Fall 2005

To Keep Water, Water: How We Missed the Mark with Cote d'Ivoire's Warehoused Refugees

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To Keep Water, Water: How We Missed the Mark with Côte d’Ivoire’s Warehoused Refugees

“Water becomes saliva when it remains in the mouth too long.”
—A Krahn Proverb

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I. Introduction

A severe crisis exists in the international community regarding refugees displaced from their homeland, but remain in foreign countries for decades at a time. While trying to stay safe abroad, these refugees—whether they depart their homelands in a mass exodus or all alone—are guaranteed specific rights under international law. Signatory nations to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees\(^2\) agreed to grant specific rights to refugees allowed asylum in their countries. However, adherence to these treaties is not the norm. International law is falling short of protecting refugees' rights since the protection granted is only as strong as the signatory country's own domestic law. Thus, if the domestic law of any particular host country provides the refugee the rights established in the 1951 Convention and 1967 Protocol, then the refugee can be well protected. However, if the host country never integrates its international obligations into its own domestic law, then refugees can lose every right they should be guaranteed under international law. Additionally, even if a country integrates international obligations into its domestic law—creating a stronger base on which to build refugee rights—the popular opinion of the country's citizens can sometimes rob refugees of rights in the practical setting of day-to-day life. This paper seeks to examine refugee protection in conjunction with a very unusual signatory nation, Côte d'Ivoire.

First, the paper considers the general problem of protracted refugee situations. Second, it closely examines the rights guaranteed to every refugee under the 1951 Convention and 1967 Protocol. Third, the paper considers the story of Côte d'Ivoire in terms of its history and domestic law, and its move from a model refugee host country to a place where refugees' rights have been

largely taken away.

This paper considers the lessons to be learned regarding Côte d'Ivoire and examines the response from the United Nations High Commissioner for Refugees (UNHCR), beginning with Côte d'Ivoire's refugee crisis in 1989 and continuing to the present time. It specifically considers what the UNHCR might have done differently in the beginning of the refugee crisis in order to promote long-term protection of refugee rights. The paper also asks questions regarding the effectiveness of international law, generally, and the 1951 Convention, specifically. Finally, the paper considers routes the global community might consider in order to protect refugees even when donor agencies, host countries, and international law fail.

II. What is "Warehousing?"

This section considers the new term "warehousing" recently coined by the U.S. Committee for Refugees in their World Refugee Survey for 2004.\(^3\) Phraseology is important because it can shed new light on old problems and create fresh insight into the reasons for such problems. Similar exposure occurred regarding the land mine crisis in 1991 from efforts like the International Campaign to Ban Landmines.\(^4\) The U.S. Committee for Refugees, by establishing a new term and drawing attention to the refugee crisis, hopes to achieve the same awareness.\(^5\)

This section defines the problems of protracted refugee situations. It presents statistical data to reinforce the magnitude of the crisis, and then moves on to look at solutions to any protracted refugee situation.

A. The Problem of Warehousing

"You said that you wanted to put us on a reservation, to build us houses and make us medicine lodges. I was born where there were no enclosures and everything drew a free breath. I want to die there and not within walls."

—Ten Bears speaking for the Comanche at the Council of

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\(^4\) See id.

\(^5\) See id.
There is a new term in the lexicon of international human rights law. It brings to mind images of cavernous spaces. To say it, you almost breathe in the smell of sawdust or items which will make something on some future day. The term dredges up notions of objects on shelves which have been stockpiled for future use. It is a place you might visit hurriedly and then leave as quickly because it is dark and cold in winter, and it is hot and dank in summer. If necessity forces you there, you only make the required trip for retrieval, drop-off, or maintenance, but you never plan to stay. This place is a warehouse. Its new usage in international human rights law does not refer to a building sitting in the back of a manufacturing plant. Instead, it is made anew in order to refer to a practice that resembles all the ordinary visions that one might conjure up when thinking of a physical building. In its new context, “warehousing” describes more of a process than anything else. Specifically, to “warehouse” is to confine refugees in camps or segregated settlements for decades. The warehousing of refugees is illegal and is a direct violation of the refugee rights enshrined in international law, and yet, seven million people are currently warehoused. They are figuratively set on a shelf and put aside for some future and far-off purpose in a dark place where no one wishes to visit.

There are twelve million refugees in the world. Of that number, more than seven million of them have been confined in refugee camps or segregated settlements for at least ten years; moreover, some of these refugees have been confined to camps for as long as fifty-five years. While the primary law regarding

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7 See U.S. COMM. FOR REFUGEES, supra note 3, at 18.
8 See id.
10 See U.S. COMM. FOR REFUGEES, supra note 3, at 18.
11 See id. at 38.
12 See id.
13 See id. at 3 (tbl.3). As of December 31, 2003, there were 1,600,000 Palestinians warehoused in the West Bank and Gaza. It has been 55 years since their outflow began. See id.
refugees, the 1951 Convention, does not mention the word "camp," the practice of warehousing refugees in camps has been consistently repeated since the 1930s. At that time, it became the norm to confine refugees to camps while they awaited deportation back to their homelands. This waiting game, in its most altruistic form, could be seen as the only way to adequately protect refugees' 1951 Convention rights while the refugees await durable solutions. However, the very practice of confinement is what is robbing them of their rights and often threatening their lives.

Indeed, in the fifty-three years since the enactment of the UN Refugee Convention, warehousing has become so widespread as to constitute a global crisis. More than two-thirds of the planet's twelve million refugees are denied the right to earn a livelihood, access to education, the freedom to move about, or the right to step into a courtroom and seek justice when they are wronged—all of which are guaranteed under the Convention.

A refugee is a person who "demonstrates 'a well-founded fear of persecution' in his or her homeland, based on race, religion, nationality, membership in a particular social group, or political opinion." An encamped refugee is one who, along with a large group of others, has typically fled major struggles in hopes of seeking shelter in a safe place. "I left Sudan because of the war. Everyone was a target. The only option was to leave the country hoping to go to a safer place," said Abraham Awolich, a refugee encamped in Kenya after fleeing Sudan. Refugees may travel just across a border or may walk for months at a time seeking a safe haven. Upon arrival, the waiting begins for a durable

16 Id. at 18.
17 See U.S. COMM. FOR REFUGEES, supra note 3, at 42.
18 See id. at 39.
19 Id. at 21.
21 See MUSALO ET AL., supra note 15, at 971.
solution,\textsuperscript{23} which includes one of three possibilities.

B. Durable Solutions

First, the refugee may voluntarily return to her home country once the conditions in that country change.\textsuperscript{24} Second, the refugee may be locally integrated into the country where he or she first stops to seek safe haven.\textsuperscript{25} Or, third, the refugee may be sent to another country—a third country—to resettle permanently there.\textsuperscript{26} It is in this country, once the waiting for one of these alternatives commences, that refugees are often warehoused.

1. Voluntary Repatriation

Voluntary repatriation is the opposite of nonrefoulement, a term resulting from Article 33 of the 1951 Convention.\textsuperscript{27} It states that a refugee cannot be returned by a contracting state to a country where “his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group or political opinion.”\textsuperscript{28} However, if the problems that forced the refugee out of her country are remedied, the refugee may return home of her own accord.\textsuperscript{29} In places where internal strife lasts decades, this option takes equally as long, thus relegating refugees to protracted time away from home. For instance, from June to November of 2003, roughly 130,000 Angolan refugees returned home after twenty-seven years of civil war.\textsuperscript{30} This suggests that the option of voluntary repatriation is not a quick fix to a difficult problem. Waiting for this durable solution typically takes years, and, with that waiting comes the warehousing.

“When we consider our response to refugees and asylum seekers, what is at stake is the right to live in community. The first point of reference for action is the human person rather than the interests of states of national security. The person

\textsuperscript{23} See U.S. COMM. FOR REFUGEES, supra note 3, at 38.
\textsuperscript{24} See id.
\textsuperscript{25} See id.
\textsuperscript{26} See id.
\textsuperscript{27} See 1951 Convention, supra note 2.
\textsuperscript{28} See id.
\textsuperscript{29} See MUSALO, supra note 15, at 971.
\textsuperscript{30} See U.S. COMM. FOR REFUGEES, supra note 3, at 2 tbl.2.
comes before the state.”
—Australian Social Justice Council

2. Local Integration into the Host Country

The second durable solution is for the refugee to quasi-permanently integrate into the country to which he or she first fled. However, many countries of first-asylum are poor or are themselves not completely politically stable. Local integration of mass numbers of refugees is unlikely in most instances due to the host country’s concerns regarding the possible disruptions it would cause to the host country’s already weak economy, high levels of unemployment, and inherent ethnic tensions. Whether this fear is truly warranted is beyond the scope of this section. At this point, it is enough to understand that local integration as a durable solution is difficult to achieve on any large scale, and while the refugees await this solution, they remain warehoused.

Note that this durable solution is the goal to which law, donors, and host countries should strive since it is the most likely candidate to facilitate refugees’ rights while they remain in a host country. This will become more apparent in the following consideration of Côte d’Ivoire.

3. Third Country Resettlement

The third durable solution is for the refugee to resettle in another country. However, while a refugee is allowed to seek asylum in a third country under the 1948 Universal Declaration of Human Rights, she does not have the right to actually be granted asylum. “Third-country resettlement is offered to no more than one percent of the world’s refugees; and faced with economic

32 See U.S. COMM. FOR REFUGEES, supra note 3, at 38.
34 See id. at 148-49.
35 See id. at 148.
36 See U.S. COMM. FOR REFUGEES, supra note 3, at 38.
37 See MARJOLEINE ZIECK, UNHCR AND VOLUNTARY REPATRIATION OF REFUGEES: A LEGAL ANALYSIS 30 n.28 (1997).
difficulties and growing popular xenophobia, Western nations are much more reluctant to admit large numbers of people. . . .” 38 For instance, when prospects were ripe for an influx of Haitian refugees to arrive at the United States coast, President Bush said, “I have made it abundantly clear to the Coast Guard that we will turn back any refugee that attempts to reach our shore.” 39 Despite such maneuverings around international law, there are ways refugees can be admitted to Western countries.

In the United States, for instance, there is an overseas refugee program whereby the President of the United States outlines a report to Congress which sets a numerical ceiling on the number of refugees the country will take in for the next fiscal year. 40 The Secretary of Homeland Security then can admit refugees who meet specific criteria outlined in the President’s report and who have begun the process to come to the United States from an overseas station at a United States processing post. 41 Once selected to come to the United States, the refugee is given travel documents and makes the journey to face a year-long probationary period. 42 Typically, after the year, the refugee is entitled to adjust his or her status and become a lawful permanent resident of the United States. 43 Since most often “those who gain admission through the overseas refugee programs are located in a refugee camp at the time of their selection,” 44 the camp again serves as a holding place to await this durable solution of resettlement into another country.

C. Outlook of the Durable Solutions

“Most refugees are not offered durable solutions of this kind, however, but are instead provided with extended temporary asylum in UNHCR-administered camps or short-term assistance to see them through the initial repatriation phase. By allowing camps to become semi-permanent, governments force refugees to become

38 LOESCHER 1993, supra note 33, at 148.
40 See ALEINIKOFF ET AL., supra note 20, at 808.
41 See id. at 811.
42 See id.
43 See id.
44 Id. at 795.
wards of international welfare." Consequently, it is clear that none of the "durable" solutions are either durable or timely. Due to an inability to reach fitting solutions, millions of refugees wait in camps. While they wait for solutions that take decades or may never come to fruition, they are denied rights that should be given to them by international treaties. "Indeed, the key feature of warehousing is not so much the passage of time as the denial of rights."

III. Introduction to the 1951 Convention and 1967 Protocol

"[H]uman rights 'belong not to a chosen few, but all people. It is this universality that endows human rights with the power to cross any border and defy any force.'"

—Kofi Anan, 1999

This section examines the individual rights guaranteed to refugees under the 1951 Convention and the 1967 Protocol. First, the section considers why rights are so essential. In reviewing the rights to work, travel, have housing, use property, receive education, and be free from discrimination this section will indicate reasons why each right may be granted or denied in practice.

A. Refugee Rights and Their Importance

"A refugee is a kneeling person, kneeling in front of the captain of a ship to ask for a reduction in his escape price, kneeling to pirates to ask for mercy, kneeling in front of an international organization to ask for its help, kneeling in front of the police to ask for permission to go to the market, kneeling in front of a foreign delegation to ask to be accepted in their country."

—Nooria Wazefadost, 2004

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45 LOESCHER, supra note 33, at 150.
46 See id. at 149.
47 See U.S. COMM. FOR REFUGEES, supra note 3, at 38.
48 Id.
50 Nooria Wazefadost, A Young Refugee's Plea for a Better Future, SYDNEY
The body of law that governs refugees is based largely on two treaties, the 1951 Convention and the 1967 Protocol. Enshrined in these treaties are articles that establish rights to be afforded refugees while they are waiting for one of the aforementioned durable solutions. However, these rights are often denied, which gives way to warehousing.

There is no question that most camps are not temporary—they often last through quarter- and even half-centuries of chaos and turmoil. However, just because a camp lasts does not mean that it lasts under adequate or even marginal conditions. Human beings are very resilient and are able to live—in the physical sense—long after hope and happiness have passed. Thus, to suggest that camps far outlive the temporal pressures of mass influx means nothing in terms of their ability to support healthy human existence for the long term. "[M]ore than half a million refugees from Myanmar have lived without the right to work or travel for up to twenty years in Thailand, Bangladesh, Malaysia, and India." There are roughly 250,000 Palestinian refugees warehoused in Lebanon, some of whom have been there for fifty-five years. They are not allowed to work, and they have no property. Due to this and resultant feelings of idleness, aid workers have noticed increased levels of depression. "I am landless, and without citizenship; if I have nothing, then I hope for nothing," a young adult commented on personal experiences within a refugee camp in South Asia. A young woman who spent fifteen years in a Thai refugee camp observed that, "[I]living


51 See ALENIKOFF ET AL., supra note 20, at 796-800.
52 See U.S. COMM. FOR REFUGEES, supra note 3, at 40.
53 See id. at 38.
54 See U.S. COMM. FOR REFUGEES, supra note 3, at 42 (tbl.3).
55 Id.
56 See id. at 3 tbl.3.
59 Id.
in a refugee camp was like being physically alive but spiritually
dead. My brain stopped thinking. All I knew was the camp, while
people outside were working for their development."60 Another
refugee who spent ten years in a Kenyan refugee camp lamented,
"The camp was one big dead end. Even if you were smart, you
were stranded, stuck, and could not go beyond where you were to
the other side.... One day, I thought maybe God created us for a
special experiment that we were not meant to live like other
human beings."61 Conditions in camps vary. Some allow a
refugee to receive better, more nutritious food and water than she
received in her home country, while others are horrific, bringing
refugees close to starvation. In both cases, authorities are
beginning to understand that extended stays in camps can "have
extremely damaging psychological effects and are totally
unsatisfactory as a long-term solution."62 In order to mitigate
against this level of despair from warehousing, refugees must be
granted their rights and be able to find sustenance in a way that not
only provides for the physical body, but also for mental well-
being.63

1. Right to Work

"What could this man have been yesterday? A sower in the
spring, a harvester in the fall....? And today? A refugee with a
bowl in his hand, queuing for soup. What a waste of human
energy, I think, an abasement of dignity.... [A] billion people
capable of work with nothing or almost nothing to do for the
duration of their lives.... If they could be given worthwhile
occupations, humanity could make dizzying progress. The
world’s wealth would be doubled. Pyramids of merchandise
would rise in even the poorest countries. Granaries would
overflow. Water would flood the largest deserts."

—Ryszard Kapuscinski, 199164

60 Naw Musi: Warehoused for Fifteen Years in Thailand, REFUGEE REP.: A NEWS
61 Awolich Interview, supra note 22, at 4.
62 LOESCHER, supra note 33, at 149.
63 See U.S. COMM. FOR REFUGEES, supra note 3, at 54.
64 Barbara Harrel-Bond, Towards the Economic and Social 'Integration' of
Refugee Populations in Host Countries in Africa, from the Stanley Foundation
conference "Refugee Protection in Africa: How to Ensure Security and Development for
In order to be sustainable, "encampment populations must be able to consume; in order to consume, encampment residents must have income."\textsuperscript{65} In order to have income, warehoused refugees must be able to work.\textsuperscript{66} It is a simple prospect and one that most people undoubtedly take for granted. However, the drafters of the 1951 Convention made sure this right was prominent in international law.

Article 17 and Article 18 of the 1951 Convention detail the right of refugees to support themselves.\textsuperscript{67} Article 17 states that refugees lawfully permitted to stay should be given the same treatment as other foreign nationals regarding the right to work.\textsuperscript{68} Furthermore, any restrictive measure that would inhibit any noncitizen's right to work in the territory should be lifted once the refugee is present in the territory for three years, marries a national, or has a child from within the national borders.\textsuperscript{69} Article 18 states that refugees lawfully permitted to stay should, at a minimum, be given the same treatment as any other noncitizen regarding the right to work in "agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies."\textsuperscript{70}

What, though, does this right to work really mean? The 1951 Convention does specify that refugees have a right to work, but it does "not specify that host communities must open their labor markets to newcomers, so the decision seems to rest entirely with host authorities."\textsuperscript{71}

Under Sudan's Regulation of Asylum Act of 1974, all refugees have the right to work in any field outside their encampments.\textsuperscript{72} Lebanon, in contrast, passed a law in 1964 that pronounced that no

\textsuperscript{65} MILICA Z. BOOKMAN, AFTER INVOLUNTARY MIGRATION: THE POLITICAL ECONOMY OF REFUGEE ENCAMPMENTS 92 (2002).

\textsuperscript{66} See id.

\textsuperscript{67} See 1951 Convention, \textit{supra} note 2, arts. 17, 18.

\textsuperscript{68} See id. art. 17(1).

\textsuperscript{69} See id. art. 17(2).

\textsuperscript{70} Id. art. 18.

\textsuperscript{71} BOOKMAN, \textit{supra} note 65, at 136.

\textsuperscript{72} See id.
foreigner could work or even volunteer his or her labor without a permit.\textsuperscript{73} In 1982, Lebanon expanded the law and specified that work permits would only be given for tasks involving direct labor.\textsuperscript{74} Work permits for professional jobs would be limited to doctors or pharmacists allowed only to work in the Palestine Red Crescent Society Clinics.\textsuperscript{75} The right ensconced in international law, therefore, wholly depends on the host country’s treatment of it in domestic law.\textsuperscript{76}

2. Right to Travel

"I wished I was a cat, because a cat is free to move where he wants."

—A child from the Sovereign Base Areas of Cyprus\textsuperscript{77}

Even if working rights are granted as they are promised, a refugee still must travel to work or find a home located close to work. Article 26 provides for freedom of movement in the host country for refugees who are there lawfully.\textsuperscript{78} Refugees have "the right to choose their place of residence and to move freely within [the] territory" subject only to the standard treatment of noncitizens, generally.\textsuperscript{79}

Article 28 gives the added right to move outside the territory.\textsuperscript{80} It states that refugees may obtain documents to travel outside the host country.\textsuperscript{81} Even if a country’s law permits the issuing of travel documents, the right to acquire the document and then use it is far from certain. For Abraham Awolich, who spent ten years in Kenya’s Kakuma refugee camp, getting a travel document to work

\textsuperscript{73} See id.
\textsuperscript{74} See id. at 137.
\textsuperscript{75} See id.
\textsuperscript{77} Refugee Voices from the Sovereign Base Areas of Cyprus, REFUGEE REP.: A NEWS SERV. OF IMMIGR. AND REFUGEE SERV. OF AM., May 2004, at 11.
\textsuperscript{78} See 1951 Convention, supra note 2, art. 26.
\textsuperscript{79} Id.
\textsuperscript{80} See id. art. 28.
\textsuperscript{81} See id.
outside the camp was difficult.\textsuperscript{82} The document could only be obtained in cases of emergency; even then, the process often took months.\textsuperscript{83} With the difficulties proving prohibitive, Awolich once tried to sneak out of the camp only to be held at gun-point by a local man who then ordered his twelve-year-old son to beat Awolich until he bled.\textsuperscript{84} Under such conditions, even if, \textit{de jure}, the host country allows travel documents to be issued, \textit{de facto}, there is no such right.\textsuperscript{85}

This particular right is diminished or absent due to fear by host countries that refugees' freedom to move freely would devastate labor markets and reduce wages for locals.\textsuperscript{86} Additionally, fear of crime, pressure on infrastructure, and lack of control of host governments factor in the denial of the right to move freely.\textsuperscript{87} While the relevancy of these fears can be debated, that is beyond the scope of this paper. The point is to understand that while the denial of rights may come from a legitimate fear, this denial of rights can still be a major human rights violation. One such example is the aforementioned beating of a twelve-year-old boy.

Furthermore, the benefits of freedom of movement are immense and seem likely to help the host country. "Were the international community to realize Convention rights universally, or even regionally, refugees could leave camps for better opportunities not only within the country of first asylum but in other nations as well. There is no logical reason why their protection should be limited to countries that happen to border their own."\textsuperscript{88} The freedom to reasonably obtain a travel document and move freely outside the camp and the country would give the refugees a level of self-sufficiency and would honor the 1951 Convention rights while easing the burden of the host country.

3. Rights to Housing and Property

"What will you say when your grandchildren ask you: 'Didn't

\begin{thebibliography}{88}
\bibitem{82} See Awolich Interview, supra note 22, at 3.
\bibitem{83} See id.
\bibitem{84} Id.
\bibitem{85} See BOOKMAN, supra note 65, at 136; see also Lomo, supra note 76, at 281.
\bibitem{86} BOOKMAN, supra note 65, at 134-35.
\bibitem{87} See id. at 135.
\bibitem{88} U.S. COMM. FOR REFUGEES, supra note 3, at 53.
\end{thebibliography}
you know that little children were kept behind razor-wire fences for two years or more?"?

—Hugh Mackay, 2002

Building on these rights, the 1951 Convention adds Articles 13 and 21. Article 13 states that refugees have the right to acquire or lease movable and immovable property to the same degree as other noncitizens, and Article 21 states that a refugee has the same right to housing as would any other noncitizen.

In refugee camp conditions, poverty is magnified by a loss of property or a denial of the right to work on or to own property. During the typical displacement process, a refugee will lose everything when fleeing home. The refugee’s house, land, and often his or her business is abandoned, taken, or destroyed. Very rarely are refugees ever compensated for losses, and especially not at the beginning of their encampment in another country. Without property rights, refugees cannot retain self-sufficiency in farming; they are less likely to undertake risky ventures or investments; and investors are not as likely to invest in them due to the lack of collateral.

Host communities, however, are disinclined to give good land to refugees since local residents—often themselves poor and without land—may grow resentful. Aside from the problem of property rights, the land to which refugees do have access is frequently poor. Camp lands are often located in extremely uninhabitable places; this could be due to the very divergent goals of the U.N. Convention and host country policy.

One possibility is to make life so miserable that the refugees

90 See 1951 Convention, supra note 2.
91 See id. arts. 13, 21.
92 See BOOKMAN, supra note 65, at 129.
93 See id.
94 See id.
95 See id.
96 See id. at 130-31.
97 See BOOKMAN, supra note 65, at 131.
98 See Awolich Interview, supra note 22, at 3.
will leave. The right of nonrefoulement—or not returning refugees to the country persecuting them—is seen as the most important right regarding refugees, and most countries will not deny this right. On the other hand, some countries try to effectuate the refugees’ return under the guise of welcoming them. A host country may provide refugees with “basic infrastructure, condone minor economic activity, and then create unpalatable conditions that initiate a refugee exodus.”

Mexico provided only limited services to refugee camps so that Guatemalans encamped there would suffer hunger and disease. This may be the reason so many Guatemalans prematurely returned home. Additionally, Hong Kong housed refugees in prisons so that within one year’s time, fifty-seven percent of the Vietnamese refugees went back home.

4. Right to Education

“I think that the children should be free, and when they are there for one year or two years they are just wasting their time, they could go to school and they could learn something. They could be free. Instead, they are like a bird in a cage.”

—10 year-old Afghan refugee

Realizing that children are refugees and that some stay in countries long enough to grow to adulthood, the 1951 Convention requires that they receive education. Article 22 states that refugees should receive the same treatment as nationals regarding elementary education, and refugees should receive the same treatment as noncitizens regarding all other forms of education.

99 See BOOKMAN, supra note 65, at 120.
100 See id. at 119-120.
101 Id.
102 Id. at 120.
103 Id.
104 BOOKMAN, supra note 65, at 120.
106 See 1951 Convention, supra note 2, at 168; see also BOOKMAN, supra note 65, at 131.
"as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships." 

While refugees have the right to education, exercising that right may seriously strain their host country’s resources. By building additional schools, hiring more teachers, and buying supplies, refugees are a costly burden to their host countries. One way countries handle the conflict between international requirements and domestic ability to provide for these requirements is to pay "lip service to international law" while giving local authorities the ability to determine what actually happens on the ground in local communities. For example, when the right to education is granted on a micro-level, often local discrimination found in certain areas of a country will inhibit the refugees encamped there from attaining internationally- and even domestically-required rights. Because of this, when targeted groups are concentrated into camps, discrimination can play a major role in refugees' access to education that might not otherwise be true if local government was not given so much freedom of authority or if refugees were not so easily singled out due to their encampment. This is another reason that local integration of refugees should be a primary goal.

5. Right to Not be Discriminated Against

Article 3 states that refugees should not be discriminated against regarding "race, religion or country of origin." This may be the single category that most affects every other right guaranteed to refugees in the 1951 Convention and 1967 Protocol.

It is not uncommon for host and home countries to discriminate on the basis of ethnicity. Discrimination (often institutionalized, explicit, and legalized) determines the nature of interaction between host populations and encampment residents because it condones different treatment and different rules (in employment,

107 1951 Convention, supra note 2, at 168.
108 See BOOKMAN, supra note 65, at 131.
109 See id. at 132.
110 See id. at 132-33.
111 See id. at 133.
112 1951 Convention, supra note 2, at 156.
consumption, production, exchange, [education, etc.] for different people. It justifies treating some ethnic groups better than others.113

Discrimination does not usually flow merely from everyday practices of a country’s citizens. Often, discrimination is embedded in law via host country constitutions and policies regarding “taxes, property rights, labor conditions and economic development.”114 It is clear, then, that the standard of implementing international law into the host country’s domestic law may produce problems for refugees without some international compliance measures.115

IV. Côte d’Ivoire: A Case Study

Now it is important to consider how these laws, both domestic and international, take effect on the ground. In order to do that, this section will introduce Côte d’Ivoire as a case study.

Côte d’Ivoire is unique in that it has generally been one of the strongest countries in Africa in terms of stability and economic development. It was a best-case refugee scenario, but it changed suddenly into a very frightening place to live for refugees. Due to its history, we are afforded the chance to think critically about what happened, what went wrong, how the law could have acted to change things, and how other actors could have played a role early on.

A. Brief History of Côte d’Ivoire and Its Early Response to Liberian Refugees

Côte d’Ivoire became a French colony in 1893, and gained independence from France in 1960.116 The first President was Félix Houphouët-Boigny, and he remained in office until his death in 1993.117 Many believe that the political stability enjoyed by Côte d’Ivoire since 1960 was largely based on President Houphouët-Boigny, who placed openness to foreigners as a top

113 BOOKMAN, supra note 65, at 139.
114 Id. at 140.
115 See Lomo, supra note 76, at 275.
117 See id.
priority. He was supported by one party and is acclaimed for having won over the traditional chiefs of Côte d'Ivoire by "bestowing honours upon them." However, some say that President Houphouët-Boigny was accepting of foreigners out of necessity. With over sixty indigenous ethnic groups living in Côte d'Ivoire, he had to make inclusion central to his political strategy. During his term, all of the major ethnic groups were represented in his cabinet or in other major policy-making bodies.

During his tenure, President Houphouët-Boigny kept Côte d'Ivoire closely aligned with the West while many of its neighboring countries were growing increasingly unstable due to political strife, civil war, and the creation of ties to the Soviet Union and China. During the 1960s and 1970s, Côte d'Ivoire's economic success was dubbed the "Ivoirian miracle," and Côte d'Ivoire was thought of as an oasis of political stability and economic prosperity. This "miracle" was built on foreign capital and cheap labor from poor neighbors. Between 1960 and 1979, Côte d'Ivoire's gross national product grew by almost eight percent every year.

Due to President Houphouët-Boigny, Côte d'Ivoire also stood out as a model on how to accept and integrate refugees when the mass influx of Liberian refugees began in 1989. In December of

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118 See id.


121 See id.


124 See Country Studies, supra note 120.

125 See INT'L CRISIS GROUP No. 82, supra note 123.

126 See Country Studies, supra note 120.

that year, Liberians began pouring over the Côte d'Ivoirian border due to the civil war in Liberia. Over 700,000 people fled their country by the height of the war, and this number does not take into account people who fled their homes without crossing an international border. Liberia's pre-war population was 2.5 million, but by 1996 some estimates report that its population suffered up to 200,000 deaths. The first major exodus from Liberia brought roughly 70,000 refugees into Côte d'Ivoire in only 4 months.

B. Côte d'Ivoire: The Years of Neighborly Kindness

As discussed briefly above, there are many ways nations respond to such an influx of refugees. In the case of Côte d'Ivoire under President Houphouët-Boigny, the reaction was one of neighborly kindness. He stated that the refugees should be considered "brothers in distress," and that they should not be settled into camps but should be taken into the community. Since colonial times when migrant workers traveled into Côte d'Ivoire—some nationalized, and some did not—foreigners "were accorded virtually equal rights with Ivoirians, . . . even the right to vote." As late as 1988, twenty-eight percent of Côte d'Ivoire's population consisted of foreigners, one of the highest proportions in the world. Since Côte d'Ivoire has traditionally been a country, which used the work and skill of many foreigners, new "brothers in distress" were more welcome than they might have been elsewhere.

The reason behind such a neighborly response to 70,000 refugees certainly involved economic goals. As long as rapid growth lasted, foreigners were welcome. Even though Côte d'Ivoire's economy began a downward spiral in the late 1980s,

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128 See id.
129 See id.
130 See id.
131 See id. at 10.
132 See KUHLMAN, supra note 127, at 11.
133 Id.
134 Id. at 15.
135 See id.
136 See Country Studies, supra note 120.
President Houphouët-Boigny appreciated the role of foreign workers in terms of Côte d'Ivoire's development.\textsuperscript{137}

The consideration that many of the Liberian refugees shared the same ethnicity as Western Ivoirians must also have influenced President Houphouët-Boigny's tolerance. "[T]he Gio in the area of Danane where the borders of Côte d'Ivoire, Liberia and Guinea meet; the Krahn in the area of Guiglo further south; and the Kru plus related groups" had ethnic kin on both sides of the border.\textsuperscript{138}

This area, called the Zone d'Accueil de Réfugiés (ZAR), became the designated area into which the Liberian refugees streamed.\textsuperscript{139}

Of Côte d'Ivoire's nineteen regions, the ZAR is made up of four, consisting of Danane, Toulepleu, Guiglo, and Tabou.\textsuperscript{140} Instead of confining the Liberian refugees to a small camp, President Houphouët-Boigny gave them the ZAR: an area roughly forty kilometers long by seventy kilometers wide with an area of 21,000 kilometers, populated by similar ethnic groups.\textsuperscript{141} Refugees were free to settle and integrate anywhere within the ZAR, but were not encouraged to move beyond it.\textsuperscript{142} In 2002, the ZAR had a population of roughly 800,000, of which one in six was a refugee.\textsuperscript{143}

Upon arrival, refugees began to spread throughout the ZAR, with some moving into towns and others remaining in the rural areas.\textsuperscript{144} This kind of freedom is not typical for most refugee situations. Instead of being able to move freely within such a large area, most refugees—in countries as different as England and Kenya—are confined to small camps.\textsuperscript{145} Yet in Côte d'Ivoire, refugees were able to set out on their own and settle where they wished.\textsuperscript{146} Even by the end of 1990, with the Liberian refugee population increasing to 272,000, spontaneous settlement

\textsuperscript{137} See id.
\textsuperscript{138} KUHLMAN, supra note 127, at 11.
\textsuperscript{139} See id.
\textsuperscript{140} See id. at 11 n.1.
\textsuperscript{141} See id. at 17.
\textsuperscript{142} See id. at 11.
\textsuperscript{143} See id. at 18.
\textsuperscript{144} See KUHLMAN, supra note 127 at 11.
\textsuperscript{145} See U.S. COMM. FOR REFUGEES, supra note 3, at 24, 106-10.
\textsuperscript{146} See id. at 143.
remained the norm.\textsuperscript{147}

Generally, this trend remained unhindered from 1989 until 1995, when the first refugees were moved into Côte d'Ivoire's only refugee camp.\textsuperscript{148} Charles Taylor's troops launched an incursion at Tai in southern Guiglo in which many Liberians and some Ivoirians were killed. At that point, the refugee population of Tai was moved to a "camp set up at Nicla, just outside of the town of Guiglo and well away from the border."\textsuperscript{149} This was the first moment when refugees faced any threat of being warehoused.

1. Rights Granted During the Neighborly Years

Some argue that cooperation with international law is only a consensual theory. It may be surrounded by some legal aspects, but it is "absent of any mandatory legal repercussions in cases of non-compliance."\textsuperscript{150} As a result of this lack of enforceability, nations only impose international law to the extent that their own domestic law provides for the same rights as international law. At one time, much of Côte d'Ivoire's domestic law and custom aided in granting the rights guaranteed under the 1951 Convention and 1967 Protocol. This section considers the 1951 Convention rights discussed above and how Côte d'Ivoire's domestic law or custom facilitated their award.

First, one must consider that Côte d'Ivoire allowed the refugees to come over the border. Côte d'Ivoire's position of nonrefoulement is in harmony with the primary goal of the 1951 Convention. During the years of the original mass influx of refugees, "all Liberians were accepted as refugees on a prima facie basis."\textsuperscript{151} They came over the border and were immediately considered refugees with no formal process to justify the status.

Instead of being confined to a camp, the refugees were welcomed with open arms and invited to settle freely within the ZAR.\textsuperscript{152} They had just left their homes, families, jobs, farms, and

\textsuperscript{147} See id.
\textsuperscript{148} See KUHLMAN, supra note 127, at 11.
\textsuperscript{149} Id.
\textsuperscript{150} ANN VIBEKE EGGLI, MASS REFUGEE INFUX AND THE LIMITS OF PUBLIC INTERNATIONAL LAW 29 (2002).
\textsuperscript{151} KUHLMAN, supra note 127, at 22.
\textsuperscript{152} See U.S. Comm. for Refugees, 1997 Country Reports: Cote d'Ivoire (1997),
most of their possessions. Upon arriving, however, they were able
to start anew.

After UNHCR gave initial food and emergency supplies, 
refugees were able to set out and look for jobs. While the majority 
of refugees settled in border towns near Liberia, “an estimated 
20,000 to 50,000 migrated to urban centers such as the capital, 
Abidjan.”153 With the right to work afforded by Article 17 of the 
1951 Convention,154 refugees were allowed to farm, operate small 
businesses, and find general local employment.155 They were 
allowed to work in all of these fields without any special permit.156 
Businesses anywhere in Côte d’Ivoire need to be registered, but a 
refugee could obtain this registration just as easily as a national.157 
At this time, foreign nationals (including refugees) only needed a 
residence permit—called a carte de séjour, given by the Ivoirian 
government—and a carte consulair, which proved the refugee was 
registered with the representative of his or her own country.158 
Some reports show that by late 1995 many Liberian refugees were 
struggling to make a living and meet their daily 
needs.159 The significant point is that Côte d’Ivoire was making every effort to 
meet the challenge of incorporating its international obligations 
into domestic action.

The right to work means little without the right to free travel. 
Refugees were initially free to travel within the ZAR and 
sometimes even outside of the ZAR during the first six or seven 
years of their refuge.160 Refugees had to apply for a travel permit 
which, during this time, was not difficult to obtain.161 This ease of 
travel, however, was not as much a matter of law, but a matter of 
politics. During the early years, refugees were viewed in a

Country Reports].

153 See id.

154 See 1951 Convention, supra note 2.

155 See 1997 Country Reports, supra note 152.

156 See KUHLMAN, supra note 127, at 22.

157 See id.

158 See id.

159 See 1997 Country Reports, supra note 152.

160 See KUHLMAN, supra note 127, at 23.

161 See id.
favorable light by the government;\textsuperscript{162} and thus, there was greater ease of movement and travel. The ability to travel outside a specified zone in order to work, to visit, or for any purpose satisfies the 1951 Convention's Articles 26 and 28.\textsuperscript{163} Refugees were given the rights to travel and to work. Since the economy in western Africa is very largely based on agrarian professions, the right to property and land is often a major requirement for the success and independence of most refugees.\textsuperscript{164} During the first several years after the mass influx of Liberian refugees, Côte d'Ivoire met the land needs of refugees.\textsuperscript{165}

Since 1967, Côte d'Ivoire has officially recognized that "land belongs to the person who brings it into production."\textsuperscript{166} This decree has been used not only by indigenous people, but also by migrant workers and immigrants.\textsuperscript{167} While part of the 1967 decree required that exploitation rights for the land must be registered, in practice most land use is subject only to customary and local-level law.\textsuperscript{168} The registration of land rights is viewed as government intrusion by locals; and thus, land is apportioned in traditional ways, leaving much room for ethnic tensions and mass immigrant influx to infiltrate the local decision-making process.

For instance, in land boundary conflicts and threats of expropriation\textsuperscript{169} a person's power over land contract terms varies depending on the local population's density and demand: the greater the number of migrants wanting land, the lower the bargaining power of the individual.\textsuperscript{170} During these first years through the mid-1990s, the national government took a back seat

\begin{footnotesize}
\textsuperscript{162} See 1997 Country Reports, supra note 152.
\textsuperscript{163} See 1951 Convention and 1967 Protocol, supra note 2.
\textsuperscript{164} See KUHLMAN, supra note 127, at 15 tbl.3. In 1997, the refugee population in Côte d'Ivoire was composed overwhelmingly of farmers. Over forty-two percent of the refugees farmed the land as a primary occupation. See id.
\textsuperscript{165} See U.S. COMM. FOR REFUGEES, supra note 3, at 43.
\textsuperscript{166} JOHN R. HEATH, WORLD BANK TECHNICAL PAPER NUMBER 238, LAND RIGHTS IN CÔTE D'IVOIRE: SURVEY AND PROSPECTS FOR PROJECT INTERVENTION 32 (1993).
\textsuperscript{167} See id.
\textsuperscript{168} See id.
\textsuperscript{169} See id. at 20.
\textsuperscript{170} See id. at 23.
\end{footnotesize}
in this land bargaining process. This meant that refugees could make choices about where they wanted to live within the ZAR and bargain on their own terms with local leaders to cultivate land. This is strikingly different from most refugee situations where refugees are placed in camps and forbidden to farm land.

While immigrants in Côte d'Ivoire have traditionally had the same usufruct rights (a form of sharecropping) over the land as indigenous groups, the rights associated with land usage are highly dependent on location within the country. For instance, while western Côte d'Ivoire's Krou people are less centralized than other groups, refugees have typically had an easier time moving freely in the west and farming land with few, if any, restrictions. Conversely, the situation is a bit different in the east. The Akan people of eastern Côte d'Ivoire have been willing to assimilate outsiders into their culture. They allow migrant farmers to work for them, sometimes permitting the Akan to take more than half of the harvest for themselves. This may seem like a large portion of payment for land usage rights, but the migrants are also well integrated into these communities. They are expected to live in the same villages as their indigenous hosts and are even allowed to fully participate in community cooperatives with indigenous peoples.

To different degrees, both of these attitudes were passed to Liberian refugees who settled among their ethnic kin in the ZAR. Many refugees who settled in both villages and towns were given land to cultivate and the usufruct rights to that land. There were restrictions on what refugees could plant; but since most refugees were biding time until they could go back to Liberia, they usually only wanted land in order to feed themselves instead of using it to make permanent businesses.

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171 See id. at 23.
172 See id. at 26.
173 See HEATH, supra note 166, at 26.
174 See id. at 25.
175 See id.
176 See id. at 25-26.
177 See KUHLMAN, supra note 127, at 21.
178 See id. Since refugee access to land is thought of as temporary, refugees were only allowed to plant crops for consumption. Refugees were not allowed to plant cash
In some cases, refugees were most accepted among their own ethnic group, which meant that they could only find land to cultivate from Ivoirians who were ethnically the same as the refugee. However, if a refugee settled in a town, he could usually find work in a plantation as a laborer without as much regard for his ethnicity. The indigenous farmer hired a migrant or refugee initially as a short-contract wage worker. Later, the migrant could be upgraded to a sharecropper which entitled him to one-third of the crop. Since most plantation crops of coffee and cocoa trees have a production life of thirty years, the migrant could conceivably have a lifetime contract.

During the time surrounding the above-mentioned land and farming rights, the ruling political party continued to back migrants and their rights to land. Whether this was to win the vote of the migrant population—a quarter of the country—or to promote agricultural growth, the dominant party backed the rights of migrants—and, in turn, of refugees—to land and to work the land.

Article 13 of the 1951 Convention and the 1967 Protocol states that refugees must be accorded the same rights as other noncitizens to lease or contract for property. Côte d’Ivoire supported these obligations during the first part of the Liberian refugees’ stay. With the freedom to move about and to freely bargain for work or land, refugees had the chance to become self-sufficient and dignified in their efforts to work for themselves. It is this type of freedom that kept these Liberian refugees from crops like oil palms, rubber, cocoa, or coffee since these are not annual crops. Id. at 22.

179 See KUHLMAN, supra note 127, at 22.
180 See id.
181 See id.
182 See HEATH, supra note 166, at 27.
183 See id.
184 See id.
185 See HEATH, supra note 166, at 48 n.21 (citing Barbara C. Lewis, Land, Property and Politics: Rural Divo at the Fin de Regime (unpublished paper, presented at the African Studies Association Annual Meeting, St. Louis, Missouri, Nov. 23-26, 1991)).
186 See id.
187 See U.S. COMM. FOR REFUGEES, supra note 3, at 43.
188 See id.
becoming warehoused.

As for the warehousing of children, Côte d'Ivoire was ready and willing to stop such a fate from happening. Côte d'Ivoire drew up a plan in 1991 to place refugee children directly into Ivoirian schools by building more classrooms for the new refugee arrivals.\textsuperscript{189} If local integration of refugees is the best durable solution in terms of staving off protracted refugee situations, the integration of children into local schools is a good means to that end. In this instance, Côte d'Ivoire was willing to remain true to its international obligations under Article 22 of the 1951 Convention and 1967 Protocol. However, Côte d'Ivoire's invitation for local integration was denied, due to other factors that will be addressed in the next section.

Finally, the major rights previously described, with the exception of property rights, were given (or offered, in the case of education) regardless of race, religion, or country of origin. Côte d'Ivoire was generally in compliance with Article 3 of the 1951 Convention.

\textbf{C. Côte d'Ivoire: The Years of Xenophobia}

Traditionally, Côte d'Ivoire practiced an "open door" immigration policy, which allowed immigrants free access to land and to vote. This resulted in a refugee population increase to over a quarter of the total population.\textsuperscript{190} However, the 1990s saw this history eroding as Côte d'Ivoire became "one of the twelve nations in Sub-Saharan Africa to officially declare that the level of immigration is too high."\textsuperscript{191} The history behind that decision marks a turning point for Côte d'Ivoire and its refugees.

In 1993, President Houphouët-Boigny died, and Henri Konan Bédié replaced him.\textsuperscript{192} President Houphouët-Boigny contained

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{189} See KUHLMAN, supra note 127, at 30.
\item \textsuperscript{190} Theophile Kouamouo, \textit{Trouble in the Hospitable Land: Africa's Xenophobic Problems}, UNESCO, Sept. 2001, http://www.looksmarttrends.com/p/articles/mi_m1310/is_2001_Sep/tai_79007223. By 1998, the concept of Ivoirité had taken a strong hold, even though the percentage of foreigners living in Côte d'Ivoire reached twenty-six percent, with nearly half that number actually born in Côte d'Ivoire. "In absolute numbers, [this] is about four million foreign citizens [in] a total population of fifteen million." KUHLMAN, supra note 127, at 15-16.
\item \textsuperscript{191} See HEATH, supra note 166, at 6.
\item \textsuperscript{192} See KUHLMAN, supra note 127, at 16.
\end{itemize}
\end{footnotesize}
growing xenophobia in the southwest by giving members of certain groups posts in his “administration, the private sector, and the army.” When he died, conciliatory attempts like these no longer existed.

President Konan Bédié was not nearly as secure in his power as Houphouët-Boigny had been; consequently, he needed extra support against his political opponent, a Northerner named Alassane Ouattara. At this point, President Konan Bédié began a campaign that would set citizens against foreigners in two aspects: a literal delineation (actual foreigners against citizens) and an ethnic delineation (citizens from ethnic tribes thought not to be culturally pure against citizens from culturally pure heritages). This would give the Southerners—considered by most to be “true Ivoirians”—a critical advantage, making way not only for President Konan Bédié’s re-election against Ouattara, but also giving “official sanction to xenophobia and ethnic rivalry.”

To accomplish these goals, President Konan Bédié began a policy of Ivoirité or Ivoirian-ness. With the Ivoirité concept came a new electoral code encompassing two types of citizen: ‘pure’ Ivoirian citizens and citizens of ‘mixed heritage’ who while having lived in Côte d’Ivoire all their lives, were still considered foreigners. This last group matched Ouattara, Konan Bédié’s political opponent, since his father was alleged to be from Burkina Faso, just north of Côte d’Ivoire. In the end, Ouattara was not even permitted to run for president.

The concept of Ivoirité, however, had much greater ramifications than just in political circles. The concept pitted not only foreigners (very broadly defined) against Ivoirians, but it also pitted North against South; and thus, Muslim against Christian. Many Muslim northerners subsequently lost their government

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193 INTERNATIONAL CRISIS GROUP, ICG AFRICA REPORT NO. 72, CÔTE D’IVOIRE: THE WAR IS NOT YET OVER 5-6 (2003) [hereinafter INT’L CRISIS GROUP No. 72].
194 See KUHLMAN, supra note 127, at 16.
195 See id.
196 See id.
197 See Kouamouo, supra note 190, at 1.
198 See KUHLMAN, supra note 127, at 16.
199 See id.
200 See id.
positions, sowing the seeds of a north-south, Muslim-Christian divide.\textsuperscript{201} Many immigrants were forced to leave the country.\textsuperscript{202} At the same time, the economy began a downward spiral.

"Between 1984 and 1998, GDP per capita at purchasing-power parity declined from $2,160 to $1,730; by comparison, in 1984 Côte d'Ivoire was slightly more prosperous than Egypt and twice as well off as Senegal, whereas by 1998 its average purchasing power was only half that of Egypt and equivalent to Senegal's."\textsuperscript{203} Despite the government's agreement to a structural adjustment program in 1993, by 1999 and 2000 real gross domestic product "per capita declined again, by about seven percent compared to 1998."\textsuperscript{204} By 1998, the attitude that resulted from this decline was that the migrant workers and refugees no longer added to the economic stability of the country.\textsuperscript{205} Rather, they were now viewed as competitors for the remaining economic "crumbs" of a worsening situation.\textsuperscript{206}

With the economic crisis, many Ivoirians could no longer find work in urban areas; therefore, they sought a return to farming.\textsuperscript{207} Upon return to the land, however, Ivoirian farmers began to find that it was overcrowded.\textsuperscript{208} Coupled with Ivoirité, the land shortage problem was increasingly viewed as an immigration problem rather than as an economic problem.\textsuperscript{209} The policy of inviting workers from other parts of Africa in order to help develop Côte d'Ivoire was considered the reason for the land shortage.\textsuperscript{210}

\textsuperscript{201} See id.

\textsuperscript{202} Refugees International.org, Ivory Coast: Expect Further Displacement Unless Xenophobia is Curbed (May 7, 2003), http://www.refugeesinternational.org/content/article/detail/863/&output=printer [hereinafter Ivory Coast].

\textsuperscript{203} KUHLMAN, supra note 127, at 16.

\textsuperscript{204} Id.

\textsuperscript{205} See id.

\textsuperscript{206} See id.

\textsuperscript{207} Kouamouo, supra note 190, at 31.

\textsuperscript{208} See INT'L CRISIS GROUP No. 72, supra note 193, at 6.

\textsuperscript{209} See id.

\textsuperscript{210} See Kouamouo, supra note 190, at 30-31. In reality, an environmental problem was one of the reasons for the economic crisis. "The growth in production of perennial cash-crops depends on the availability of virgin forest for clearing; Côte d'Ivoire has now cleared most of its forests, which has led to a shortage of land for cultivation as well
This trend in the economy, coinciding with President Konan Bédie's political divisions, caused strife in the immigrant and refugee communities as Houphouët-Boigny’s vision of an Ivoirian ‘melting pot’ was cast aside. All foreigners—and even Ivoirian citizens who belonged to the same ethnic group as foreigners—were ostracized.

Whereas President Houphouët-Boigny had opened arms to refugees and had said that land should go to those who put it to use, President Konan Bédie stood for a limited view of Ivoirian cultural identity, closing the doors on anyone who did not fit the description. His land use mantra was “the land to its original owners.”

On December 1999, President Konan Bédie’s government was overthrown by a military coup, and General Robert Guéi stepped into his shoes as leader of Côte d’Ivoire. He introduced a new constitution in 2000 that was subsequently approved by referendum. One major facet of the changed constitution was a clause that demanded that all presidential candidates should be of Ivoirian nationality and parentage. Thus, the xenophobia did not stop with President Konan Bédie’s rule. General Guéi stood for official presidential elections in October 2000 against Laurent Gbagbo, and when the “vote count showed that [Guéi] had lost, he ordered counting to be stopped and declared himself the winner.”

211 See INT’L CRISIS GROUP No. 72, supra note 193, at 6. “In November 1999, the anti-foreigner sentiment resulted in the displacement of 15,000 Burkinabè who were chased from their homes in the southwestern town of Tabou.” Ivory Coast, supra note 202.

212 See KUHLMAN, supra note 127, at 16.


214 Id.

215 See id. at 17.


217 See id.

218 KUHLMAN, supra note 127, at 17; see also Immigration and Nationality
three percent, and some polling places, especially in the north, closed early because of the lack of voters.\textsuperscript{219}

After another uprising, Guéï’s soldiers abandoned him;\textsuperscript{220} and part of the army, the Presidential Guard, and the Gendarmerie took Gbagbo’s side.\textsuperscript{221} Gbagbo was then installed as Côte d’Ivoire’s next president with 59.4% of the vote.\textsuperscript{222}

By this time, Ouattara was still fighting the accusation that he was Burkinabé, and thus, ineligible to run for President.\textsuperscript{223} When Gbagbo refused to allow Ouattara to run, there was new violence. This time, however, it appeared to be more a result of ethnic strife between the north and south than mere political struggle.\textsuperscript{224} During this conflict, immigrants and northerners were targeted at unprecedented levels due to their supposed support for Ouattara.\textsuperscript{225} By the time the next parliamentary elections were held, there was only a thirty percent participation rate.\textsuperscript{226}

Due to the political instability, international aid stopped in 1999 and was only haltingly reinstated by 2001.\textsuperscript{227} All of this political turmoil sent foreigners on the move again, including refugees.\textsuperscript{228} Many thousands returned to their homes, “while others have moved on to safer places within Côte d’Ivoire.”\textsuperscript{229}

1. Rights Taken Away During the Years of Xenophobia

“I left Liberia in 1993 because I was attacked by Charles

Directorate, \textit{supra} note 216.


\textsuperscript{220} See \textsc{Kuhlman}, \textit{supra} note 127, at 17.

\textsuperscript{221} See Immigration and Nationality Directorate, \textit{supra} note 216.

\textsuperscript{222} See id.

\textsuperscript{223} See \textsc{Kuhlman}, \textit{supra} note 127, at 17.

\textsuperscript{224} See id. “There were several weeks of violence largely between northerners and southerners. Churches and mosques were destroyed and many people were killed.” Immigration and Nationality Directorate, \textit{supra} note 216.

\textsuperscript{225} See \textsc{Int’l Crisis Group} No. 72, \textit{supra} note 193, at 7.

\textsuperscript{226} See \textsc{Kuhlman}, \textit{supra} note 127, at 17.

\textsuperscript{227} See id.

\textsuperscript{228} See id.

\textsuperscript{229} Id.
Taylor's rebels. I was taken to jail, tied up, hung upside down, and hot peppers were stuck in my mouth. They burned cigarettes into my back and put hot coals on my private parts. I escaped with much difficulty and ran to the Ivory Coast. My story is just one; there are many of us here that cannot go back to Liberia. But I cannot stay here either."

—A Liberian refugee in Côte d'Ivoire

"Liberians increasingly feel that they would rather take their chances, and possibly die in Liberia, than stay among friends who have become strangers, and be killed in Côte d'Ivoire."

—Amnesty International Interview with a Liberian refugee in Côte d'Ivoire

Côte d’Ivoire subscribed to the 1951 Convention and the 1967 Protocol, but it has not incorporated the international obligations into its own domestic law. The only domestic statute to deal with refugees at all is the 1990 immigration law, which includes refugees but does not denote a specific legal status for them. Remember that when refugees first began their flight into Côte d’Ivoire from Liberia in 1989, they were all accepted as refugees on a prima facie basis. Since 1999, one applies for refugee status on an individual basis. The decision to grant or deny refugee status is left to committees represented by both UNHCR and government officials called Commissions of Agreement found within the ZAR. There is also a National Eligibility Commission that handles asylum applications located in Abidjan. The Commission of Agreement enters the person’s


232 KUHLMAN, supra note 127, at 23-24; see also U.S. Dep’t of State 2000, supra note 199.


234 See KUHLMAN, supra note 127, at 22; see also discussion supra Sec. IV.B.1.

235 See id.

236 See id.

237 See id. at 22 n.6.

238 See id.
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refugee status into a database, and the Ministry of the Interior issues the refugee an identity card.

This issuance of identity cards made specifically for refugees did not occur until 1999; until that time, security officials often did not honor identity documents issued to refugees by the UNHCR. When security officials stopped refugees to ask for identity documents and only received a UNHCR document, the officials usually demanded money, destroyed refugees' identity documents, detained refugees, and on occasion beat them.

On 25 December 2002, I left the centre as I had been invited to spend Christmas with friends in the city. At a checkpoint, the minibus I was traveling in with my family was stopped. I was taken aside because my UNHCR-issued identity card showed I was Liberian. I was made to undress, was beaten on the back, and had the sum of 25,000 CFA (about [thirty-eight] Euros) taken from me. My UNHCR card was then ripped up in front of me, I was given my clothing back, and sent on my way. Anti-Liberian insults were shouted at me the whole time.

The refugee identity card conferred most of the rights attached to the carte de séjour, the residence permit required pre-1999. However, despite efforts by UNHCR, the refugee identity card was not the equivalent of the carte de séjour. The most glaring difference is that the refugee identity card was valid only within the ZAR. The refugee identity card did not allow a refugee to open a bank account and was not valid to allow a refugee to get a driver's license. It included a photo and had to be renewed annually. The administrative burdens of this annual renewal, as well as other factors, required the suspension of new refugee

239 See id. at 22.
240 See UNHCR GLOBAL APPEAL 2001 102 (2001), http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?id=3e2c05c1d&tbl=PUBL.
241 See U.S. Dep't of State 2000, supra note 219.
242 Id.
244 See KUHLMAN, supra note 127, at 22-23.
245 See id.
246 See id. at 23.
247 See id.
identity cards since 2000. Now many refugees do not have the identity cards at all, nor any of the rights associated with them. In Danane, for example, at the time the refugee population reached 40,000, there were only 4,000 refugees who had refugee identity cards. Even in the year that cards were issued more liberally (from 1999-2000), holders of resident cards and northerners were viewed with suspicion by police; due to that, they were systematically harassed and humiliated.

Aside from these general issues of formal refugee legal status and identity, the various refugee rights associated with the 1951 Convention and the 1967 Protocol should be considered in view of the political and legal changes in Côte d'Ivoire during the mid-1990s. What is a life without the ability to work in dignity? Since most refugees work in agrarian occupations, the most specific change to the refugees' right to work occurred with the inception of a new land law adopted in 1998. It adopted the government view of Ivoirité making land ownership a right only for Ivoirian nationals. The old theory that land should go to whoever could put it to use died with the new land law. Thus, even if refugees can still move freely by law within the ZAR (which is highly uncertain), their right to work is significantly hampered by a land law that requires Ivoirian nationality for all land owners. When a lifelong politician like Ouattara is not allowed to run for President because one of his parents may be from Burkina Faso, how much more suspicious does a refugee seem in terms of xenophobia? The prospect for refugee ownership of land—and thus a career in concentrated agriculture—no longer exists in Côte d'Ivoire. As for the educated workers, their Liberian diplomas are not recognized, their knowledge of French is insufficient for high-level jobs, and they are not allowed employment in the public sector.

Even if the right to work had remained exactly the same as it

248 See id.
249 See id.
250 See KUHLMAN, supra note 127, at 23.
251 See INT'L CRISIS GROUP NO. 72, supra note 193, at 7.
252 See KUHLMAN, supra note 127, at 22.
253 See id.
254 See id. at 29.
was at the time when Liberian refugees first arrived in Côte d'Ivoire, the ability to travel to work has changed considerably. On one hand, this change is part of a governmental decree; on the other, it is the effect of ethnic xenophobia within the general populace.

In order to leave the ZAR, a refugee must apply for a travel permit;\textsuperscript{255} this was true even as early as 1990 when most refugees first began crossing borders. When refugees initially arrived and they still had an explicit invitation to the country, the government did not back xenophobia. Even though there were laws that did make travel outside the ZAR somewhat difficult in terms of convenience, refugees could still travel.

Today, however, the intensity of travel restrictions has greatly increased due to ethnic sentiment and hatred for foreigners.\textsuperscript{256} While the travel laws have not significantly changed on the books since the beginning of the refugee influx, the horrors of roadblocks have created \textit{a de facto} halt to travel rights.

Since the 1999 coup, harassment, enforced bribes, arbitrary arrest, and beatings are frequent at roadblocks.\textsuperscript{257} "[U]niformed police, gendarmes, and water, forestry, and customs officials commonly erect and operate roadblocks on major roads, where they demand that passing motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money or goods for contrived or minor infractions."\textsuperscript{258} This is true of any foreigner, but it is especially true of refugees due to the aforementioned problems with identity documents. Indeed, Ivoirian police officers consider any form of refugee identity card invalid.\textsuperscript{259} This is partly due to the concept of Ivoirité.\textsuperscript{260} Even without a specific legal change, travel has changed dramatically for refugees since government officials and their ethnically motivated hatred is not kept at bay.

While the rights to travel and work are crucial for adults, the right to education is crucial for children. Some of the Liberian

\textsuperscript{255} See id. at 23.
\textsuperscript{256} See KUHLMAN, supra note 127, at 24.
\textsuperscript{257} See id.
\textsuperscript{258} U.S. Dep't of State 2000, supra note 219, at 11.
\textsuperscript{259} See UNHCR GLOBAL APPEAL, supra note 240, at 102.
\textsuperscript{260} See KUHLMAN, supra note 127, at 16; see also discussion supra Section IV.C.
children have spent their entire childhoods in Côte d’Ivoire, and the ability to receive education is of utmost importance. Côte d’Ivoire wanted the Liberian refugee children to be fully integrated into Ivoirian schools from 1989 to 1990. However, UNHCR thought that the refugee children should learn English rather than French since UNHCR continued to primarily support the goal of repatriation.

Education for Liberian children worsened once the economy crumbled and widespread political strife began in the late 1990s as foreign aid ran out. In 1999, with these budgetary losses, the education program created and run by Liberian refugees within the ZAR needed to scale down. In order to accommodate the necessity of an education program, refugee children sought to integrate into Ivoirian schools. The Minister of Education objected to this in 1999. In addition to declaring a shortage of classrooms, he suggested that Liberian children would have difficulty with French and noted the lack of Ivoirian teachers to teach the children.

At this point, UNHCR decided on a transitional year where primary school children would remain in refugee schools, but would change to the Ivoirian curriculum and use Ivoirian teachers. UNHCR also began to seek funding to build extra classrooms in Ivoirian schools. All support to secondary schools was stopped. As of 2003, Liberian children were still not integrated into Ivoirian schools, and former Liberian teachers were dissatisfied with being forced out of work.

The situation is not without hope. After another transitional year was undertaken, the Ministry of Education eventually agreed to accept all those enrolled in the refugee schools. Ivoirian authorities even extended the age requirements for each grade by

261 See id. at 30; see also discussion supra Section IV.B.1.
262 See id. at 31.
263 See id.
264 See id.
265 See id.
266 See id.
267 See id.
268 See id.
269 See id.
two years in order to accommodate refugee children who were older than their Ivoirian classmates.270

It appears that in terms of education inadequacies, UNHCR is more to blame than the Ivoirian government. Since UNHCR did not seize the chance to integrate the Liberian refugee children with the Ivoirian children, the opportunity was lost. Of course, Liberian parental discretion played an important role, and it could be that the refugee children would have been harmed had they been integrated so closely with Ivoirian children during the ensuing wars. However, that is beyond the scope of this paper. For the current purposes, it is enough to note that Côte d'Ivoire was at first willing to integrate and give more rights than were required by the 1951 Convention and 1967 Protocol, and UNHCR did not take the Ivoirian government up on its offer.

D. Consequences of Losing Rights

Since the situation of Liberian refugees has deteriorated, their loss of rights has not gone unnoticed. Due to the property losses of refugee adults, there has been an increased need to move further and wider to find work, or they have had to remain in a camp without work. In either case, parents are not present—physically or mentally, in some cases—to the same degree that they were when their rights were granted. This has made recruitment of their children into guerrilla and regular armies easier.271 Indeed, children as young as nine years old have been recruited and have been seen fighting with machine guns.272

Furthermore, the government-sponsored violence has dispersed the labor force throughout Côte d'Ivoire such that a “disruption of planting and harvesting—even for a short time—[will] deal a severe blow to a major pillar of West Africa’s economy.”273 While the regional economy struggles due to lost rights, guerrillas get richer. This is because both the refugee camp structure and financial aid benefit guerrillas in their effort to gain

270 See id.


272 Id.

273 Ivory Coast, supra note 202.
political control over civilians.\textsuperscript{274}

This comment is not meant to be exhaustive, and is only provided to give a brief glimpse into the catastrophe that arises from the violations of rights and the cycle of war. If stop-gap measures and mechanisms were implemented to take control of these problems before they spiraled out of control, not only would refugees be safer, but so would whole international regions.

V. How Can the World Stop Refugee Warehousing?

"Sometimes we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant. Wherever men and women are persecuted because of their race, religion or political views, that place must, at that moment, become the center of the universe."

—Elie Wiesel\textsuperscript{275}

The problem that prompted the 1951 Convention is still materializing all over the world. Genocide and ethnic wars are not extinct. The world hoped that the 1951 Convention and 1967 Protocol would help solve the problems facing refugees when they were forced to leave home; yet, it is clear there is still a grave dilemma. By considering the rights arising from the 1951 Convention and 1967 Protocol and their affects in Côte d’Ivoire, it is apparent that international law does not solve the catastrophe of refugee warehousing. Even when a country like Côte d’Ivoire meets many of the minimal requirements of the 1951 Convention and 1967 Protocol, refugees may still suffer greatly if the country’s sentiment (not necessarily law) changes—in this case, to one of ethnic hatred and a disdain for all foreigners.

The world needs to consider what has gone wrong in global refugee policy and what can be done better. After reviewing Côte d’Ivoire, it appears that three factors should be taken into consideration when conceiving of solutions to refugee warehousing.

The first step toward a solution requires that domestic law

\textsuperscript{274} See Fiona Terry, Condemned to Repeat? The Paradox of Humanitarian Action 8 (2002).

Côte d'Ivoire's warehoused refugees encompass current norms of international law. Côte d'Ivoire demonstrated that when a country's domestic law upholds international obligations, there is a greater chance that those obligations will be enforced. However, even in cases where Côte d'Ivoire's own law granted the rights established by the 1951 Convention—in the case of travel, for instance—the country's ethnic hatred practically prevented granting those rights. Any solution, therefore, ought to consider not only integration of international law into the domestic law arena, but also how to foster the correct climate so that the spirit of such international norms is upheld.

Second, any solution must consider the role of international law once refugees are displaced as well as to gauge how the world should respond to trouble spots before they erupt into violence. For instance, there would have been no refugee crisis if the situation in Liberia had been more seriously intercepted by the international community before it spiraled out of control in 1989.

Third, an immediate integration of refugees into the host country should be first and foremost among the durable solutions. The problem of warehousing cannot end, even if the minimal 1951 Convention rights are upheld, unless refugees have the ability to integrate into the local community. To remain in camps appears to be a per se violation of the spirit and rights granted by the 1951 Convention.

With these three considerations in mind, this paper turns to consider the roles of the international community and of the UNHCR.

A. The International Community's Role

"We must choose carefully how we treat the stranger among us, because our choice has serious implications for the stranger, but also for ourselves."

—Savitri Taylor\textsuperscript{276}

1. Stop Crises Before They Begin

"[T]he international community must place a greater emphasis on the underlying causes of the refugee problem through a

\begin{footnotesize}
\textsuperscript{276}~\textit{Savitri Taylor, Quotable Quotes, UNIYA, Jesuit Social Justice Center, http://www.uniya.org/education/refugees_quotes.html.}
\end{footnotesize}
preventative policy," as well as on intervention.\textsuperscript{277} States must understand that emergencies which produce hundreds of thousands of refugees flooding across borders do not typically happen suddenly.\textsuperscript{278} They are the culmination of ethnic hatred, a lack of access to participation in the political process, or a violent demand for great change.\textsuperscript{279} Since most crises that produce refugees are not sudden, the world needs to identify the root causes of potential mass refugee influx and then find a way to intervene.\textsuperscript{280} That intervention can neither be strictly monetary, nor can it be limited to signing a ceasefire agreement or peace accord.\textsuperscript{281} In the case of Côte d'Ivoire, the restriction of foreign aid in 1999 was catastrophic. It not only hurt the country in general, but it also severely impacted the Liberian refugees as well.\textsuperscript{282} When aid was most needed, UNHCR and developmental funding to Côte d'Ivoire plummeted. Thus, intervention should be established in ways aside from merely imposing sanctions or withholding aid.

Some put the onus of intervention on UNCHR since there is a mandate for states to cooperate with UNHCR. For years, UNHCR has tried to intervene in struggles by working with guerrilla forces and discussing solutions with recognized governments.\textsuperscript{283} Nevertheless, this work has been undertaken without any legal basis.\textsuperscript{284} If UNHCR continues to work in this way, its training and mandate must be changed.\textsuperscript{285} A better fit would be for UNHCR to continue its role as an apolitical body primarily used to support

\begin{footnotes}
\footnote{277}{GIL LOESCHER & ANN DULL LOESCHER, THE GLOBAL REFUGEE CRISIS: A REFERENCE HANDBOOK 15 (1994).}
\footnote{278}{See EGGLI, supra note 150, at 24.}
\footnote{279}{See id.}
\footnote{280}{See ELIZABETH G. FERRIS, BEYOND BORDERS: REFUGEES, MIGRANTS AND HUMAN RIGHTS IN THE POST-COLD WAR ERA 88 (1993).}
\footnote{281}{See id. at 89.}
\footnote{282}{See KUHLMAN, supra note 127, at 4, 31. For instance, since the shortage of funds beginning in 1999, severe cuts have been made in terms of equipment and teaching materials for vocational schools. Teachers are forced to explain how a particular machine might work, since there is no money to have the actual machine there as a model. Further, with the depletion of money, food programs in schools have been cut, resulting in a much lower rate of school attendance. See id.}
\footnote{283}{See LOESCHER, supra note 277, at 15.}
\footnote{284}{See id.}
\footnote{285}{See id.}
\end{footnotes}
refugees while assigning the intervention and prevention tasks to other bodies. Tactics should include: mediation, peace making, peace keeping, and peace building efforts. These tactics should be undertaken by the UN, by regional organizations, and "by States which have an economic and political influence in the countries where conflicts are taking place."\textsuperscript{286}

"[T]here is a tension or conflict between human rights protection on the one hand, and control of one's borders, sovereignty and economic globalization, on the other."\textsuperscript{287} In addition, "Article 2 of the UN Charter prohibits the UN from intervening in matters that fall essentially within the domestic jurisdiction of any state."\textsuperscript{288} If internal struggles spill over into neighboring countries or significantly affect them, however, the struggles may be considered grievous human rights abuses and fall outside the realm of the strictly internal.\textsuperscript{289} "In contractual terms, to produce refugees can be viewed as a result of state misconduct violating either rules of generic international law or specific treaty-based obligations vis-à-vis other states. From this general perspective, states are not allowed to inflict losses or damages on other countries without liability."\textsuperscript{290} However, to become involved with most mass refugee circumstances seems not a breach of state sovereignty, but a necessity. While preventing refugee abuses depends on overcoming barriers of national sovereignty, no international organization has been able to do this consistently.\textsuperscript{291}

It is also difficult to acquire international political support for armed intervention efforts.\textsuperscript{292} States do not easily commit their soldiers to UN missions because they are perceived as too far away and too irrelevant to warrant involvement.\textsuperscript{293} With this in mind, it is important that the world monitor nations for signs of strife via a new body—not UNHCR—and become involved in

\begin{itemize}
\item \textsuperscript{286} CRISP, supra note 57, at 21.
\item \textsuperscript{287} THE REFUGEES CONVENTION 50 YEARS ON: GLOBALIZATION AND INTERNATIONAL LAW 9 (2003) [hereinafter REFUGEES CONVENTION].
\item \textsuperscript{288} LOESCHER, supra note 33, at 182.
\item \textsuperscript{289} See id. at 183; see also EGGLI, supra note 150, at 41.
\item \textsuperscript{290} EGGLI, supra note 150, at 41.
\item \textsuperscript{291} LOESCHER, supra note 33, at 150.
\item \textsuperscript{292} See id. at 181-82.
\item \textsuperscript{293} See id.
\end{itemize}
resolving problems early. Prevention trumps intervention, but intervention should be used as a final resort.

Finally, nations which host refugees should be developed to play a major role in the prevention of rights abuses. Instead of emphasizing assistance in the short-term (in camps), aid should be given with the long-term development of host countries in mind (in terms of infrastructure and roads). Refugees should be a part of the long-term development plans because they bring new ideas, a different educational background, and time to the host country. They turn abandoned land into villages and farms, and they can add to the host country's economy.

The developmental aspect of prevention and intervention can be secured with pre-existing channels like non-governmental organizations and the UN, but the key area for change is programmatic. Insofar as programming and the approval and placement of funds are concerned, developmental and humanitarian aid should operate in the same fashion. “In Africa, for example, researchers estimate that no more than 25% percent of the continent’s refugees live in settlements or camps.” Despite this, aid programs are geared at camps and are not often aimed at helping the host country. This leaves refugees who are able to successfully integrate completely on their own; while refugees who give up many of their rights and move into camps might be fed, they will have minimal or no personal freedom. If more aid was put into the development of host countries in areas impacted by large swells of refugees (for example, school building and staffing, farming aid, and environmental rebuilding efforts), then more refugees could integrate and be seen as a positive force rather than a burden.

As long as Côte d'Ivoire held up its end of the bargain under the 1951 Convention and 1967 Protocol, and as long as the country remained relatively stable, money was easier to receive. For instance, in 1989 when the Liberian refugees began flowing

294 See id.
295 See id. at 173.
296 See id. at 175.
297 LOESCHER 1993, supra note 33, at 172.
298 See id. at 172-73.
299 See KUHLMAN, supra note 127, at 25.
over the border, UNHCR immediately began to receive funds.\textsuperscript{300} By March of 1990, Emergency Fund monies were given, and the High Commissioner pleaded to donors to give more.\textsuperscript{301} In 1990, UNHCR spent 5.9 million U.S. dollars.\textsuperscript{302} By 1995 that amount increased to 12.2 million U.S. dollars, and by 1998, UNHCR spent 15.5 million dollars.\textsuperscript{303} However, from 1999 until today the amount of money has steadily declined.

2. Reform the 1951 Convention and 1967 Protocol

"[I]mplementation and interpretation of the Refugees Convention by some governments infringes basic human rights when the will to adhere to the spirit of the Convention is lacking."\textsuperscript{304} Even so, not all of the problems associated with the 1951 Convention and 1967 Protocol are due to interpretation. The foremost problem seems to be the stick by which most refugee rights are measured—that of the "alien" instead of the "refugee."\textsuperscript{305}

Generally, under the provisions of the 1951 Convention and 1967 Protocol, refugees are granted rights and protected to the same extent as other noncitizens in the host country.\textsuperscript{306} This, in turn, begs the question in every refugee crisis: How does this particular host country generally treat noncitizens? In Côte d'Ivoire, this was the sticking point.

Even when the Côte d'Ivoirian government changed leadership, Ivoirité was implemented, and the laws were changed; some of the refugee rights were actually not technically breached. For instance, since the domestic laws in Côte d'Ivoire took land rights away from all foreigners, refugees were legally included.\textsuperscript{307} Refugees were considered noncitizens, and as such, they had no more right to land according to Ivoirian law than a worker from

\textsuperscript{300} See id. at 25 tbl.5.
\textsuperscript{301} See id. at 25.
\textsuperscript{302} See id. at 25 tbl.5.
\textsuperscript{303} See id.
\textsuperscript{304} REFUGEES CONVENTION, supra note 287, at 9.
\textsuperscript{305} See 1951 Convention and 1967 Protocol, supra note 2.
\textsuperscript{306} See id.
\textsuperscript{307} See KUHLMAN, supra note 127, at 22.
The only way to protect refugees, as a group, is to reform the 1951 Convention and 1967 Protocol to define refugees as entirely separate and distinct from noncitizens. This would keep a consistent level of treatment for refugees regardless of how a particular country decides to treat noncitizens.

3. Enforce the 1951 Convention and 1967 Protocol

Many argue that international cooperation is only a consensual theory, and there are no mandatory legal repercussions in cases of noncompliance. Public international law points to a pattern of states’ disinclination to be legally duty-bound to cooperate with the treaties they sign. While states do have an explicit obligation to cooperate with the UNHCR via Article 35 of the 1951 Convention and Article 2 of the 1967 Protocol, these are not perceived as legal obligations. If there is no legal obligation to comply with general public international law and there is an obligation for states to cooperate with UNHCR, the focus must be on one of two choices.

First, changes should focus on reforming the 1951 Convention and 1967 Protocol to create a legal obligation for its signatory states. In the case of Côte d’Ivoire, this would mean that no matter who was President and no matter how tense ethnic hatred became among the general population, the country would still have been obligated to uphold refugees’ rights by virtue of signing the treaty.

Second, changes should focus on giving teeth to the obligation to cooperate with UNHCR. “Cooperation with UNHCR” must mean more than merely allowing it to work in a host country or to

309 See EGGLI, supra note 150, at 29.
310 See id. at 54.
311 "The Contracting States undertake to cooperate with the Office of the United Nations High Commissioner for Refugees . . . , and shall in particular facilitate its duty of supervising the application of the provisions of this Convention . . . . [T]he Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning: (a) the condition of refugees, (b) the implementation of this Convention, and (c) laws, regulations and decrees which are, or my hereafter be, in force in relation to refugees." See 1951 Convention, supra note 2, at art. 35(1), (2).
provide statistical data. UNHCR should be able to demand more of countries in order to keep them in compliance with international law.

4. Promote Self-Reliance

The international community should promote the principle of refugee self-reliance while waiting for the possibility to voluntarily repatriate. This would improve the quality of life for refugees and give them a new degree of dignity and security. It would enable refugees to make a contribution to the economy of the host country and make their presence a boon, rather than a burden. It would enable UNHCR and its donors to withdraw from costly care and maintenance programs, which only enable refugees to survive at the level of basic sustenance. Instead, money would be placed into development, as mentioned above, with the goal of creating an environment that will promote refugee self-reliance.

B. UNHCR’s Role

"[Refugees] often arrive in exile without shoes, with only one torn shirt, hungry, without a clear plan. But they did not undergo this experience in order to get a shirt or shoes.”

—Mark Raper SJ

1. Focus on Integration From Day One

During the 1980s, the UNHCR was primarily concerned with satisfying the most basic and pressing needs of encamped refugees. In the 1990s, it became very monetarily bogged down in providing emergency assistance to refugees during internal wars. Due to these expenditures, UNHCR’s resources have dwindled, “and it has also made achieving the traditional ‘durable’ solutions . . . increasingly difficult.” These difficulties resulted in a greater concentration of refugees in the camps because it was

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312 See CRISP, supra note 57, at 22.
313 See id.
315 See LOESCHER, supra note 33, at 148.
316 Id.
the simplest way to provide short-term aid.\textsuperscript{317} Today, local integration is not even seen as a priority among the three best-known durable solutions. Instead, refugees typically end up staying in long-term camps in the first country of asylum.\textsuperscript{318} By abandoning integration, host and donor countries and the UNHCR instead have chosen long-term care and maintenance programs.\textsuperscript{319}

The lack of focus on integration during the past fifteen years has been considered by some as a link to the high proportion of warehoused refugee situations in Africa. “Indeed[,] from the mid-1980s onwards, a consensus was forged around the notion that repatriation—normally, but not necessarily, on a voluntary basis—was the only viable solution to refugee problems in Africa and other low-income regions.”\textsuperscript{320} This is certainly true of Côte d’Ivoire.

From the beginning of the refugee influx in Côte d’Ivoire in 1989, UNHCR approached the problem believing that the refugees would only stay for a limited time.\textsuperscript{321} As early as 1991 UNHCR was working on a plan for voluntary repatriation.\textsuperscript{322} In 1992, UNCHR was still preparing to send refugees back to Liberia for voluntary repatriation.\textsuperscript{323} In fact, every UNHCR annual report shows fresh hope that the peace process in Liberia will work and the refugees will be able to return.\textsuperscript{324} It was not until 1997 “that major repatriation could be undertaken, and even then . . . it had to be suspended when violence broke out again . . .”.\textsuperscript{325} UNHCR’s 2001 Global Appeal still refers to refugee repatriation as the imminent goal: “By the end of 2001 refugees wishing to repatriate will have returned to their country of origin with UNHCR’s assistance. Refugees remaining in Côte d’Ivoire will have attained

\textsuperscript{317} See BOOKMAN, supra note 65, at 209; see also U.S. COMM. FOR REFUGEES, supra note 3, at 48. Local Settlement as a Percentage of UNHCR Total Expenditure and Number of Refugees Worldwide—1976-2002.

\textsuperscript{318} See EGGLI, supra note 150, at 101.

\textsuperscript{319} See CRISP, supra note 57, at 3.

\textsuperscript{320} See id. at 2.

\textsuperscript{321} See KUHLMAN, supra note 127, at 26.

\textsuperscript{322} See id.

\textsuperscript{323} See id.

\textsuperscript{324} See id.

\textsuperscript{325} See id.
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a reasonable degree of integration." It is clear that UNHCR responded to the situation with an eye toward a temporary fix. Instead of a temporary situation, however, some refugees have only now returned home in January 2005. This means that there have been hundreds of thousands of refugees living in Côte d'Ivoire for over fifteen years.

While talk began in 1992 of transitioning from goals of care and maintenance to self-sufficiency of refugees, it was not until 1999 when funds were critically reduced that self-sufficiency programs underwent any kind of serious change. Still, the overwhelming portion of UNHCR's budget is spent on care and maintenance. In 2003, care and maintenance accounted for $147 million of the total U.S. State Department spending on refugee assistance, while integration accounted for only $480,000.

In terms of prevention, integration prepares refugees for their future repatriation much better than encampment. "Experience shows that refugees who have led a productive life in exile, received an education, developed practical skills, and accumulated some resources may actually be better prepared and equipped to go home and contribute to the reconstruction of their country than those who have languished in camps for years, surviving on minimal levels of humanitarian assistance."

The UNHCR could change in many of the ways listed above in terms of the modified mandate, training, and the like. The most important change that UNHCR could make, however, is to structure its programming and funding requests to reflect a primary goal toward integration. From the very beginning of a

326 See UNHCR GLOBAL APPEAL, supra note 240.
328 See KUHLMAN, supra note 127, at 26.
329 See U.S. COMM. FOR REFUGEES, supra note 3, at 49 fig.2003 U.S. State Dep't Spending on Refugee Assistance by Category. Emergency assistance equaled $238 million; repatriation/reintegration equaled $101 million; and resettlement equaled $126 million. Id.
330 CRISP, supra note 57, at 22. Crisp points to the Ukwimi camp for Mozambican refugees in Zambia. "While the refugees were able to attain a high degree of self-reliance in the camp, they returned to their own country almost immediately, once it became safe to do so." Id.
refugee crisis, refugees should be urged to and supported in their right to work, travel, and integrate freely.\textsuperscript{331}

VI. Conclusion

The overarching theme of this paper is that free human beings are successful human beings. While it might be easier to crowd people into a camp and then feed and shelter them as if they were imprisoned, it is not the humanitarian thing to do. It is useless to draft treaties and meet quarterly to discuss progress when the very purpose of the treaty is not coming to fruition. The world must find a way to look at refugees as strong individuals with talents and potential. They must be seen as creative and able. They must be viewed truly as "brothers [and sisters] in distress,"\textsuperscript{332} and we must come to their aid and allow them to enrich our own countries.

There is no way to create this effect without a multi-pronged attack via international law, developmental funding, domestic law, reform of the appropriate treaties, and a new attitude toward integration. Without these, the world’s refugees will continue to suffer, and humanity will continue to lose the talents of millions of brave, strong, and courageous people.

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\textsuperscript{331} See LOESCHER, supra note 33, at 149.

\textsuperscript{332} See KUHLMAN, supra note 127, at 11.