

EXECUTIVE COMMITTEE OF THE
HIGH COMMISSIONER'S PROGRAMME

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NGO Statement on Africa

Agenda Item 3. a) i.

This statement has been drafted in consultation with, and is delivered on behalf of, a wide range of NGOs and attempts to reflect the diversity of views within the NGO community.

Mr. Chair,

NGOs note with appreciation that ten African States have pledged to ratify and/or incorporate into national law the *Kampala Convention* on the Protection and Assistance of Internally Displaced Persons in Africa. NGOs are also heartened that thirteen African States have taken the opportunity of the 50th anniversary of the 1961 *Statelessness Convention* to consider accession to this important instrument. We encourage these States to follow through with their pledges and others to follow suit.

Somalia

While the severe drought was the main cause of population displacement between May and September 2011, since October 2011 the escalating conflict in South Central Somalia has become the primary reason for forced displacement. In January 2012 alone, UNHCR's Population Movement Tracking system reported more than 19,000 Somalis displaced due to insecurity, most of them coming from the areas witnessing clashes between the conflicting parties. Many of the newly internally displaced people (IDPs) are in urgent need of humanitarian assistance, but access remains problematic. At 1.36 million IDPs, Somalia now has the third highest displaced population in Africa.

Military interventions, which have been partly premised on the need to improve the protection of civilians, have in fact undermined it. Reports have stated that civilians are being directly targeted by conflicting parties, compromising the safety of civilians, as well as of aid delivery and aid workers.

NGOs urge all parties to the conflict to respect their obligations under international humanitarian law and ensure that military action does not lead to a further reduction of an already limited humanitarian access. NGOs would also like to remind all parties, and in particular Kenya and Ethiopia, that the right of refugees to seek and obtain asylum, including the full respect for the principle of non-refoulement under international refugee law, must be fully respected.

Furthermore, to avoid that this new caseload of Somali refugees get trapped into a protracted situation like the other Somali refugees that have been living in Dadaab for ten years or more, we urge all ExCom members to support a constructive dialogue with relevant regional and donor governments to identify durable solutions for these Somali refugees, prioritising the needs of the most vulnerable.

Somali refugees in Kenya and Ethiopia

Current conditions within Somalia do not permit return in safety and dignity, and very few refugees are choosing to go back home. Those that are going back are reportedly doing so because of the appalling conditions in Dadaab, made worse by the lack of registration services for new arrivals, and the appalling police violence against refugees in December 2011, not because they think it is safe to go back. The international community should encourage Kenya to continue to protect and assist Somali refugees, while ensuring that humanitarian principles are still upheld in Dadaab, at a time when the Government of Kenya, through its military intervention in Kenya, has become a direct party to the conflict.

The impact of the repeated failure to sufficiently address cooking needs in the Horn of Africa has led to a life-threatening situation where ongoing insecurity, displacement, and widespread environmental degradation has put women and girls in circumstances where they are unable to safely access the fuel they need to cook for their families, subjecting them to high levels of sexual and physical assault as they travel hours outside of camps to collect firewood. Specific challenges include a lack of fuel-efficient stoves and insufficient technical capacity, funding, and raw materials in the region to appropriately fabricate them. Moreover, the only fuels widely available in Kenya, Somalia, and Ethiopia are firewood and charcoal, both of which are difficult and/or expensive to access, increase protection risks, contribute to environmental degradation, and increase tensions with host communities and governments. Viable alternatives to firewood and charcoal are urgently needed.

Kenya

In Kenya's Dadaab refugee camps, since October 2011, attacks on refugees involved in organising security, aid workers, and on police have resulted in a huge change in the operating environment. As a consequence, movement and activities of aid workers within the camps have been significantly restricted, reducing access and delivery of services to Dadaab's over 460,000 inhabitants. NGOs call on UNHCR in Kenya to more actively engage the NGO community present in the camps with clear, consistent, and transparent information about the security situation in Dadaab.

However, services continue to be provided and, to adapt to this new environment, UNHCR and NGO staff are devising ways to empower refugees to take on more responsibilities. Despite the significant operational challenges and new security risks for aid agencies that the new situation brings, it also provides an opportunity to overhaul decades of "care and maintenance" operations and replace them with programmes that increase refugees' self-reliance and skills which, once conditions allow, would help prepare refugees for their eventual return to Somalia.

NGOs are concerned about Kenya's October 2011 suspension of registration of new refugee arrivals, supposedly on security grounds although paradoxically the lack of screening has increased the risk of insecurity in the camps. Kenya has been a generous host to a large numbers of refugees over the years and we acknowledge the security challenges the country faces as a result of poor security in and around the camps. However, without registration, the most vulnerable refugees, such as unaccompanied children and survivors of sexual violence, cannot be identified and assisted, and new arrivals generally cannot access much-needed assistance. NGOs call on Kenya to reinstate registration to fill these gaps and to help agencies better target their interventions.

In December 2011, during police raids following attacks on police in the camps, Kenyan police arbitrarily raided parts of the camp and brutally beat dozens of refugees, raped at least one woman, and attempted to rape several others. These events follow reports in 2010 of widespread police abuses against refugees in and near the camps, which Kenya continues to fail to publicly account for. NGOs call on Kenya to ensure that police stationed in the camps protect instead of abuses refugees and that it launches a full investigation into the police's brutality in December 2011 and holds those responsible to account.

Ethiopia

In Ethiopia, whilst morbidity and mortality rates are more under control compared to the height of the crisis in the spring of 2011, there are still grave concerns about malnutrition rates amongst Somali refugees, particularly those in the Dollo Ado camps.

There are increasing security concerns in refugee-hosting areas in Ethiopia and a lack of appropriate communications equipment currently provided to humanitarian agencies to enable them to operate in safety, a recurring problem in the country.

The influx of Somali refugees fleeing famine conditions and conflict during the summer has shone a light on

the refugee operation in Ethiopia, including concerns about levels of transparency about refugees' needs and how to address those needs. The Government of Ethiopia has kept its border open to refugees, has continued to register new refugee arrivals, and opened up space for more humanitarian agencies to work during the height of the recent crisis. However, despite improvements, needs amongst the refugee community are still not being fully met, and UNHCR must fully live up to its mandate to insist on refugee protection and ensure that adequate services are provided.

Somaliland

NGOs condemn Somaliland's refoulement on 28 December 2011 of 20 Ethiopian refugees and asylum seekers to Ethiopia. NGOs call on Somaliland to respect the rights of all asylum seekers and refugees in Somaliland and to fully implement a recent agreement under which UNHCR will resume refugee status determination for asylum seekers, suspended since 2008.

Mali

In the coming months the food crisis in the Sahel region is expected to affect 1.2 million people. The military activities of the (MNLA) National Liberation front of AZAWAD in the northern region has further complicated the situation with a displacement of 172 000 persons. With refugees mostly in Mauritania, Niger, and Burkina Faso, the situation is both a food security crisis and a crisis of conflict-fuelled displacement. Protection and food for refugees in the neighbouring countries are urgently needed.

We urge States to adequately fund UNHCR to fulfil its protection mandate, as well as UNHCR and NGOs to be able to provide adequate shelter, water, education, and health services to vulnerable refugees.

Cessation of Refugee Status for Rwandan Refugees

NGOs welcome UNHCR's recommendation to extend the deadline for the applicability of the cessation clause for Rwandan refugees who fled Rwanda as at and including 1998, from 31 December 2011 to 30 June 2013. NGOs call on the Government of Rwanda to ensure that conditions within Rwanda allow for a safe, dignified, and durable return of all those affected by the application of the cessation clause.

NGOs urge UNHCR to step up and strengthen the monitoring of refugee returns to Rwanda, with adequate resources and capacity, in order to achieve greater coverage and come up with a balanced picture of the situation surrounding returns and the broader human rights situation in Rwanda. NGOs are concerned at reports that repatriated refugees are continuing to leave Rwanda. NGOs recommend a continuous re-evaluation of the situation in Rwanda to ensure that changes are not only "fundamental" and "durable" but also stable and are likely to be sustained far beyond 31 June 2013.

NGOs note with concern that, although the deadline was extended, a significant number of refugees are not aware of critical elements of the Comprehensive Strategy or of official plans and procedures for the applicability of the cessation clause. NGOs urge UNHCR to encourage countries of asylum to increase and publicise opportunities and procedures for naturalisation and other legal arrangements for continued stay, within refugee communities.

NGOs urge UNHCR and countries of asylum to urgently come up with clear plans, accompanied with adequate capacity for implementation, including provisions for education and information dissemination among the refugees; to ensure that the process of voluntary repatriation takes place in an environment that respects the human rights of refugees as enshrined in national, regional, and international instruments; and to critically and urgently look into the provision of legal aid, according to international law, to refugees who wish to apply for exemption of their refugee status from ceased circumstances.

Remaining Protection Concerns in Côte d'Ivoire

Principal protection problems remaining in Côte d'Ivoire include identity documentation, land rights and legislation, and extortion by armed persons. Despite advocacy efforts, these remain mostly unchanged and neither central nor local governments have been seen to take any initiative in their regard. These issues

need to be given priority and we call on the Ivorian government to establish a time table and plan of action to address them.

Sudan

The risk of creating stateless Southerners

In January this year, Sudanese authorities announced that by 8 April, the estimated half a million people of southern Sudanese origin still in Sudan should either return to South Sudan or register in Sudan as foreigners. Many southerners in the north fled the two decade long civil war and have lived in Sudan for decades or were born there and have few ties to South Sudan.

Under Sudanese law, Sudanese people automatically lose citizenship when they acquire “de jure or de facto” the “nationality of South Sudan,” but the law does not state how someone can acquire this nationality de facto or how authorities should determine whether they have acquired it. South Sudan’s nationality law says people with “any parents, grandparents, or great-grandparents” born in South Sudan, or who belong to any southern ethnic group, are eligible for nationality. Statements and actions of Sudanese government officials indicate that they are reading these laws to mean that anyone living in Sudan with even one great-grandparent born in South Sudan will lose their Sudanese citizenship, irrespective of whether they have acquired – or want to acquire – South Sudanese citizenship.

NGOs have documented how the Sudanese authorities have already begun to strip people of their citizenship, in violation of international law. In some cases they have refused to issue the new Sudanese national number to people because of their southern roots, a number required to prove a person’s Sudanese citizenship.

International law requires that States avoid making people who live in their territory stateless, should not make arbitrary or discriminatory decisions on nationality and citizenship, and requires respect for the rights a person has acquired due to strong personal or family ties in the territory. If an existing nationality is to be revoked upon acquisition of the nationality of the successor State, this can happen only after acquisition of the nationality, and it should not happen to those who are habitual residents in the predecessor State – in this case Sudan. Sudan should therefore not strip Sudanese nationals of southern origin of their Sudanese citizenship if they are unable or unwilling to acquire South Sudanese citizenship. International law also prohibits mass expulsions and forced evictions.

NGOs call on Sudan to amend its nationality law to prevent people from becoming stateless and to ensure that the nationality criteria conform to international standards such as not excluding people on the basis of ethnicity. NGOs also call on Sudan to respect the right of anyone living in Sudan, regardless of citizenship, to have their basic civil, political, economic, social, and cultural rights protected on an equal basis. Finally, NGOs call on South Sudan, which has yet to provide consular services in Sudan, to ensure that anyone who is eligible for South Sudanese citizenship, and who wants to acquire it, can obtain nationality documents.

Deportation of Eritreans

NGOs condemn Sudan’s deportation, on 17 October 2011, of over 300 Eritreans – who were transferred directly to the Eritrean military – without screening them for refugee status, which rightly drew public condemnation from UNHCR. The mass deportation follows dozens of other unlawful deportations by Sudan since May 2011 of Eritrean asylum seekers and of Eritreans who had been denied access to asylum. No international agencies in Eritrea, including UNHCR, are able to monitor the treatment of Eritreans deported back to Eritrea and to-date, UNHCR has no information on the fate of any of the deportees. NGOs call on Sudan to grant UNHCR full access to all detained Eritreans to ensure any asylum seekers among them may claim asylum. NGOs also call on Eritrea to allow an adequate monitoring of returns.

NGOs also call upon UNHCR and the government of Chad to resist the temptation to encourage returns to Darfur until conditions warrant such returns. Moreover, we acknowledge with appreciation Chad hosting nearly 300,000 refugees from Darfur. We urge Chad to reconsider its opposition to third country

resettlement for those Darfuri refugees who are in need of resettlement to meet protection or medical needs which cannot be adequately met in the camps.

Human rights violations in South Kordofan and Blue Nile States

After months of indiscriminate aerial bombardment by the Sudanese air force, Sudan continues to deny humanitarian agencies access to an estimated 300,000 IDPs in Southern Kordofan and Blue Nile States, where increasing food scarcity means they and an estimated further 200,000 civilians now face a humanitarian emergency. In addition, the people of South Kordofan/Nuba Mountains continue to experience blatant violations of human rights perpetrated by the Sudan Armed Forces, with arbitrary arrests, rape, killings, burning of whole villages, destruction of food stocks, and looting of property. They are even blocked from fleeing to take shelter in safer areas. NGOs reiterate their September 2011 call on Sudan to end its indiscriminate bombardment of civilians, including of IDPs, and to give humanitarian aid agencies unrestricted access to help IDPs in urgent need of food, shelter, and other aid.

South Sudan

Sudanese refugees in South Sudan

Approximately 400,000 asylum seekers/refugees have fled to South Sudan after being displaced by the conflict in Nuba Mountains/South Kordofan and Blue Nile in Sudan. A three-week assessment in January 2012 among Sudanese refugees in South Sudan, including Yida refugee camp, concluded that, between June 2011 and January 2012, thousands of people from about 30 villages moved out of Nuba region to Yida Refugee Camp in Unity State, South Sudan, as a result of gross human rights violations in their areas. The violations include targeting of civilians, including women, youth, and children, rape, and burning and looting of houses and food stocks. No refugees were reported from the western and eastern areas due to the inaccessibility and safety of roads and the fact that these areas are far from Yida, besides the lack of transport and poor security.

For security reasons, there have been discussions led by UNHCR to relocate the refugees from Yida to Nyiel, farther from the border and thus potential harm. However, the refugees clearly prefer to stay in Yida, rather than move to Nyiel, feeling that Nyiel has environmental disadvantages and that they would also lose out on land provided by Unity State and community. The presence of an active marketplace in Yida also provides the refugees with an opportunity to generate income to improve their livelihoods.

NGOs urge UNHCR and the Unity State Government to further involve refugees from the Yida camp in the discussions about camp relocation and ensure that such relocation would only be considered with refugee support and consent. Threats to withdraw services must not be used to force the Nuba refugees to relocate to Nyiel payam against their will.

It is necessary to note that all social services aimed at refugees are currently insufficient and inadequate and need to be strengthened. These include food rationing, water provision, shelter, education, and others. Special care needs to be taken to ensure protection and assistance to refugees with disabilities.

UNHCR and coordination in South Sudan

There has also been confusion around the response to mixed caseloads (as affected populations in Upper Nile include refugees, returnees, and internally displaced – often with similar needs and little to distinguish between them). In such cases, it is felt to be unhelpful if, say, refugees receive significantly different or faster assistance than returnees or IDPs (or vice versa). NGOs would like to remind all stakeholders that assistance should be needs-based and equitable. There are also significant concerns around the UNHCR-led coordination of responses to recent refugee influxes and NGOs call on UNHCR to clarify how such coordination is being integrated and linked with the generally well-established cluster coordination mechanisms.

Durable Solutions for Congolese Refugees

Nearly half a million refugees originating from the Democratic Republic of the Congo (DRC) are under UNHCR's mandate, making Congolese the second largest refugee population in Sub-Saharan Africa. The ongoing conflict between armed opposition groups and the Congolese armed forces in eastern Congo has also contributed to the internal displacement of 1.7 million Congolese. As fighting continues, reports indicate that IDPs are being killed and tortured in North and South Kivu.

While voluntary repatriation to the DRC may be appropriate for some Congolese refugees, the volatile security situation in the eastern part of the country requires increased attention for the protection of these vulnerable populations. NGOs call on UNHCR and ExCom Member States to consider other durable solutions, particularly local integration and third-country resettlement, for many Congolese refugees whose displacement is becoming protracted, with particular attention to women-at-risk and vulnerable minors. Given the geography of Congolese displacement, a regional approach is needed to identify vulnerabilities and durable solutions and to engage Member States and NGOs in this process.

Zimbabweans in South Africa

NGOs are concerned about the estimated 175,000 Zimbabwean asylum seekers in South Africa who are no longer protected by a moratorium on deportation of Zimbabwean migrants lifted in October 2011, coupled with South Africa's recent creation of additional obstacles for asylum seekers to access protection. These obstacles to protection include: the practice of screening asylum seekers only at ports of entry; the practice of Refugee Reception Offices (RROs) turning away asylum seekers without proof issued at the port of entry and a passport from their country of origin; the closure of two RROs during 2011 and stated intentions to close additional RROs; and the suspension of stakeholder meetings with civil society to address refugee policy issues. South Africa's practices have resulted in unlawful arrests of asylum seekers, encouraging third country nationals from Zimbabwe and other countries of origin to respond by crossing the border illegally and through rural areas, putting them at additional risk. NGOs call on UNCHR and donors to actively advocate for the Government of South Africa to provide legal avenues to asylum that are functional and accessible.

NGOs in South Africa have also reported incidents of persecution and harassment of Zimbabwean asylum seekers and refugees in South Africa by agents of the Zimbabwean government. While these have been reported to the police there are deep fears that certain Zimbabweans are being sought after and may be abducted and removed to Zimbabwe if they are detected by these Zimbabwe government agents. NGOs call on the Zimbabwean Government to immediately halt such intimidating practices and to live up to its obligations as a party to the Refugee Convention.

Tanzania

With regards to Burundian refugees in Tanzania, a minimum of 33,708 Burundian refugees determined not to be in need of international protection are currently at risk of being repatriated to Burundi between April and November 2012. NGOs are concerned about the lack of sufficient time for the refugees to appeal this determination. NGOs urge UNHCR and the Government of Tanzania to respect the right of refugees to make their own informed decisions about repatriation. NGOs further urge UNHCR and the governments of Tanzania and Burundi to review the repatriation calendar in order to provide sufficient time, legal assistance, and required information to the refugees so that they can make informed decisions about their future.

Uganda

Finally, NGOs welcome the recent decision in Uganda to waive fees for refugees to obtain death and birth certificates. NGOs encourage other African States to follow this example.

Thank you, Mr. Chair