

Refugees and Migrants, and a Rights-based Approach to Development
Jameel Centre Auditorium, Greek Campus, AUC
8-18th January, 2007

REPORT

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Introduction

The Development Research Centre on Migration, Globalization and Poverty (DRC) at Sussex University, UK, in collaboration with the American University in Cairo's (AUC) Forced Migration and Refugees Studies (FMRS) programme, organised an advanced course on 'Refugees and Migrants: A Rights-based Approach to Development', 8–18 January 2007 at the Jameel Centre of AUC (see course programme, Annex 1).

The course was directed by Dr. Barbara E. Harrell-Bond¹ with Joseph Schechla,² as senior tutor, assisted by seven other lecturers: Hossam Bahgat,³ Dr. Lana Baydas,⁴ Dr. Abrar Chowdhury,⁵ Michael Kagan,⁶ Dr. Evelin G. Lindner,⁷ Parastou Hassouri,⁸ and Anthony Rutabanzibwa.⁹ The course was attended by 28 participants representing fifteen different countries, fourteen of them working with NGOs, six with governmental bodies, four with UN bodies and another four with academic institutions (see participants list, Annex 2). All course fee-paying participants received a copy of Hathaway's 2005 *Rights of Refugees under International Law*, Cambridge University Press. Other readings were sent in advance of the course as background preparation.

A Rights-based Approach

This course aimed to explore human rights norms as a practical approach for states, intergovernmental, nongovernmental organization (NGOs), and donors. Taking a 'rights-based' approach has become the new term—if not operational practice—in the development and humanitarian fields. In particular, the relevance of human rights is often cited in situations involving refugees, migrant workers and displaced and stateless persons. This is as much a result of the developing specificity, jurisprudence and practical experience in applying human rights in practice as it is also partly due to the manifest need to improve on existing charity, relief and welfare models.

¹ Distinguished Adjunct Professor and Advisor to FMRS and founding Director of the Refugee Studies Centre at the University of Oxford; among her publications are *Imposing Aid: Emergency Assistance to Refugees* and *Rights in Exile: Janus-Faced Humanitarianism*, co-written with Dr. Guglielmo Verdirame.

² Cairo-based coordinator of the Housing and Land Rights Network (HLRN) of the UN Habitat International Coalition; Joseph Schechla, who has long experience working with NGOs bringing human rights cases to the UN system, providing training and capacity building and developing monitoring activities.

³ Director of the Egyptian Initiative for Personal Rights.

⁴ Desk officer at the United Nations Office of the High Commissioner for Human Rights for *Iraq and later for Egypt, Libya and liaison officer with the League of Arab States*.

⁵ Chairman of the Department of International Relations and Co-ordinator of the Refugee and Migratory Movements Research Unit (RMMRU) at University of Dhaka, Bangladesh.

⁶ Refugee/human rights lawyer who has worked in legal aid programmes for refugees in Egypt, Lebanon and Israel. Michael serves as policy director for the Asylum Access in the USA and Consultant to AMERA-Egypt. He is the founder and manager of www.RSDWatch.org.

⁷ Social scientist and founder of Human Dignity and Humiliation Studies.

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⁹ Lawyer working with the International Labour Organization (ILO) based in the ILO's Office for East Africa in Dar es Salaam.

Arising from historical lessons, human rights norms culminate in the right to development with its constituent rights and entitlements. In the case of local application, these norms seek to empower all vulnerable persons and groups and, in particular, refugees and migrants.

The course started by introducing the multicultural and cross-regional genesis of human rights and proceeded to relate these rights to migrants and refugees. The presentation remained always mindful of the distinction between and among the categories of persons that the course addressed. Namely, migrants could leave the country of origin by choice, the contrary for refugees. Also, in the matter of migrants, one should take into consideration the responsibility of the sending country. Generally speaking, there are two different sets of rights and principles protecting refugees and migrants; however, rights to which all humans are entitled are similarly violated through the function of common discrimination practiced against them and the failed antidevelopment policies formulated around them, or worse, ignoring them.

Proceeding from the general to the specific, the next sessions of the course explored the International Declaration of Human Rights as the global inventory of these basic human needs as rights followed by a presentation of the binding treaty obligations of States in the form of Covenants and Conventions (*lex lata*) (i.e., UDHR, ICCPR, ICESCR, CEDAW, CAT, CRC, CERD). We then moved on to the more-specific norms and standards, exploring those specific to refugees and migrants; e.g., 1951 Refugee Convention, the Convention of the Reduction of Statelessness and International Convention on the Rights of Migrant Workers and Members of Their Families. The same scheme was followed in the presentation of soft law instruments and then the team moved on to explain the role, purpose and function of reporting and parallel reporting and proposed strategies and opportunities for participants to engage effectively in those processes

The second half of the course started by clarifying what is meant by 'economic integration' of refugees on the short and long term, followed by case examples from different regions to emphasize that the refugees and migrants enjoying the most rights are likely to be the first to return and the ones most likely to continue contributing to the development of both home and (former) host countries. The role of donors was discussed next, highlighting the need for those to exert positive influence on governments, implementing agencies and service-delivery NGOs toward developing cost-effective and preventive programming strategies that result in development benefits for all parties concerned.

Participants were then given different 'problem' case studies, either from real-life cases, or a realistic amalgam of existing conditions from more than one real-life scenario, asked to divide into small groups and assume the respective roles of states, refugees, donors, NGOs (service and advocacy) and UN implementation bodies. The purpose of the practicum was to apply the lessons and standards from the curriculum jointly to develop a policy scenario that ensured the rights-based development method and outcome for the respective scenarios.

The course finished with a visit to different community-based organizations in refugee populated areas of Cairo.

ANNEX 1

Refugees and Migrants, and a Rights-based Approach to Development Course Program 1 st week Jameel Centre Auditorium, Greek Campus, American University in Cairo							
	Sunday 07	Monday 08	Tuesday 09	Wednesday 10	Thursday 11	Friday 12	Saturday 13

9.00– 11.00	Arrival & dinner	8-9AM: Registration and payment	Introduction on binding law: obligations and enforcement	Soft law sources and standards specific to refugee/migrants [MK]	International monitoring mechanisms [JS, AR]	Day off	Groups exercise: monitoring mechanism
Coffee		Introduction to the course	Binding law sources and standards - general human rights [MK/AR]				
11.30– 13.00		The universality of human rights [JS] ¹¹	Binding law sources and standards specific to refugees/migrants [MK/AR]	Regional sources and standards – both binding & soft law [JS]	Regional monitoring mechanisms (NEPAD/African Commission) [AR/HB]		Groups exercise: monitoring mechanism
Lunch							
14.00– 15.30		Discussion: Cultural relativism [JS]	Dimensions of State obligations, implementation guarantees and violations [JS]	Localizing and indigenizing human rights norms [AR]	Opportunities for policy formulation at International, regional and national levels [JS]		Groups presentations
Coffee		The message of human rights [JS]					
16.00– 17.30	Discussion on civil roles in human rights development [LB/PH]	Introduction on soft law: theory and distinction from treaty law Soft law sources and standards – general human rights [MK]	States in the MENA and Africa region: international obligations and reservations [JS/LB]	Implementing, monitoring and reporting: Step- by-step [JS]	Groups presentations		

¹⁰Lecturers: Anthony Rutabanzibwa (AR); Barbara Harrell-Bond (BHB); Hossam Bahgat (HB); Joseph Schechla (JS); Lana Baydas (LB); Michael Kagan (MK); Parastou Hassouri(PH).

Refugees and Migrants, and a Rights-based Approach to Development
Course Program 2nd week
Jameel Centre Auditorium, Greek Campus, American University in Cairo

	Sunday 14	Monday 15	Tuesday 16	Wednesday 17	Thursday 18
9.00–11.00	Understanding 'economic integration'[BH-B, AC] ¹²	Good practices of rights-based refugee/migrant development: cases from the field [BH-B, AC]	Groups exercises II	Collective Group exercise III	Course evaluation and preparation for field trip.
Coffee					
11.30–13.00	Refugees/migrants: development assets and deficits [BH-B, AC]	Groups exercises I	Groups exercises II	Wrap-up of group exercises and presentations	Field trip to visit refugee locations in Cairo.
Lunch					
14.00–15.30	Good practices: ICARA II/CIREFCA [BH-B]	Groups exercises I (cont'd)	Groups presentations II	Strategies and plans for action [JS]	
Coffee					
16.00–17.30	Donors and their roles [BH-B]	Groups presentations I	Groups presentations II	How human rights abuses humiliate and the consequences for development and peace (EGL)	Debriefing from field trip Closing session and <i>dinner</i>

¹² Lecturers: Abrar Chowdhury (AC); Anthony Rutabanzibwa (AR); Barbara Harrell-Bond (BHB); Evelin Gerda Lindner (EGL); Hossam Bahgat (HB); Joseph Schechla (JS); Lana Baydas (LB); Michael Kagan (MK); Parastou Hassouri(PH).

ANNEX 2
CONTACT LIST FOR PARTICIPANTS

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ANNEX 3 RECOMMENDED READINGS AND USEFUL LINKS

ACE, '[Background Paper: A tool for the assessment of qualifications held by refugees](#)', (Strasburg 15-16, November 1999) at: http://www.aic.lv/ace/WP/Refugees/back_pap.htm - backgr

Alston, P. 'Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the Lens of the Millennium Development Goals' (Human Rights Quarterly, August 2005), at: http://muse.jhu.edu/cgi-bin/access.cgi?url=/journals/human_rights_quarterly/v027/27.3alston.html

Amnesty International, Lebanon 'Limitations on Rights of Palestinian Refugee Children Briefing to the Committee on the Rights of the Child' (42nd session of the Committee on the Rights of the Child, May-June 2006), at: <http://web.amnesty.org/library/Index/ENGMDE180042006?open&of=ENG-2MD>

Amnesty International, 'A Guide to the African Charter on Human and Peoples' Rights' (October 2006), at: <http://web.amnesty.org/library/Index/ENGIOR630052006?open&of=ENG-312>

An Na'im, A. 'Introduction: 'Area Expressions' and the Universality of Human Rights: Mediating a Contingent Relationship', in David P. Forsythe and Patrice C. MacMahon, editors *Human Rights and Diversity: Area Studies Revisited*, University of Nebraska Press: Lincoln, 2003, pp. 1-21, at: <http://people.law.emory.edu/~abduh46/phfiles.htm>

An Na'im, A. 5. 'Problems of Universal Cultural Legitimacy for Human Rights,' in Abdullahi An-Na'im and F. M. Deng, editors, *Human Rights in Africa: Cross-Cultural Perspectives*. Washington, D.C., USA: The Brookings Institution, 1990, pp. 331-67, at: <http://people.law.emory.edu/~abduh46/phfiles.htm>

Betts, J. Comprehensive Plans of Action: Insights from CIREFCA and the Indochinese CPA (UNHCR Working Paper No. 120, January 2006), at: <http://www.unhcr.org>

Brookings Institution: 'International Displacement in West Africa' (Regional Conference, Abuja April 2006), at: http://www.brookings.edu/fp/projects/idp/conferences/ecowas_rpt.htm

Castles, S. 'Developing DFID's policy approach to refugees and IDPs's Volume I & II' A Research Consultancy by the Refugee Studies Centre for the Conflict and Humanitarian Affairs Department, Department For International Development (Oxford, February 2005) at: <http://www.compas.ox.ac.uk/publications/Dfid%20CHAD%20Report.shtml>
(Executive summary, recommendations and Anita Fabos' paper only)

Da Costa, R. Rights of Refugees in the Context of Integration: Legal Standards and Recommendations, (UNHCR, June 2006), at: <http://www.unhcr.org/cgi-bin/texis/vtx/doclist?page=protect&id=3e5210567>

Fargues, P. 'The Demographic Benefit of International Migration: Hypothesis and Application to Middle Eastern and North African Contexts' (World Bank Policy Research Working Paper no.WPS4050), at: http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=469372&piPK=64165421&menuPK=64166093&entityID=000016406_20061025142745

FIDH, 'A human rights approach to the NEPAD and the APRM' (FIDH, 2004), at: http://www.fidh.org/article.php3?id_article=2063

Farmer, A. 'Refugee responses, state-like behavior, and accountability for human rights violations: a case study of sexual violence in Guinea's refugee camps' (Yale Human Rights and Development Law Journal), at: http://www.accessmylibrary.com/coms2/summary_0286-17435177_ITM

Gorman, R.F. Refugee Aid and Development. Theory and Practice (Studies in Social Welfare Policies and Programs, Number 17; Greenwood Press Westport, Connecticut, London: 1993) at: www.jrs.oxfordjournals.org/cgi/content/full/19/2/158

Grabska, K. 'Who Asked Them Anyway? Rights, Policies and Wellbeing of Refugees in Egypt' (University of Sussex, July 2006), at: http://www.migrationdrc.org/publications/research_reports.html (Hard copy distributed during the course)

Hagen, T. (1994) Building Bridges to the Third World, Ch. 37 'Thirty Years of the Tibetan Carpet Industry' (Delhi: Book 7)

CS Hamood, S. 'African Transit Migration through Libya to Europe: The Human Cost' (FMRS, January 2006) (Hard copy distributed during the course)

Harrell-Bond, B. Imposing Aid: Emergency Assistance to Refugees (Oxford: Oxford University Press, 1986), at: <http://www.eldis.org/static/DOC5500.htm> (Hard copy available for consultation during the course).

Harrell-Bond, B. and Verdirame, G. Rights in Exile: Janus-faced Humanitarianism (New York: Berghahn Books, 2005) (Hard copy available for consultation during the course).

Harrell-Bond, B. 'Can Humanitarian Work with Refugees be Humane?' Human Rights Quarterly 24 (2002) 51–85 © 2002 by The Johns Hopkins University Press

Harrell-Bond, B. 'The evolution of solutions: A history of refugee policy', The Oxford international Review, Summer issue of 1996.

Harmer, A. et al. From Stockholm to Ottawa A progress review of the Good Humanitarian Donorship Initiative (Humanitarian Policy Group, Number 18 October 2004), at: <http://www.reliefweb.int/rw/lib.nsf/db900SID/LHON-66JLJU?OpenDocument>

Hathaway, J. The Rights of Refugees Under International Law (Cambridge University Press: 2005) (Hard copy distributed during the course)

Hovil, L 'Local integration as a durable solution: refugees, host populations and education in Uganda,' (UNHCR Working Paper No. 93, September 2003) at: <http://www.unhcr.org>

Kagan, M. RSD WATCH Website and bibliography: http://www.rsdwatch.org/index_files/Page532.htm

Kuhlman, T. 'Responding to protracted refugee situations: A case study of Liberian refugees in Cote d'Ivoire' (UNHCR, July 2002), at: <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=RESEARCH&id=3d4006412&page=research>

Lindner, E.G. Making Enemies. Humiliation and International Conflict. Praeger Security International Publication: July 2006 (hard copy)

OHCHR, 'Frequently asked questions on a human rights-based approach to development cooperation', at: www.ohchr.org/english/about/publications/docs/FAQ_en.pdf (Hard copy distributed during the course)

Pallis, M. 'The Operation of UNHCR's Accountability', IILJ Working Paper 2005/12 Global Administrative Law Series, 2006.

Sperl, S. 'Evaluation of UNHCR's policy on refugees in Urban Areas. A case study review of Cairo' (EPAU, June 2001), at: <http://www.unhcr.org>

Stavropoulou, M 'Displacement and Human Rights: Reflections on UN Practice,' – (Human Rights Quarterly, Vol. 20, No. 3, 1998); at: http://muse.jhu.edu/cgi-bin/access.cgi?url=/journals/human_rights_quarterly/v020/20.3stavropoulou.html

Smith, M. ed. 'Warehousing Refugees: A Denial of Rights, a Waste of Humanity' at: <http://72.3.131.88/data/wrs/04/pdf/38-56.pdf>;

UN General Assembly: 'International Migration and Development', Report of the Secretary General (A/60/871, May 2006), at: <http://www.un.org/esa/population/hldmigration/>

UNDP 'Millennium Development Goals. An Assessment', at: www.undp.org/execbrd/pdf/MDGR_Final.pdf

UNHCR: see <http://www.unhcr.org/publ/PUBL/455c460b2.html> for a revised Collection of International Instruments and Legal Texts Concerning Refugees and Others of Concern to UNHCR (Hard copies of International Instruments and Legal Texts will be distributed during the course).

Weighill, L. ICARA II - Refugee Aid and Development (Oxford: unpublished manuscript, 1997)

Well-founded fear Documentary: <http://www.wellfoundedfear.org>

World Migration Map Data Tool: <http://www.migrationinformation.org/wmm/europe.cfm>

Zetter, R. Reconceptualizing the Myth of Return: Continuity and Transition Amongst the Greek-Cypriot (Journal of Refugee Studies.1999; 12: 1-22), at: <http://jrs.oxfordjournals.org/cgi/content/abstract/12/1/1>

Zetter, R. 'Labelling Refugees: Forming and Transforming a Bureaucratic Identity' (Journal of Refugee Studies 1991 4(1):39-62), at: <http://jrs.oxfordjournals.org/cgi/content/abstract/4/1/39>

Annex 4
Problem Case Studies on Monitoring Mechanisms

Case Study 1: Infringement on the Right to Earn a Livelihood under the Covenant on Economic, Social and Cultural Rights

Ismail is a refugee in the Republic of Zamunda, having fled his home country of Bengula after a civil war broke out and his tribe was targeted for extermination. He has been living in Bengula for two years and has been confined to the refugee camps in which international, humanitarian and non governmental organizations have been providing humanitarian assistance. Zamunda has ratified the ILO's conventions on freedom of association, collective bargaining, and on migration for employment.

Due to budgetary constraints, the organizations serving the refugees in the camps have been compelled to reduce their staff, impeding on their operations which are still necessary. Rather than reduce their programmes, some of these organizations have identified available skills from amongst the refugees and asked them to take up the tasks of some of their departed staff members, and since it is within the confines of the camps they consider it well within the letter of the national law. They are all obliged to sign on to a code of conduct, and are given passes to enter the respective premises.

Ismail is one of them, and he performs the assignments for one of the organizations. He however notes that although he is paid at the end of the month, he is paid less than the national minimum wage of Bengula. He also notes that he, as well as others are not allowed to form a staff union, nor are they allowed to negotiate better working conditions. When he raises this matter with his superior, he is issued with a letter of summary dismissal.

Ismail believes that there are certain rights of his that have been violated and he wishes to seek redress.

Roles:

Case Study 2: Women and Land Tenure

Kumar is a large country struggling to overcome the vestiges of a long-running civil war that has come to an end with the signing of a peace agreement between the 3 major rival factions: the Shilus in the north, the Dabbo in the west, and the Ratti in the south.

Three primary ethnic groups account for nearly 90 percent of Kumar's population, estimated at 60 million at the time of the last census, completed before the outbreak of war. The Shilu ethnic group has occupied positions of power within the ruling party since Kumar's independence.

Other than the capital city, Butu, with a population of approximately 8 million, 2 other cities in the country would be considered urban, and the majority of the population has lived in rural areas, and has been engaged in agriculture and herding.

Following its independence, Kumar adopted a Constitution that, on paper, recognizes equality of all persons regardless of religion or ethnic group, and guarantees equality between the sexes. Kumar has also signed the following international conventions: the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, ICCPR, ICESCR, ICERD, CEDAW, CAT and the CRC. ICESCR and CEDAW were signed with reservations concerning personal status laws.

In practice, however, women have not enjoyed equal rights to men. There is a much higher rate of illiteracy among women than men; few women have entered into civil service or other forms of

public sector employment, and in most rural areas, particularly in the south and west of the country, patriarchal tribal and traditional customs are followed. For example, although civil marriage is available in the country, in rural areas, most follow traditional, common-law marriages and are recognized as married without obtaining marriage certificates. Also, according to local customs, property passes from fathers to sons and widows are entitled to 1/8 of their husband's property.

After the army (overwhelmingly composed of Shilus) launched attacks against rebel groups in the west, where the Dabbo live, the President declared a state of emergency and suspended the Constitution.

During its 25-year civil war, it is estimated that nearly 3-4 million people were killed, and nearly 2 million people were displaced internally, and have been living in long-term IDP camps surrounding the capital. It is estimated that nearly 4 million nationals of Kumar have fled the country, seeking refuge in neighboring countries and elsewhere. The population of IDPs and refugees, particularly refugees in camps, has been overwhelmingly comprised of women and children.

Upon the signing of the peace agreement, the Constitution was reinstated. Moreover, the new president has made assurances that the new government will incorporate international human rights treaties into Kumar's domestic legislation, and that the rights of returnees will be respected. It has asked for assistance from the UNHCR to facilitate the return of refugees and IDPs to their homes and help communities absorb the returnees.

Consequently, since the signing of the peace agreement nearly 3 years ago, the UNHCR and other international NGOs have been monitoring the repatriation of refugees and the relocation of IDPs to their homes. One of the UNHCR's primary concerns is monitoring the returnees' access to their lands, and in particular the need to insure that returnee women have the same access to land as men. Although women have played a vital role in agricultural production in Kumar, the land tenure system has traditionally favored men.

Mary, from the Dabbo ethnic group, has returned to her village after years spent in an IDP camp with her 3 minor children. Mary's common-law husband, John, was recruited into the Dabbo Liberation Army and Mary does not know his whereabouts. Someone informed her that he managed to flee from DLA camps, but they are not sure if he remained in Kumar or fled the country. Prior to the war, Mary and John lived on a plot of land where they primarily grew corn and cabbage that Mary would sell in the market.

The system of landownership in Dabbo's traditional agricultural sector was such that lands were considered to be collectively owned, and tenure was assigned to the residents of the village under the authority of the village chief, who generally assigned tenure to the heads of each household.

During the civil war, the system never ceased to function and village chiefs continued to exert their authority over the communities for which they were responsible. If land had been abandoned by those to whom it had been assigned, the village chief either took control of the land himself or reassigned it others.

Upon returning to her village, Mary discovered that her plot had been reassigned in her absence. Its current occupant refuses to leave. She has appealed to the village chief, who will not recognize her claim to ownership. Although some returnees are able to get new parcels of land, preference has been given to men. In addition, the village chief has told Mary that due to the landmines and destruction wrought by the war, he has no other parcels of land he may assign. He has told her to move in with her husband's family. Since Mary and John are of different religions, his family never approved of their union and will not recognize her as his wife.

Mary has turned to a local legal aid organization, asking that they intercede on her behalf and with the UNHCR to get recognition of her rights to her land.

Case Study 3: The Sea Land under Consideration of the Committee of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) 1990

The Sea Land, with a population of approximately 72 million, has been governed by the National Republican Party (NRP) since the party's establishment in 1978. The Sea Land government's respect for human rights remained poor, and serious abuses continued in many areas. The following human rights problems were reported:

- limitations on the right of citizens to change their government
- existence of the state of emergency, in place almost continuously since 1967
- torture and abuse of prisoners and detainees, including deaths in custody
- poor conditions in prisons and detention centers
- impunity
- arbitrary, sometimes mass, arrest and detention, including prolonged pretrial detention
- executive influence on the judiciary
- denial of fair public trial and lack of due process
- political prisoners
- restrictions on civil liberties--freedoms of speech, press, assembly, and association; some restrictions on freedom of religion
- corruption and lack of transparency

The Sea Land is party to the major regional and international treaties on human rights, including CESC, ICCPR, ICERD, CEDAW, CAT, CRC, CMW. It made reservation to article 4 and article 18, paragraph 6, of the CMW.

The continued state of emergency affects the application of the Constitution, specific laws, international treaties and migrant workers' enjoyment of their rights. The working conditions and the protection available to migrant workers remained poor in the Sea Land. Under article 27 of the Labour Code, the protection, including social security, afforded to migrant workers by the Code is subject to a reciprocal agreement, and it is not clear how this implemented in practice.

Children of migrant workers have limited access to the Sea Land public school system. Migrant workers are sometimes not allowed to participate in the administration of a trade union or association, and they cannot in practice exercise their right to form a trade union.

The Sea Land is ambiguous on whether its national legislation provides for the application of the CMW to refugees and stateless persons in pursuant of article 3 (d) of the convention.

The Sea Land is bordering with the Peanut Land which suffers a long lasting war for over 20 years. The Peanutians seek refuge in the Sea Land. The Sea Land government is usually ambiguous about the Peanutians status within its territories. The Sea Landian authorities allow the Peanutians to its territories as migrant workers.

On December 30, the Peanut protestors who have the status of refugees and migrant workers staged a sit in a square in the Bean city against the decision of the UNHCR to terminate their refugee status after the Peanutian conflicting parties signed a peace accord. According to the Sea Land government, the UNHCR asked the authorities to remove these protestors. The Sea Land anti riot forces stormed in the sit in killing more than 30 persons and detaining hundreds, including women and children.

The Sea Land government claimed that it launched an inquiry into the incident but the findings were not made public. Many human rights organizations called for a public and international

inquiry but their calls were faced with deaf ears. Reports spoke of collective expulsion of the Peanutians. The procedures for expulsion are not clear in the Sea Land Law.

Case Study 4: A Review of the State of Hoonia's Implementation of the International Covenant on Economic, Social and Cultural Rights

Hoonia is a small country located in a very strategic location on the periphery of the regional super power and enjoys the protection of that super power for geopolitical reasons. An independent state since 1960, Hoonia was decolonized through a long process with the help of other countries asserting their interests in the region at the time of the former colonial power's declining influence. Now, Hoonia enjoys the backing and protection of a variety of wealthy countries in other regions, each seeking a role in the region, including the former colonial power. Hoonia's post independence leadership has been able to exploit its strategic location to enlist wealthy allies and dominate the region. Thus, Hoonia enjoys practical immunity from the threatened reprisals of neighboring countries for its increasingly daring land and resource-grabbing incursions into contiguous Loonia, to the north, and Koonia, lying to the east. Today, Hoonia's military consequently occupies a significant land corridor deep into Koony territory.

Since independence, Hoonia has developed various light and heavy industries, as well as a productive agricultural sector. The country has a combination of Mediterranean and semiarid climates such that, with proper irrigation and/or adequate seasonal rains, can sustain a variety of crops, including citrus, numerous types of vegetables and grains. Consequently, Hoonia exports to the world's most lucrative markets, although not to its neighboring states, which effectively have boycotted Hoonia as the only means of retribution for its continuum of aggression against other states in its region. Although traveling there from adjacent countries is politically and procedurally difficult, foreign contract workers from distant parts of the developing world have migrated to work in Hoonia's robust economy, infused with generous subventions and favorable trade advantages from wealthy allied countries abroad.

Hoonia ratified the two human rights Covenants and ICERD in 1971. By 1975, Hoonia had ratified all of the core ILO Conventions.¹³ Soon thereafter, its parliament carried out a gradual review and eventual ratification of CEDAW, CRC and CAT throughout the 1990s. No noteworthy steps have been taken in Hoonia to ratify the Genocide Convention, and the Hoonian government has rejected the de jure application of the Geneva Civilians Convention (1949), which it actually ratified in the first year of independence. Hoonia's president and parliament have vociferously opposed ratification of the Rome Statute on the International Criminal Court and the Migrant Workers Convention.

However, Hoonia has issued no reservations, declarations or understandings with any of its human rights treaty ratifications. Hoonia's monist government has published all of these treaties in the official gazette, and its judiciary has affirmed the domestic judiciability of the corresponding rights under ratified treaties.

Hoonia has a reputation for having evolved into a multiparty democracy with regular elections and a lively, free press. Since independence, Hoonia has adopted an Anglo-Saxon judicial tradition and judicial activism has been strong, especially in the least decade.

¹³ Including Conventions No. 29 (Forced Labour, 1930); No. 87 (Freedom of Association and Protection of the Right to Organize, 1948); No. 98 (Right to Organize and Collective Bargaining, 1949); No. 100 (Equal remuneration, 1951); No. 105 (Abolition of Forced Labour, 1957); No. 111 (Discrimination (Employment and Occupation, 1958); No. 138 (Minimum Age Convention, 1973); and No. 182 (Elimination of the Worst Forms of Child Labour, 1999).

Upon independence, Hoonia's forces carried out ethnic cleansing and dispossession of the non-Hoon indigenous people, the Poonies, conducting a series of punishing mass evictions and massacres against them. Although the Poonies have lived for millennia in the lands currently under Hoonia's jurisdiction and effective control, Hoonia's state ideology and certain obfuscative laws recognize only one legitimate nationality: 'Hoon nationality,' a civil status distinct and superior in rights and benefits to mere Hoonia citizenship. Only those who are Hoons by birth, or immigrants declaring their Hoonism upon citizenship, are eligible for a variety of services, including financial aid for higher education; access to, and use of 95% of land (deemed 'national' land); tax incentives; housing subsidies, especially for those settling in traditionally Poony areas; and benefits derived from military service, which only Hoons perform.

Some 900,000 Poony refugees—dispossessed in 1960—now live in neighboring countries, and statistics on Poony numbers in more-distant countries are rare. Most Poony refugees, including their spiritual and political leader, the Grand Poony Poobah, live in exile in neighboring Koonia.

Estimates place the total Poony population at over two million, all of whom are prevented from entry into Hoonia under Hoonian legislation. About 20% of the total 4 million Hoonian citizens are steadfastly remaining Poonies, of whom 150,000 are long-term IDPs (since 1960). Poony IDPs have raised several legal petitions at all judicial levels of Hoonia courts, seeking to restore their rights to their property, often their only means of subsistence. All have failed, since the Hoony High Court usually rejects such cases on the premise that they are 'security' matters, instead falling within the jurisdiction of military courts. The military courts, in turn, consistently refuse to admit such claims, since land and property disputes lie outside their formal jurisdiction.

Physical planning authorities in Hoonia effectively favor Hoonies over any other ethnic 'national' group, generously providing land grants and building permits to Hoons and consistently denying Poonies, in particular. The regional and central authorities, including the Ministry of Housing and Hoony Land Authority, regularly order and conduct punitive house demolitions and forced evictions of those Poony families whom they determine to be living in 'illegal' housing and villages, even though most of their communities and dwellings predate the establishment of the State of Hoonia by decades or centuries. The squalid living conditions of the Poonies, due to periodic demolitions and general poverty, cast a stark contrast to the average Hoony household with its full services, irrigated gardens, ample public spaces and well-maintained infrastructure.

Primary education is free and compulsory for all citizens, including 'Hoon nationals,' and residents. The secondary curriculum is modern and progressive, providing several optional tracks for students in languages and the classics, vocational training and the sciences. All schools are required to teach in Hooniyya language and promote exclusively Hoony traditions, history, religion and ethnic culture. No curriculum with modules in Poony language, culture or history are taught, not even in private institutions. All pupils learn to revere Hoony heroes, and all Poony place names—in the country and the region—have been replaced with Hoony equivalents in the geography curriculum, as on all maps printed in Hoonia.

The generally disadvantaged Poonies have access to remedial education and preventive health services, provided through the respective Hoonian ministries. These services are mostly delivered in the 'townships' that Hoony planners have created for those Poonies agreeing to relinquish their lands for cash compensation and move to those new, high-density settlements. The Poony pastoralists are under the heaviest pressure to relinquish their lands and properties in this way.

In the meantime, Hoonies receive lavish grants and incentives to build and occupy homes in traditionally Poony areas. In the past 45 years, demographic-manipulation policies have ensured that a Poony majority no longer exists in any region of Hoonia. Poonies, with their rich agrarian and pastoral traditions, variously have lost fully 90% of their lands held at the time of independence. In the Hoony-occupied areas of Koonia, Hoonia is accelerating its implantation of Hoony settlers, displacing indigenous Poonies and Koonies, as well as already-refugee Poonies.

Poony refugees are referred to in Hoony law as 'enemy absentees,' and are, thus, legally prevented from entering the country. They also are reviled by most Hoonies, including throughout the media. Despite their claims to the right of return, externally displaced Poonies have survived for decades on relief from the international community. Their camps are as squalid as the poorest Poony neighborhoods inside Hoonia. Rhetorically, the international community recognizes the Poony right of return; however, to date, no international action seriously has addressed Poony refugee rights. Earlier international attempts to quantify the costs and losses of Poony dispossession and expulsion were methodologically flawed and now grossly out of date.

Case Study 5: Consideration of Complaint against Transolia by the African Commission on Human and Peoples' Rights

Tansolia is a small African country which has ratified the African Charter on Human and Peoples' Rights (the Charter), the African Charter on the Rights and Welfare of the Child (The Children's Charter) and the International Covenant on Civil and Political Rights (ICCPR). It has signed but not yet ratified the Protocol on the Rights of Women in Africa.

TransRefuge (The Transolian Association for the Rights of Refugees) is a Transolian NGO providing legal and psychosocial support for the refugee community in the country.

TransRefuge has submitted a complaint against Transolia to the African Commission on Human and Peoples' Rights (the Commission) on behalf of 6 women and 5 men (the Complainants) who were arrested, tried and convicted on the basis of their alleged homosexuality.

The Complainants were arrested by the police without an arrest warrant 1 June, 2005 while they were in the Chez Mama night club, known to be frequented by homosexual men and women, and stayed in detention until 13 June 2005, when they were moved to the central prison. The arrests received intensive media coverage and the photographs of the Complainants were shown in print and broadcast media.

The Complainants were arrested among 17 persons who were also at the night club on 1 June. However, the other six were released on the following day. Only the Complainants remained in detention and were subsequently charged and referred to court. All of the 11 Complainants are originally from the neighboring state of Dominixia. Four of them are recognized refugees in Transolia while the rest have applied for asylum and their files are still under consideration by the Transonian status determination authority.

On 31 August 2005 the 11 Complainants were charged under Article 347 of the Transolian Penal Code which stipulates a punishment of imprisonment for 6 months to 5 years for 'sexual relations against the order of nature'.

A request filed by a defense lawyer on 5 September 2005 for the Complainants' release pending the trial was denied. Another request for the release of a 17 year old girl among the Complainants on the basis of her being a minor was also denied.

The trial began on 17 March 2006 and several hearings were held until 3 July 2006, when the Transolian Criminal Court convicted the 11 Complainants, including the 17 year old minor, and sentenced them to one year in prison. The Complainants were released immediately because they had already served their sentence.

On 14 July 2006, one of the Complainants, Mr. Alim Mongoche, died in the hospital. His doctors assert that his death was directly connected to his conditions of detention and the lack of medical care he received despite the fact that he had informed the prison authorities that he was living with HIV.

Following the trial, the asylum claims of seven of the Complainants were rejected by the competent authority based on their prior criminal conviction. The seven Complainants were deported to Dominixia while the Appellate Criminal Court was considering the appeal their lawyers had filed against the 3 July decision of the lower criminal court.

On 17 August 2006 the Appellate Criminal Court rejected the appeals of the Complainants and upheld their conviction. All domestic remedies therefore have been exhausted.

ANNEX 5 Problem Cases

Problem Case 1

Teachers' strike

Description of the situation:

In the refugee settlements of Rugando, the Hope NGO is UNHCR's implementing partner on education; as such, Hope is under contract with UNHCR to deliver educational services, for which UNHCR provides the funds. Hope employed both refugee teachers and Rugando national teachers to work in the camps schools.

The Rugando teachers received a salary according to the national rate but refugee teachers received only an 'incentive'. UNHCR's policy is to pay refugee teachers (and other refugee workers) 'incentives' which constitute less than the pay required by Rugando's labour law. UNHCR argued that since refugee workers benefit from distributions of food and tools in the camps, they do not deserve salaries as high as the normal minimum wage. (There was a great deal of debate about whether the food and other aid provided in the camps actually accounted for the difference in salaries; Refugees arguing that the aid provided in the camp was actually of little monetary value).UNHCR also argued that resources were limited and that school programs would have to be cut if salaries rose.

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Moreover, the Rugandos were paid additional 'hardship' allowances because of the necessity to live in camp conditions, and they also had contracts. In contrast, refugee teachers were not given contracts, although Hope retained the power to hire and fire without due process, i.e. notice.

In 1993 refugee teachers created a union to complain about the poor working conditions: the lack of a contract, low pay (inferior to that of national teachers), 'incentives' instead of salaries, lack of teaching materials, poor accommodation and general welfare, no benefits (i.e. medical care) but obligation to pay poll tax, constant transferral from one school to the other, lack of discussion at staff meetings but imposition of Hope 'dictates', and lack of response to letters of complaint to UNHCR .

In October 1997 refugee teachers went on strike for over a month, with support from the Rugando teachers; they struck for proper salaries and contracts of service (to avoid arbitrary dismissal). Hope maintained that the policy on salaries was that of UNHCR.

Roles:

Refugee teachers

UNHCR

Jesuit Refugee Service

Advocacy NGOs

Government

PROBLEM CASE 2

The Health Clinic

Description of the situation:

The country where you work has the following law in its Code of Health:

Section 8 Persons with HIV/AIDS

A – All laboratories and medical personnel providing testing for the HIV/AIDS virus and related antibodies shall notify the Minister of Health and the Minister of Interior whenever any person tests positive. In any such case, they shall provide to the Minister of Interior the name, identification number, home and work addresses and any other data regarding the person who has tested positive.

B – Whenever the Minister of Interior shall become aware that a foreigner has tested positive for HIV/AIDS, he shall take the following action:

1-Arrest, detain the person for the purpose of isolation and quarantine.

2-Arrange deportation at the soonest possible opportunity

3-Maintain conditions of detention and isolation until deportation becomes possible.

In some cases, UNHCR has managed to facilitate emergency resettlement for HIV-positive refugees, but last year a refugee in danger of torture in his country was deported for being HIV-positive before UNHCR was able to find a resettlement country for him.

NGOs in the country are interested in setting up health services for refugees, especially for victims of sexual violence. Doctors warn that some portion of the population is likely to be HIV positive, and normal medical protocols would call for testing some of the refugee patients.

The organizations involved are trying to decide what policy to take forward treating HIV in the refugee/migrant population.

Roles:

Physicians

NGO(s)

UNHCR

Government Minister of Health

Government Minister of Interior

ROLE PLAY 3

School openings

Description of the situation:

Local law in your country states: 'All children, including foreign children, may enroll in the nation's schools until age 18.' However, a recent study reported that 75% of refugee children are unable to enroll in school; 20% of local (citizen) children have the same problem. According to the research, headmasters often turn refugee children away when their schools are over capacity; they generally make nationals a higher priority than foreigners, and still sometimes turn away national children for lack of space.

Refugees complain bitterly about the lack of education for their children. However, research has also shown that some refugee parents do not send their children to school when it would be possible because they do not want their children to learn the local language. Instead, they are demanding that UNHCR set up schools that teach the refugees' native languages and English. They recently held a protest march outside UNHCR with banners that said, 'Refugee schools for refugees, local schools for local people.' The host government has told UNHCR that competition for school spaces is creating resentment of refugees among the local population.

A foreign government that is a major foreign aid donor has recently summoned UNHCR, NGOs and the host government to signal its interest in providing a large grant to address the problem of refugee education. All parties must now determine what type of program to propose, and the funder must determine the parameters and criteria for assessing the proposals.

The donor has a choice of prioritizing the fund to the host government directly or to give it to UNHCR/NGOs to develop parallel systems which the host government may not recognize. Some of the NGOs are facing a financial crisis and are eager to find a way to be involved in implementing this project.

Roles:

Host government Ministry of Education

UNHCR

NGOs with interest in education issues

Refugee leaders who organized protests at UNHCR

Donor government

PROBLEM CASE 4

The Texian Ten

Description of the situation:

The Republic of Yorkon hosts 10 asylum seekers from Texiania, known as the 'Texian Ten.' These 10 people were leaders of a militant opposition organization in Texiania that organized a series of ambushes against government troops on rural roads. They have all been convicted in a military court and sentenced to death. Three other people who were subjected to the same charges and convictions were tortured before being executed.

The Texian Ten have asked for asylum in Yorkon, and in the alternative, for leave to remain under the Convention against Torture (to which Yorkon is a party). Yorkon's government considers the Ten to be essentially outside agitators and a threat to its foreign policy, in which close relations with Texiania are especially important. However, Yorkon's courts have in the past blocked deportations of people likely to be tortured in Texiania and other countries.

The Yorkon Minister of Interior has approach the International Organization for Human Rights Monitoring, an NGO, with a proposal. Yorkon will provide a very large amount of funding to the NGO to set up a mechanism in Texiania to monitor the well being of people returned from Yorkon, in order to prevent their torture and thus allow their deportation. The Yorkon Minister said to the NGO: 'You tell us what arrangements you'll need in Texiania, and we'll make it happen. The Texianians are willing to cooperate.'

The Texian Minister of Foreign Affairs said in the press, 'Of course we will not torture anyone, so why would we oppose some kind of inspections, so long as it is sensible and not humiliating for us?'

Roles:

International Organization for Human Rights Monitoring

Refugee rights organization in Yorkon

UNHCR

Yorkon Minister of Interior

Texiania Minister of Interior

PROBLEM CASE 5

North-South

Description of the situation:

Republic of the South has entered an agreement with Haven of the North that said 'South will take all measures necessary, including criminal sanctions, to prevent its territory from being used as a transit location for illegal or irregular migration to North.' Following this agreement, South's parliament passed a law that says, 'It shall be a crime to enter South without a permit, or to remain after the expiration of a visitor's permit. It shall also be a crime to provide any material assistance to any person entering or remaining without a proper permit.'

The Minister proposed a law that said it is targeted at traffickers and smugglers. After the passage of this law the government built outdoor prisons to detain illegal migrants. NGOs have asked to access the detainees in order to provide medical and legal services to them. The government has refused access arguing it would violate the new legislation; however the government said it would allow NGOs to visit detainees but only to facilitate their exit from the country.

The government will permit UNHCR to enter the detention area for the purpose of identifying refugees from amongst the migrants. However, there are no private areas in which UNHCR can meet with refugee claimants and UNHCR's staffing constraints prevents staff spending more than half an hour with each detainee. In addition, as there is no NGO access, there is no possibility for legal aid for the applicants who usually have no warning before meeting a UNHCR representative. NGOs and UNHCR must decide how to react to the government's policy; at the same time, the government is anxious to ensure UNHCR is involved so that it is not accused of violating the rights of the refugees in support of the right to non-refoulement. The Haven of the North wants to make sure that the Republic of the South prevents the migrants from leaving but wants to assure its constituency that nobody is going to be sent back to face persecution.

Roles:

NGOs who want to offer services in the detention centre

UNHCR

The government of the Republic of the South

The government of the Haven of the North

A detained asylum-seeker

PROBLEM CASE 6

Unaccompanied child

Description of the situation:

A man has appeared at an NGO's office with a thirteen-year-old girl who he says came to his door the night before. The girl says that she came to the country two years ago with her parents; she believes they applied to UNHCR but does not know much about it. One week ago her parents said they were going out carrying bags and never came back. She lived alone for a week and eventually went to ask for help to this man because he is of the same ethnicity. UNHCR records show that the parents applied for refugee status but were rejected and their file was closed; the girl had been listed as a dependant on the application. The police say they have no record of arresting or detaining the parents and presume they have tried to smuggle themselves to another country and have essentially disappeared.

Roles:

NGO

UNHCR

Government

Girl

Man who brought her to the NGO

PROBLEM CASE 7

Displaced People and the Land Struggle

Description of the situation:

Koki Carolina has lived for almost eight years at Ilocha 'protected' camp for people fleeing their homes in the north of the country, where 18 years of war between government forces and a rebel group has caused widespread terror and destruction.

'They attacked the village on a daily basis,' said Koki, referring to the shadowy, guerrilla force composed largely of children kidnapped from the surrounding area and forced to fight. 'They can kill anyone, even your child. They murdered my husband!' The last time the guerrillas attacked her village, Koki said, they grabbed her husband, tied his hands behind his back, and threatened him until she came up with enough money to win his freedom. She still bears the scars of a bayonet stab on her left leg. She soon fled the village after further threats to kill her four children.

People first started fleeing to the Ilocha camp in 1996, but the camp was not registered until October 2004. Many residents arrived in 2003 after the army ordered displaced people living in nearby villages to move to the camp.

Regardless of the dangers and daily attacks, Koki said she would have preferred to stay in her village to ride out of the storm of the war, because at least she would have had some land to till. As it is, she rents a small, nearby plot to grow okra, peas and greens to sell by the roadside.

The lack of land is a recurring complaint in the IDP camps. Because of the current military strategy of cutting off the food supply to the rebel guerrillas, the national army does not allow the IDPs to cultivate land further than a radius of 2 km from the camps. Consequently, 13% of IDPs have no access to land, and 50% have access to less than half an acre. Furthermore, the Army is preventing the cultivation of annual crops like sorghum and perennial crops like cassava, on grounds that it could help rebels' access to food.

Food security is very poor in the camps, and many children exhibit signs of malnutrition. The World Food Programme visits every two months, distributing rations of maize meal, beans and cooking oil, but camp residents say there is not enough food. Sometimes the trucks run out of food or leave before all residents have gotten their portion, residents said. New arrivals must register to receive food, a process that can take months. Even residents who have registered sometimes find their names are not on the list and must wait for another two months to get food, camp leaders said. Some families have begun encroaching on the few fallow lands surrounding the camp, which has led to violent conflict with residents of the local 'host' villages.

Land in the IDPs' original villages is owned under customary system of tenure which is generally recognized in the national law, but safeguards are weak. The largest of the 'protected camps' has 63,000 displaced people who have left their ancestral lands bare and uncultivated for many years. In the process, three threats have emerged: (1) violent opposition from the local population over the IDPs' use of local lands (either as renters or encroachers); (2) the surviving orphans and women IDPs risk losing their land rights in the original villages, particularly as their home lands have become the subject of illegal occupation and logging, particularly by Army officers or private investors, and government-sponsored resettlement of other IDPs on the IDPs' private family lands; and (3) food insecurity and inadequate nutrition due to lack of access to cultivate land.

Roles:

Government
Intergovernmental relief agencies
Local NGOs
Media
Local 'host' communities

PROBLEM CASE 8

After the disaster

Description of the situation:

Two-thirds of the population of Beachistan lives near the coast. The country has been hit by a massive hurricane that destroyed around 40 percent of its housing stock, most of it small homes belonging to fishermen, farmers and small-time merchants. Many of these people inherited their land under tradition land use systems, and never had registered deeds or titles. In any case, many deed registrations were destroyed in the hurricane.

Two years before the hurricane, Beachistan's parliament passed a law calling for the progressive implementation of land registration. The law originally called for a phased process over 15 years during which time all land would be registered and titles settled. However, after the hurricane Beachistan's government has expressed interest in accelerating the process. At the same time, mass amounts of foreign donations have poured into the UN and NGOs to assist in reconstructing housing.

International hotel chains and other developers have approached the government expressing interest in purchasing and developing the beach front, which would provide the government and the local economy with a massive cash infusion at a time when the government is struggling to cope with a mass disaster. The government has cordoned off most of the beach front as a security zone and is arresting anyone trying to return to it with the justification that it cannot distinguish between who are legitimate returnees and who are illegal squatters. Therefore, the police treats everyone returning to the beach area as an illegal squatter unless they have a land deed, which very few people have. The government has suggested that it would be best for the country to sell plots of beach front property to developers and provide the displaced survivors with alternative land inland and the government is asking the UN and NGOs to help construct homes. It would be possible and relatively inexpensive to rapidly construct settlements with pre-fabricated homes in the area. This would be the most cost-effective option for the UN and NGOs and would produce a fast result that would be reported back to the donors.

Roles:

Government
Displaced survivors
UN
Relief NGOs
A legal aid centre set up for the survivors

PROBLEM CASE 9

Housing in the Aftermath of War

Description of the situation:

As is the case in several countries in this troubled region, civil and cross-border wars have displaced hundreds of thousands of people. In Crisisia, over half of the 900,000 displaced persons from the recent invasion by its southern neighbor already have returned home. However, some 200,000 have no homes to go to and the onsetting winter increases the urgency to house them.

This has happened to the Crisisians before, as in the invasions of 1993 and 1996; where after the invading army remained as occupiers. This time, the people are anxious to return and rebuild their homes and lives. In the absence of any effective central government, several experienced NGOs have begun compensating families for their losses and supporting them in their reconstruction efforts.

The international community has intervened to provide technical assistance, funding and other aid. One influential foreign government is promoting the distribution of prefabricated houses to replace all the uninhabitable war-damaged homes. A local pre-fab housing manufacturer (with contracts to provide such housing for the foreign government's military operation in the region) also promotes the idea of prefab housing as a 'temporary' solution. The experienced nonprofit NGOs assess that no more than 1,000 pre-fab houses would be needed urgently. The rest of the needs should be met by self-construction with local assistance to restore life as it was before the invasion.

Two UN Special Rapporteurs recently visiting Crisisia have cautioned against the use of pre-fab housing, since its original 'temporary' nature often becomes the permanent condition when relief efforts lapse, as demonstrated in several post-tsunami cases. Officials in the weak central government, without any alternative plans or competent institutions to address the IDPs' housing problem, nonetheless seek to use prefab housing as a multipurpose strategy to:

- Show compliance with the will of the large donor country with regional military dominance;
- Promote a private-sector solution by supporting the profit-making local industry linked to the large donor;
- Supplant the influence of the experienced NGOs, which have been providing multiple services throughout the period of government inaction in the now-affected region;
- Demonstrate government efficiency by delivering large numbers of housing units to the IDPs.

Upon interviewing the IDPs over the housing controversy, a large proportion of them rejected the prefab option, saying 'We don't want to end up like Palestinians.'

Roles:

Government

NGOs

Donors

IDPs

Media

PROBLEM CASE 10

Autonomy

Description of the situation:

For years, UNHCR has administered refugee camps in northern Tulipia for Rosinian refugees. The host government of Tulipia takes the position that it has few resources to manage refugee

affairs, but is happy to set aside land for refugees and let UNHCR administer the camps, with UNHCR acquiring many of the power of a provincial government. Sometimes disputes would break out among Rosinian refugees, including cases of petty theft, disputes over unpaid debts, and disagreements over divorce and child custody.

Previously, these disputes were adjudicated by UNHCR protection officers. In criminal cases, they would compile dossiers and pass them to Tulipian prosecutors, who filed charges and ordered people's arrests. In monetary and family disputes the protection officers would issue decisions, which were supposed to be based on international law and Tulipian law. There was no appeal of the protection officer's decisions. Five years ago, a major riot broke out in one of the camps when a protection officer consented to woman's request for a divorce, and ruled that it would be in her children's best interests for her to have custody. A UNHCR office building was burned in the riot. A year later, another riot broke out when Tulipian police tried to arrest a refugee woman for genitally mutilating her daughter, which is tradition among the Rosinians but illegal in Tulipia. A UNHCR protection officer was badly beaten in this riot.

Around this time, an anthropologist called Prof. Smith published a book called 'Blue Arrogance' which accused the UNHCR of causing instability in Rosinian refugee communities by trying to impose western notions of dispute resolution and family relations. Prof. Smith also criticized UNHCR for not establishing fair procedures to decide refugee disputes. He argued that only a body that has legitimacy among the Rosinians could successfully resolve their internal disputes.

UNHCR and Tulipia took Smith's criticisms seriously, and authorized the Rosinian refugees to set up 'Community tribunals' to deal with petty crimes, contractual disputes, and family matters. The tribunals were empowered to operate small prisons that could hold criminal suspects for up to 4 months (longer sentences could be imposed only by a Tulipian court). However, the tribunals were originally set up as a three-year trial.

A new book has been published by a lawyer, Mr. Jones, called 'Blue neglect,' accusing UNHCR of giving community tribunals too free a hand. According to Mr. Jones, the community tribunals are ordering women imprisoned for having romantic relationships outside marriage fail to apply the best interest of the child standard, and permit female genital mutilation. Jones also reports that torture is informally imposed as a punishment on many people in the tribunals' jails.

UNHCR and Tulipia must decide whether to extend the tribunal system for another three years.

The courts imposed fees and fines which went to the tribunal judges and in addition in some cases issued on the spot orders for flogging for public drunkenness and fighting.

Roles:

Tulipia Ministry of Justice

Tulipia Ministry of Refugee Affairs

UNHCR

Tulipia Association for Human Rights

Rosinian Community Tribunal Judges Association

PROBLEM CASE 11

Afraid to report

Description of the situation:

Bill is a refugee, and is gay. He works as a cleaner in the house of George, who is the Director General of the Ministry of Interior. Knowing that Bill is gay, George has been making sexual advances on him for some time which escalated until last week he raped Bill.

The country where Bill resides has a law that include the following criminal penalty:

'Any person guilty of unnatural acts or sexual perversion shall be subject to penalty of five years in prison or two years hard labour.'

The law does not define 'unnatural acts or sexual perversion.' Until five years ago, this measure was used only against pedophiles. But over the last five years it has been used repeatedly against gay men for engaging in consensual relationships between adults.

Bill is visiting NGOs and UNHCR looking for legal advice about how he can report his rape because he wants George to be arrested but he fears he would need to 'confess' he is gay and he would be subject to penalties himself, especially because George is a high-ranking official in the Ministry of Interior. It is widely known that George is an aspiring politician but has political enemies who would likely be interested to know that he is gay. UNHCR and NGOs need to decide how best to assist Bill.

Roles:

Bill

UNHCR

Health clinic NGO

Legal aid NGO

Local police

PROBLEM CASE 12

Improved prisons

Description of the situation:

For years, the Republic of Lulu has detained scores of illegal migrants in an overcrowded prison where sanitation is poor, disease is rampant, and beatings and rape by guards are common. Many of those migrants detained are left there indefinitely; some have been there for more than two years. In general, most have been convicted only of illegal residence, which carries a 30-day maximum prison sentence. In theory, they are detained awaiting deportation, but in practice the government holds them in jail until they raise the money to pay for their own deportations. In addition, NGOs have limited access to the prisoners, who often go without even basic medical care. The detention system was condemned by the UN Human Rights Council last year.

After years of scathing human rights reports about the migrant detention conditions, the Minister of Interior has approached a local branch of a well-funded foreign NGO called Dignity for all with the following proposal. The Minister asks that Dignity for All use its connections and endowments to pay 1/3 of the cost of constructing a new prison that will have better ventilation, more sunlight, and more space. In exchange, Dignity for All will be allowed to establish a medical and social work clinic inside the prison to serve the migrants, a first for the country. The Minister says, 'We want the migrant detention center to be the best in the country, but we need help to do it. We know we need to do better.'

Meanwhile, a new report has been published accusing the government of detaining asylum-seekers and refugees in the migrants' prison, which the government vehemently denies. UNHCR is not sure if the accusations are true because it is not usually allowed access to the prison, and has to rely on the government to provide information about the detainees. UNHCR considers lack of prison access one of the most urgent protection problems in the country. The Minister of Interior says that if UNHCR can reliably identify a registered refugee or asylum-seeker in the prison, he will be immediately released.

The Minister has now gone to UNHCR with this proposal: 'If Dignity for All agrees to support the building of a new detention center, we will let UNHCR have a permanent presence inside the health clinic, and a private room to meet with detainees'. The Minister encourages UNHCR to help Dignity for All to raise money for the prison; UNHCR and Dignity for All are considering these proposals.

Roles:

Dignity for All (NGO)

Lulu Refugee Rights Center (NGO offering legal aid to refugees)

UNHCR

UN High Commissioner for Human Rights

Minister of Interior

PROBLEM CASE 13

Independence

Description of the situation:

For 25 years, Erbinia fought for its independence from Etheria. Finally, in 2000, the UN recommended that Erbinia have its independence, and after a year this recommendation was ratified by a referendum. In 2001, Erbinia became an independent sovereign state.

In 2001, police in Etheria began rounding up ethnic Erbinians who had lived their whole lives in Etheria. They were deported to Erbinia; Erbinian police did the reverse, arrested Etherians who were native to Erbinian territory, and deporting them. The governments signed a 'Peace and Harmony Based on Separation Agreement' to ratify these mutual deportations; the prime ministers called it 'A population transfer that will build our future, side by side.'

Erbinia passed a law called 'Law of the Erbinian Homeland' that said any ethnic Erbinian who enters Erbinia and claims immediate citizenship, so long as they have evidence their families have roots there.

In Asylumville, there are 200 refugees from Etheria who grew up in Etheria but who are ethnically Erbinian. Their families have roots in Erbinia, but migrated to what is now Etherian territory 45 years ago. The government of Etheria refuses to let them come back because they are ethnically Erbinian; the Erbinian Law of Erbinian Homeland would seem to make them eligible to go there instead. But the refugees refuse to go to Erbinia. 'Our lives are in Etheria, and that is where our homes and businesses are. Many of our relatives have already been deported from Etheria to Erbinia by force.'

The government of Asylumville has told UNHCR it wants these refugees to leave, and is considering deporting them to Erbinia, the only country that would take them. Asylumville asked UNHCR to consider promoting repatriation instead of forced deportation.

Roles:

The refugees

UNHCR

Asylumville Minister of Interior

Government of Erbinia

Human Rights Association of Asylumville

PROBLEM CASE 14

Summer School Camp

Description of the situation:

A religious based refugee service provider organized a 'Summer School Camp' for 1,000 Awaden refugee children living in the host country, Karesi, because the majority of the refugee children did not receive any education in Karesi. A local school allowed the organization to use its premises for a three month period. Many religious based organizations provided material and financial support to the summer school camp. Two volunteer teacher trainers from abroad, a western country, came to provide training to the refugee teachers so that they would gain the skills and qualifications to teach the children professionally. The summer school camp was very successful. The organization was considering expanding this project and providing education to the refugees all year round.

Two months into the school camp, some of the students who were members of a known gang began fighting each other. Following a major fight that spilled out of the school grounds into the surrounding neighborhood, security forces closed the school and would not allow the organization to continue with the summer school camp. After some negotiations with the security officers, the organization managed to continue with the summer school camp. However, after two days, the security surrounded the whole area and would not allow anyone to go near the school, including students, teachers and the organizers. Further meetings with the security did not lead anywhere. The Ministry of Education was contacted, who told the refugee service provider that 'they could not use Karesian' schools for Awaden refugees.' Karesi signed and ratified the Convention on the Rights of the Child as well as being signatory to both the 1951 Convention and its 1967 Protocol in addition to the 1969 OAU Convention – although with five reservations, including to the provisions for primary education.

During these incidents the refugee service provider contacted UNHCR to get involved without success.

Roles:

UNHCR

Religious refugee service provider

Ministry of Education

Security

Refugee children-students

PROBLEM CASE 15

Domestic Violence

Description of the situation:

A woman from K has appeared at an NGO's office operating in the country of P to ask for help in getting protection from her husband. She tells the NGO that she and her husband came to P three years ago as refugees. She says that though her husband has always been ill tempered and on occasion beat her, ever since they have been living in P, his behaviour has become more abusive. On one occasion he beat her so severely, she had to be taken to the hospital. She adds that approximately two weeks ago, having had enough, she moved in with a distant relative. She says that after she moved out, her husband came to the relative's house and told her that he is going to the UNHCR to tell them that he is returning to his home country and taking her with him. He has told her that he will force her to return with him and make her regret leaving him. She is genuinely afraid that her husband will forcibly take her back with him. She asks for your help in getting help from the UNHCR. She says that she also wants to get divorced from her husband, and has seen a lawyer who asked her for some money, but has not done much for her. The lawyer did recommend that she try to contact some women's rights groups for assistance with the divorce, especially since there has been domestic abuse in the marriage. She also tells you that she recently had a fight with the wife of the relative who has taken her in, who has told her that she can only stay with them for 2 more days and must then get out. She is very worried about this because she has no other contacts in the community, because her husband was very controlling and would not let her leave the house much. She has a yellow card, but the residency

stamp on it has expired. When the NGO contacts the UNHCR to inquire about the status of her file, they say that there is no record of any recent visits to their office by the husband. They add, however, that the husband's application for refugee status (on which she was listed as a dependent) was rejected a while ago, and as no appeal was made, the file closed.

Roles:

NGO

UNHCR

Woman

Community-Based Organization run by refugees from K

Women's Rights Group

Police