out by Oroub El Abed and the Forced Migration and Refugee Studies Program at the American University in Cairo. Additionally, this is an example of the overlap between the lack of protection available to Palestinians in Egypt and the concomitant vulnerability in socio-economic terms, since UNHCR's protection mandate



was not seen to extend to Palestinian refugees in Egypt with the result that families lived in constant insecurity. The research findings enabled Ms El Abed and Forced Migration and Refugee Studies Program, American University in Cairo to lobby UNHCR on behalf of Palestinian refugees.

## 6.2. Citizenship and Rights

Recent policy discussions around citizenship in Europe and in North America have expanded the concept beyond membership within a nation-state, with all the rights and obligations implied, to so-called 'post-national' citizenship in a locality or transnational network (Tambini 2001). In the context of refugees and asylum seekers, this approach suggests that non-citizens of a state be seen as members of a local community with rights in that community, rather than needs. This implies that their integration into a host society need not require full-fledged national citizenship but at the very least the same rights to services.

Participants in this consultation have pointed out that advocating on behalf of naturalization of refugees in MENA is a thorny issue, not least because of the long shadow cast by the Palestinian situation despite governments' assurances of a full complement of rights for Palestinians as outlined in the Casablanca Agreement (see above). In policy terms, however, DFID could support the *integration* of refugees into the MENA societies of which they are currently part. Practitioners and researchers have repeatedly warned of the repercussions from development agencies treating refugees separately from their hosts, such as xenophobia, social exclusion, exploitation by employers, and other social ills. While it may be beyond the scope of DFID to advocate full citizenship rights for Palestinians and other non-national refugees in MENA, practical support of local integration—with its implication of social and economic rights—could be explored.

Practical examples include policy level and project level initiatives. At the policy level, the "localization" of refugee work—that is, involving members of the host community in the design and delivery of services rather than the more typical pattern in MENA of bringing in non-nationals to implement refugee programmes—could be supported. This approach was very successful in Sudan with regards to addressing the needs of Eritrean refugees through local Sudanese agencies; more recently, the Legal Aid Project in Cairo has trained Egyptian lawyers to handle asylum cases and advocate for refugee rights in Egyptian courts. At the regional level, there is generally poor understanding of the rights of refugees under international law, compounded by a lack of legal documentation in Arabic. To address this need for awareness, the Forced Migration and Refugee Studies Program at the American University in Cairo convened a seminar for high-ranking judges and Ministry of Justice officials to introduce the legal basis of international obligations of refugee protection. This was accompanied by a straightforward, but highly effective, project to translate key documents and training materials on international refugee law into Arabic. A more recent seminar for Egyptian judges held in Cairo in June 2004 recommended the formulation of national legislation on refugees in Egypt to bring Egypt's practices in line with its international commitments under the 1951 Convention, as well as further education of Egyptian judges and lawyers.

At the project level, integration of refugees and forced migrants into development initiatives remains problematic due to the persistent separation of funding mandates between relief and development, on the one hand, and non-national and national, on the other. Example after example has shown how developing separate programmes for refugees and often severely disadvantaged host populations creates the opposite conditions to those required for integration and access of refugees to rights. A recent example of a collaborative attempt to redress this problem in MENA is a community health project in a squatter settlement in Cairo populated by poor Egyptian labour migrants and South Sudanese refugees; DFID could support development projects such as this which seek to meet the needs of communities rather than discrete populations. Further examples of initiatives supporting local integration of refugees into communities where they are seen as having rights may be found at [www.aucegypt.edu/academic/fmrs/integration](http://www.aucegypt.edu/academic/fmrs/integration).

### **6.3. Assisting Forced Migrants in the Urban Context**

The dilemma faced by refugees and forced migrants in Middle Eastern cities is best described by Gaim Kibreab's description of their presence as 'what the eye refuses to see' (Kibreab, 1996). Often undocumented and forced into a hidden and marginal existence, forced migrant populations are open to exploitation in the informal labour market, subject to police harassment and detention, and excluded from social programmes designed for nationals. At the same time, studies show that in most cases refugees live among their hosts in neighbourhoods and districts characterized by lack of resources, difficult access to education, and overall economic, social, and political neglect by the host government. It is therefore difficult—and ill-advised—to separate out refugees from the urban poor and other marginalized groups.

According to Sperl (2001), UNHCR policy on refugees in urban areas, which formerly promoted a self-reliance strategy and sought to discourage "irregular movement" of refugees between countries by limiting UNHCR assistance to them, must be reconsidered given the obstacles to genuine integration into Egyptian society (2001: 7). Currently, for example, Egypt places reservations on access to education, social insurance, and severe restrictions on employment, a situation mirrored in other MENA countries. Self-reliance, as an earlier UNHCR evaluation carried out in New Delhi points out, is meaningless if refugees "live in abject poverty and are obliged to engage in illicit activities in order to survive" (Obi, N and Crisp, J. 2000: p.5).

Much more needs to be understood about the livelihood strategies of forced migrants in cities where official integration is discouraged yet local and international assistance may be limited or intermittent. Remittances from refugees resettled under specific schemes seem to play a significant role in supporting the livelihoods of urban refugees. Urban settings may provide opportunities for some forced migrants to enter economic niche markets, such as domestic labour (Sudanese, Ethiopian, and Eritrean women in Cairo, Beirut, and Amman), construction work (Sudanese and Afghani men in Cairo and Tehran), and other informally organized employment. Urban settings may also promote the development of refugee community organizations which in turn support self-help initiatives, as evidenced by the flowering of Sudanese NGOs in Cairo in the 1990s (Fabos, 2001).

Our previous section regarding the importance of promoting social and economic rights for forced migrants is particularly pertinent in urban settings, where UNHCR tends to have greater difficulty in extending its protection mandate to large numbers of people, and refugees consequently live in great insecurity. DFID may find ways to support UNHCR and other local assistance schemes for the most vulnerable members of displaced populations. An example from Cairo is a church-funded day-care centre located in a squatter settlement which is home to both Sudanese refugees and poor Egyptians; having a safe place for their children to go allows disadvantaged women from both communities to find employment in the urban labour market.

#### **6.4. Bridging the Gap Between Development Assistance and Humanitarian Aid**

As recognized in much of the literature on refugee relief, the split between development aid and humanitarian assistance is detrimental to a large number of refugees in the MENA region. On the one side, humanitarian aid oriented towards refugees and IDPs is cause for resentment amongst the wider population in a general context of war, conflict and widespread poverty, as is the case currently in Iraq. On the other hand, development projects tend to target citizens or local peoples, thereby further marginalizing refugees and IDPs. The fact that one either has to be a refugee or a citizen to receive a specific kind of aid undermines attempts to produce integrated programmes. In the MENA context, there is also the challenge of defining UNRWA's responsibility in addressing development needs in the context of lack of Palestinian sovereignty.

When UNRWA was first established it aimed to provide technical assistance and managed provision of relief projects to registered Palestinian refugees. As socio-economic and political conditions in host countries changed, UNRWA adjusted its programmes. Although projects perceived as leading to settlement were resisted, UNRWA established development projects based on (basic) education and vocational education, providing skills responding to market needs at the regional level, particularly for Gulf countries. Pollock (1999) comments that long-term support of Palestinian refugees has produced a *de facto* resettlement, rehabilitation and reintegration for most refugees in the West Bank, the Gaza Strip, Jordan and Syria. Following the first Intifada, UNRWA was involved in relief and social welfare activities, expanding to include restoration of camps in Lebanon, but due to budget constraints and donor countries' unwillingness to fund relief projects, UNRWA moved towards promoting refugee self-reliance, as outlined in the 1994 Peace Implementation Programme (PIP).

As a major funder of UNRWA, DFID may be able to support UNRWA in creating the policy conditions to move more fully towards a development assistance model, although as the protracted crisis continues in the Palestinian territories it is hard to see how the need for relief aid will disappear in the near future. According to several UN reports, Israeli authorities have been blocking delivery of basic food items, medicines and fuel to the Gaza Strip, and UN humanitarian access to the West Bank has been impeded by bureaucratic procedures. UN agencies and NGOs active in the Palestinian Territories are increasingly reorienting resources from development to relief to meet the growing humanitarian needs of the population.

The complex emergency situation in Iraq brought about by political and economic instability followed by war raises different issues for donors such as DFID. The UK government department responsible for humanitarian assistance, CHAD, stepped in to

provide emergency relief for Iraqis displaced by the fighting in 2003, but DFID has already recognized the need to coordinate longer-term development assistance, stepping in to work with the Iraqi Ministry of Refugees and Displaced People to support the reintegration of Iraqi IDPs, refugees, and oustees. In addition to directing funding through World Bank reconstruction programme, suggestions were also made to strengthen relations with international NGOs such as Oxfam, which have very good on-the-ground understanding of specific development needs.

### **6.5. Engaging Diasporas in Reconstructing Post-Conflict Zones in MENA**

The significance of refugee communities for reconstruction and development in MENA has been clearly illustrated in the cases of Lebanon and Jordan. The rapid reconstruction plan in Lebanon, in which hundreds of millions of pounds were poured into loosely regulated bodies, failed to meet expectations in part because it was based on the realization of regional peace. It is only the continuous flow of remittances from the Lebanese diaspora as well as new Arab investments that have kept the country afloat (<http://www.dailystar.com.lb/>). In the Jordan case, more than 360,000 Jordanians (the majority of Palestinian origin) were obliged to leave their residencies in Gulf countries during the first Gulf War in 1990 and return to Jordan (Van Hear, 1998). Despite restrictions on their ability to take in some cases decades of accumulated investments, many nevertheless invested their remaining assets in Jordan, leading to a period of growth between 1992 – 1995. This was indicated in a construction boom, investment in schools and universities, shopping areas and the import of consumption goods.

Another example of the important transnational role of refugees is the Iraqi diaspora. Ever since the severe economic crisis after the Gulf war in 1991, Iraqis abroad increasingly supported their families and friends inside Iraq. Remittances, aid and donations sent by Iraqi refugees helped a large part of the Iraqi population to survive during the sanctions regime. During the previous regime, Iraq's private banks controlled less than eight percent of total banking assets and offered very limited services. Under the new Banking Law, 10 of Iraq's 17 private banks are already making international payments and remittances, and issuing letters of credit. International payments and remittances into Iraq are now roughly estimated at more than \$5 million per day (Coalition Provisional Authority, 2004).

In considering issues around engaging diaspora groups in DFID's development policy for MENA, it is useful to be reminded of some of the scholarly analysis around factors that may help or hinder such engagement. Although to a greater or lesser degree all diasporas now engage in transnational activities (i.e. lobbying, remittance-sending and investment, or cultural participation, in addition to individual family strategies), they may not have equal "transnational capabilities" (Al-Ali *et al.*, 2001). This may be affected by the degree to which individuals and communities identify with the social, economic, or political processes in their home countries, which is a prerequisite for them to engage in transnational activities (*ibid.*). This may be beyond the control of policy makers to influence.

However, at a more practical level, the capability of individuals, families and communities to become involved may depend on the skills and resources available to them, which in turn is influenced by factors such as length of time and opportunity structures in their countries of destination. Capabilities also centre upon the internal

organisation of migrant or exile communities, and the level of motivation to maintain group solidarity. This is often related to the politics of integration in the country where exiles reside—do they have rights to citizenship, can they participate in multi-cultural agendas? According to Glick-Schiller (1999), states which encourage and foster affiliations and identification with exiles' country of origin, especially among second generation, are more likely to be able to make use, for example, of their ability to reach out to new markets.

More needs to be understood about the ways in which forced migrants and refugees are incorporated or excluded within their society of settlement; trends towards creating temporary, seasonal or undocumented and unsteady workers are continuing apace in some European countries. Whereas some migrants from the MENA region might develop transnational practices by virtue of their dual citizenship which allows them a degree of mobility and political participation between and within two countries, other migrants, particularly refugees, are either limited or impeded from maintaining relations with their country of origin. Recently in Italy, with the coming into power of the right wing coalition lead by Berlusconi, changes to immigration laws have been proposed which aim to transform even long-term settled migrants into flexible, undocumented and cash in hand workers, whose resident permit could be withdrawn in case of unemployment.

States of origin seem also to be more and more interested in pursuing "diasporic" policies (Smith, 1999) to foster the sense of belonging among their nationals abroad and are increasingly allowing dual nationality or dual citizenship. The crucial role of 'sending states' in forging and creating transnational political and economic fields often reflect their increasing dependency on migrants' remittances. In a world characterised by global economic restructuring, migrants' investments are essential for the viability of the sending countries' economies (Guarnizo and Smith, 1998).

Practical strategies for engaging members of diasporas with the advantage of real integration within British society (i.e. citizenship or dual citizenship) might first look upon them as skill-bearing actors in the reconstruction and development of their societies back home. For example, Iraqis with special skills (specific medical professions such as physical therapy, for example) could be encouraged to return to Iraq for short-term training projects. Above all, exiled Iraqis, as well as other exiled nationalities from MENA, need to be included in the consultative process that DFID carries out in its identification, development, and implementation of projects. For example, Palestinian NGOs in the diaspora were included in the development of the country strategy for Palestine; is this a regular practice or should DFID try to more fully incorporate consultation of refugees and exiled groups into its work in the region?

Less obvious than the diasporas comprising exiled nationals or ethnic groups from MENA, such as Iraqis, Iranians, Palestinians and Kurds, are groups representing religious—specifically Muslim—diasporas. As a supra-national identity, Islam is a unifying factor and call to positive action for millions of Muslims from the MENA region in exile in Europe and Britain. DFID already maintains a relationship with the religious NGO Muslim Hands in Pakistan; Islamic Relief, which supports refugee relief projects throughout MENA, is also tipped for potential collaboration. Despite the strong tendency in UK policy circles to view Muslim refugees as a possible security threat, it

seems more fruitful to view them as we do ethnic or national diasporas, as a development resource for skills transfer.

## 7. CONCLUSIONS AND POLICY RECOMMENDATIONS

In light of the requirement to identify a 'joined-up' policy position generally, there is a need for DFID to foreground the unresolved Palestinian refugee issue, particularly the relationship this has to MENA policies towards non-Palestinian refugees.

Policy-makers may aspire to make clear distinctions between economic and forced migrants but in reality many migrants have multiple motivations for moving (migration-asylum nexus). Acknowledgement of these complexities and inter-linkages will help to optimise potential of migrants.

War and conflict is responsible for poverty and large-scale refugee movements within and from the region. There is a clear need to tackle root causes of war and conflict and support peace-building initiatives involving grass-roots actors, NGOs and governments in the region.

Given the urban character of much of the refugee caseload in the MENA region, integrated approaches to protection and development initiatives for these populations should be developed.

Rapid urbanization processes and migration of economic migrants, refugees and IDPs, put increasing pressures on resources and infrastructures of cities within the MENA region. Development agencies should focus on integrated projects to incorporate both long and short-term residents.

Many labour and forced migrants from MENA countries are eager to get involved in economic, social, political and cultural development in countries of origin. Rather than viewing refugees from MENA as a problem and challenge to security, we need to consider ways to make migration an instrument for development. Encourage creative policies and schemes to allow 'development by means of migration'.

Legal insecurity hinders migrants from transforming their desire and willingness to contribute to development into actual practices and activities. Access to legal status and legal rights in the receiving country will optimise migrants' ability to contribute to alleviation of poverty in MENA countries.

Cheaper and more reliable transmission of remittances is needed to ensure more efficient use of remittances not only on individual family level but also in terms of local development and investments. Need to facilitate the creation of investment frameworks and technology transfer opportunities.

Amnesty schemes for undocumented refugees should be instituted to avoid economic exploitation and human rights abuses.

'Transnational' and 'virtual' links between skilled and highly educated migrants and forced migrants and their countries of origin should be facilitated.

Migration policies should be placed within overall development strategies in individual Arab countries, and within the region.

Dialogue is needed between sending and receiving countries to ensure mutual benefits, and to limit the negative outcomes of migration, particularly in the cases of forced, illegal migration and transit migration.

Addressing forced migration issues exclusively in terms of security and administration fails to provide comprehensive solutions to the problems. Policies must address the human rights of migrants, with emphasis on the provision of social integration opportunities in receiving countries.

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## APPENDICES

### Appendix A: Definition of Middle East and North Africa (MENA) region

The Middle East and North Africa (MENA) region can be defined in multiple ways. Definitions which group Arab countries together may overlook the role of the non-Arab countries of Iran, Israel, and Turkey in the historical development of the region, while the acknowledgement of the strong Muslim character of most of these countries needs to take into account that the majority of the world's Muslims live outside the region. The countries which comprise DFID's MENA remit are Egypt, Iraq, Jordan, West Bank/Gaza Strip (including UNRWA), and Yemen; Sudan falls under the responsibility of the Africa division.

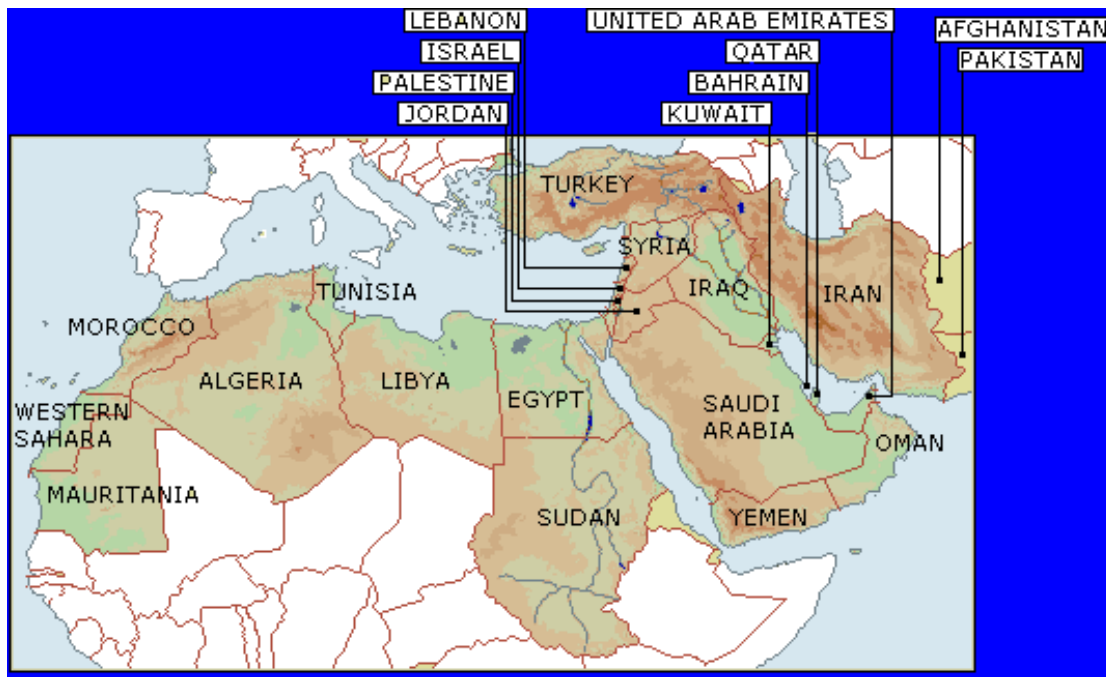


Figure 1: Map of the Middle East and North Africa (Source: <http://www.mideastweb.org/maps.htm>)

The conceptual separation of the Middle East from North Africa makes a certain amount of sense from the perspective of the main flows of forced migrants in the region both historically and currently. However, from a policy perspective, there is an argument for considering the regional political bloc of the League of Arab States (LAS), which includes 21 states including those of North Africa and the Arab gulf. Populations of this region are knit together by centuries of migration and forced migration, and share important historical, religious, and linguistic characteristics. More importantly, it is a regional bloc with political objectives, most clearly in the stance taken towards the rights of Palestinian refugees to return to a homeland in Palestine.

## Appendix B: Refugees in MENA by Country

Source: World Refugee Survey 2003, US Committee for Refugees  
<http://www.refugees.org/WRS2003.cfm#statistics>

Middle East (inc. Iran and Turkey)	Total 5,377,400
Egypt	78,000
Former Palestine	50,000
Sudan	20,000
Somalia	7,000
Other	1,000
Gaza Strip	879,000
Former Palestine	879,000
Iran	2,208,500
Afghanistan	2,000,000
Iraq	203,000
Other	5,500
Iraq	134,700
Former Palestine	100,000
Iran	20,000
Turkey	13,700
Other	1,000
Israel	2,100
Lebanon	1,200
Other	900
Jordan	155,000
Former Palestine	150,000
Iraq	4,000
Other	1,000
Kuwait	65,000
Former Palestine	50,000
Iraq	15,000
Lebanon	409,000
Former Palestine	403,000
Iraq	5,000
Other	1,000
Turkey	10,000
Iran	4,800
Macedonia	3,000
Iraq	700
Other	1,500
Saudi Arabia	245,400
Former Palestine	240,000
Iraq	5,200
Other	200
Syria	482,000
Former Palestine	476,000
Iraq	4,200
Other	1,800

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West Bank	627,000
Former Palestine	627,000
Yemen	81,700
Somalia	79,000
Ethiopia	1,500
Iraq	200
Other	1,000
<b>North Africa</b>	<b>Total 434,000</b>
Algeria	85,000*
Western Sahara	80,000*
Former Palestine	5,000
Djibouti	23,000
Somalia	21,000
Ethiopia	2,000
Libya	12,000
Mauritania	25,000*
Western Sahara	25,000*
Morocco	2,000
Sudan	287,000*
Eritrea	280,000*
Uganda	5,000
Ethiopia	2,000

\* Sources vary significantly