

“The Role of the Military in Refugee Camp Security - Reflections from a human rights perspective” Key note address by Deirdre Clancy, International Refugee Programme Director, Lawyer’s Committee for Human Rights for the “Seminar to Examine the Role of the Military in Refugee Camp Security” Enysham Hall, Oxford, 10 -12 July.

Introduction

The Lawyers Committee for Human Rights is a human rights advocacy organization and our International Refugee Program reflects that. We do not have a permanent presence in the field but keep connected to the operational issues around refugee protection through the work of our local NGO partners (particularly in Africa). Our engagement in this workshop is driven by our desire to find new ways to make human rights protection practical and effective for refugees.

I have been to introduce the international law framework within which decisions surrounding refugee security can be assessed from the point of view of refugee rights.

In today’s short presentation there is insufficient time to attempt to present a comprehensive overview. What I will try to do, therefore, is to highlight a number of legal issues which might be of particular relevance when discussing the potential role of military elements in this field.

In doing so I will be drawing primarily on the work we at the Lawyers Committee have undertaken over the last few years on the question of exclusion from refugee status and protection of refugees in situations of armed conflict.

Safeguarding the Rights of Refugees under the Exclusion Clauses

In 1995 the Lawyers Committee published a report on refugee protection in Africa. Among our conclusions was that the international community had been totally unprepared during the Great Lakes crisis - either to deal with those who had committed serious crime and provoked the flight of others from their own countries, or to assist in providing effective security in the countries to which the refugees fled. The result of this failure of was widespread violence and exploitation in the camps, fear and instability in the host countries, and dangerous compromise of the humanitarian mission.

A mechanism did already exist within refugee law, however, which could have provided a foundation for effective action in identifying and removing the perpetrators of the genocide from the general population. This was the refugee law concept of exclusion.

The concept of exclusion is set out in the exclusion clauses of the 1951 Refugee Convention and the OAU Refugee Convention. Further to these provisions individuals who have committed serious international crimes (such as genocide and war crimes) are excluded from the mantle of protection. Although such individuals may meet the objective requirements for refugee status (a fear of return to persecution for a stipulated reason), they are considered to be “undeserving” because of their past behaviour.