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NGO Note for the Agenda Item:

CASE IDENTIFICATION: CHALLENGES POSED BY URBAN REFUGEES

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Introduction

This paper was prepared for the tripartite partners, UNHCR, resettlement country governments, and non-governmental organizations, for the Annual Tripartite Consultations on Refugee Resettlement. Thus, while addressing some of the broader issues confronting urban refugee populations, the focus is, of necessity, on the challenges faced in identifying urban refugees for third country resettlement and, as such, the paper does not go into considerable detail on broader protection and assistance issues nor on resettlement issues effecting rural and camp-based refugees.

Background

A. Statistics / Population Composition

1. The number of refugees to be found in the urban areas of developing and middle-income countries appears to have increased considerably in recent years.¹ The trend is raising a wide range of concerns amongst UNHCR, its operational partners and host governments impacted.
2. There has been a long held assumption that the overwhelming majority of urban refugees are young, single males. Recent statistical evidence, however, demonstrates that this is no longer the case in many countries.
3. Urban refugees demand a disproportionate amount (estimated at between 10 – 15%) of the organization's human and financial resources.²
4. Only 40% of all persons of concern to UNHCR are living in refugee camps, 13% in urban areas and the remaining 47% dispersed in rural areas or not specified.³ The urban 13% translates into 1,900,000 refugees living in, according to UNHCR statistics, 116 different countries (ranging from 1 in Bahrain to over 530,000 in the Russian Federation).⁴
5. Urban refugees and asylum seekers include a diverse array of people, some, but not all of whom, are genuine refugees. They include the opportunistic, the well educated, the better resourced, and the mal-adjusted, the marginalized, the outcast, and the most desperate. Urban caseloads also include multiple nationalities and ethnic groups, for example, refugees from 26 different countries at registered with UNHCR's Cairo

¹ Protection, Solutions and Assistance in Urban Areas: Guiding Principles and Good Practice, Evaluation and Policy Analysis Unit, UNHCR, draft for comments 17.3.03.

² UNHCR's Policy and Practice Regarding Urban Refugees, A Discussion Paper, 1 October 1995

³ UNHCR Statistical Yearbook 2001.

⁴ 2001 UNHCR population Statistics (Provisional) Population Data Unit, UNHCR Geneva, 10 June 2002.

office,⁵ making refugee participation in service delivery, the translation of refugee information, and community outreach difficult and cumbersome.

B. Protection Gaps

6. Urban refugees are often under-reported as only those who have been granted refugee status are included in the statistics not those who have applied but await eligibility screenings for status determination and/or the results thereof. Refugee status determination can take 6 - 18 months⁶ leaving tens of thousands in urban centers without protection or assistance during the interim “waiting” period. Human Rights Watch, for example, estimates that there are 60,000 refugees living in Nairobi while UNHCR says that only 15,000 of those are legitimate and therefore fall under its mandate.⁷ In another example, in Pakistan UNHCR estimates that 400,000 of the refugees remaining there as of March 2003 were living in the urban centers.⁸ NGOs and the Government of Pakistan, however, estimate the urban refugee population at closer to 1 million as the under-served communities in Lahore and Karachi are seldom reported.
7. UNHCR’s efforts to protect and find solutions for refugees in urban areas are shaped significantly by host government policies. There has been, in some countries, based on appeasement to host governments, a punitive approach taken to urban refugees that has included little or no assistance and little access to resettlement. Some governments, such as those of Uganda and Kenya, have policies requiring refugees to live in camps making it difficult to address the needs of refugees in the cities.⁹ Additionally, while NGO service providers for camp-based populations can be a source of protection referrals to UNHCR for resettlement, limited assistance for urban-based refugees and the lack, for example, of community service implementing partners in urban settings often means that no such mechanisms for referrals exist.
8. Limited assistance to and resettlement opportunities for urban refugee caseloads has often been in response to fears of creating dependency through long term care and maintenance programs and fear of pull factors which could result in more camp-based refugees moving to urban areas. However, the fear of creating long-term dependency has not resulted in the same cuts in assistance to camp-based refugees. It is taken for granted that camp-based refugees will receive indefinite assistance if they are unable to engage in agriculture and other income generation activities while there has been an assumption that refugees in urban areas will always have to attain self-reliance. In fact, in many countries refugees are not allowed to engage in income earning activities under national law nor are they able to access public services. Often overlooked, however, is the contribution many urban refugees make to local economies in host communities. For example, the Afghan urban refugees who run much of the transport system in the Northwest Frontier Province, Karachi, and Balochistan and their very significant role in the economy of Peshawar.
9. With regards to “pull factors,” the majority of displaced populations end up in cities for many reasons other than the presence or absence of a UNHCR Branch Office. Creating a tiered system between urban and camp-based refugees ignores larger rural-to-urban migration realities effecting host populations and rural communities the world over. That refugees should not be a part of this global phenomenon is a misconception.

⁵ Evaluation of UNHCR’s Policy on Refugees in Urban Areas: A Case Study Review of Cairo, Stefan Sperl, EPAU/2001/07 June 2001

⁶ Ibid. Cairo Study

⁷ “Hidden in Plain View,” Human Rights Watch, Nov. 2001

⁸ UNHCR’s Projections of Resettlement Needs 2003

⁹ Ibid. HRW “Hidden in Plain View”

10. While the Universal Declaration of Human Rights enshrines the right to freedom of movement, this right is often ignored by governments hosting refugees, at times, with the silent compliance of UNHCR Branch Offices. UNHCR, however, has an obligation to promote a gradual improvement of this right.¹⁰ It should be also noted that there is considerable evidence that many refugees move to urban areas because their physical and material security are at risk in a camp and because they have no prospect of finding protection and a solution to their plight.
11. UNHCR's own internal evaluations report that their policy on urban refugees is unclear, often ad hoc, inconsistently administered, punitive and often implemented with damaging effects on the refugee populations. It is important to note that on the basis of evaluations undertaken by the UNHCR Evaluation and Policy Analysis Unit, it has been recommended that the 1997 UNHCR Policy on Urban Refugees be withdrawn as it has proven difficult to implement and has, in some instances, had negative consequences on the protection and welfare of refugees.¹¹ A new draft policy is currently under review.
12. In some countries, there are no refugee camps (such as Belarus, China, Egypt, Georgia, the Russian Federation, and South Africa)¹² so living in camps is not an option. In other settings, camps are not appropriate settings for some of the most vulnerable refugees – women at-risk, the disabled, those with chronic medical conditions, the elderly, and ethnic minorities, in some instances. While there are no guarantees of protection in urban settings, anonymity can provide a veneer of protection for some that camps cannot provide. Single females, for example, can be and have been subject to considerable sexual harassment in camps as they are known and targeted. While in situations like those of Afghan refugee women in Pakistan, those in urban areas have less restriction on their movements than those based in camps.
13. In some countries, urban refugees have easier access to UNHCR resettlement referrals as they have the physical means of reaching the UNHCR office or sub-office and can file an application and follow up on their application filed. In other instances, refugees in urban areas have much less access as screenings are done directly in the camps and, at times, government selection missions, focus only on camp-based populations.

C. Assumptions

14. There has often been a “premise of advantage” attached to urban refugees – an assumption that because they are in the cities, they have access to money, connections, and opportunity and, hence, are in less need of assistance than camp-based refugees. As a result, urban refugees are often under-served and /or there has been an inconsistent application of assistance. In fact, refugees residing in urban areas are more likely to end up in detention, to face discrimination and racially motivated attacks, to be subject to deportation, and suffer from serious human rights abuses such as sexual violence and arbitrary arrest. This is reported, for instance, in the Human Rights Watch report, “Hidden in Plain View,” which details the plight of many of the 110,000 urban refugees living in Nairobi and Kampala.
15. There has been an assumption that urban refugees are irregular or onward movers while the Evaluation of UNHCR's Policy on Refugees in Urban Areas – A Case Study Review of New Delhi clarifies that, in fact, urban refugee populations are not always the result of “irregular movements” from 1st asylum countries and that even irregular

¹⁰ UNHCR Policy on Refugees in Urban Areas: Report of a UNHCR/NGO Workshop, Naoko Obi & Jeff Crisp, August 2002

¹¹ Protection, Solutions and Assistance for Refugees in Urban Areas: Guiding Principles and Good Practice, EPAU, UNHCR, draft 17.3.03

¹² Ibid. 2001 UNHCR Population Statistics (Provisional)

movers need to be individually screened to assess reasons for onward movement. Many of these reasons are valid, for example, for family reunification or because they have been unable to find protection in countries of first asylum or because they have had no access to a durable solution for a prolonged period of time. Additionally, as resettlement opportunities have not been consistently applied or perhaps cannot be consistently applied throughout regions and even within individual countries, refugees must not be penalized for moving to where access is most readily available.

Challenges Posed by Urban Refugees

A. Problems of Access

16. Often marginalized and forced to keep a low profile for their own safety, many of those refugees most in need of protection don't know how or are afraid to access it. Female heads of household in some cultures, for example, may find it almost impossible to put in an application for resettlement at a UNHCR office due to restrictions on mobility, transportation costs, and childcare responsibilities. And, contrary to common beliefs held, male refugees, as reported by ICMC's offices in Istanbul, are often the most vulnerable amongst the urban refugee caseload. Whereas urban refugee children are often exploited to work in factories and refugee women can, at times, find black market domestic work, there are few employment opportunities for urban male refugees. Additionally, male refugees including those in urban areas are also more likely to have been previous victims of torture further heightening their vulnerability. As such, our Istanbul office reports that every severely psychologically disturbed adult they referred for treatment has been male.
17. Many urban refugees are unable to reach out to UNHCR for assistance due to illiteracy and lack of formal education leaving them unable to fill out an application for resettlement or submit letters requesting interviews.
18. The dispersal of urban refugees over vast cities and wide areas limits outreach access. Urban refugees tend to be more mobile, moving frequently, and less visible than their camp-based counterparts. They can be an invisible entity and an indefinable quantity.

B. Human Rights Issues

19. Urban refugees who experience systematic forms of legal, social, economic and racial discrimination, who have limited access to public services and few systems of social support cannot realistically be expected to attain a high degree of self-reliance and, hence, should not be considered as having achieved a durable solution.
20. Landlords and gray market employers often exploit urban refugees who, in many refugee-hosting countries, do not have legal protection. Urban refugees, it can be assumed, are more often the target of traffickers and more likely to use smugglers. Marginalized and often desperate, urban refugees at times resort to prostitution, child labor and other exploitative means of survival. In addition, in several other countries, including Indonesia and Kenya, urban refugees have been harassed and assaulted by local populations, with little or no protection from the police.¹³
21. Widespread poverty amongst the general population in many refugee impacted urban areas further hinders access to employment, income generation, education, health care, and self-reliance for urban refugees who add to the burden of already over-stretched services and infrastructures.

¹³ Legal and Protection Policy Research Series: Secondary Refugee Movements and the Return of Asylum Seekers to Third Countries: The Meaning of Effective Protection, Stephen H. Legomsky, UNHCR, PPLA/2003/01, February 2003.

22. Host governments often do not want any assistance given to urban refugees including opportunities for resettlement and have policies in place to restrict UNHCR services to urban populations, as they fear the creation of pull factors.

C. Lack of Durable Solutions

23. The lack of registration of urban refugees by either the host government or UNHCR makes identification and profiling of the urban population extremely difficult. Without proper registration and, hence, identification of those most vulnerable and in need of protection, resettlement remains an often ad hoc, quota filling measure that serves the most vocal and savvy. UNHCR efforts to collect information on urban refugees has sometimes been confined to those who are receiving assistance from the organization with no information gathered on non-assisted refugees.
24. The, at times, lack of outreach by UNHCR or their partners to urban refugees in their communities, often marginalized ghettos clustered on the outskirts of major cities, results in fewer protection cases being identified and a lack of understanding by the refugees of resettlement and the possibilities or lack thereof.
25. Unreasonably or unrealistically high expectations from the better educated and better informed urban refugee populations can result in undue pressure on UNHCR offices that have been the settings for attacks, sit-ins, suicide threats and violence. Often viewed as “trouble makers,” many urban refugees believe that resettlement is their right and are quickly frustrated by denied decisions, the long time frame involved in status determination procedures, and the lack of information about their resettlement application status.
26. The ever-growing diversity of urban refugee populations poses increasing challenges in addressing durable solutions needs, as the repatriation option will vary significantly based on countries of origin. The local integration option may also vary as host governments often treat the various ethnic and country of origin groups differently - some may be tolerated based on historical and ethnic ties while others may not. The growing diversity of urban refugee caseloads requires an ever more individualized approach to durable solutions at a time when resource constraints make such both impractical and impossible. Urban refugees tend to encompass both extremes of the refugee spectrum - at times, articulate and vocal and not the most marginalized or the most in need of protection, while in other instances, truly the most vulnerable, desperate, and disillusioned.

Recommendations

A. Access to Information and Durable Solutions

27. Refugees, as individuals and families, should be at the forefront of their life options and be provided adequate information on durable solutions choices and possibilities so that they can make informed decisions about what is both realistic and the best option for them. Urban refugees who approach UNHCR offices as well as those in refugee neighborhoods, squatter areas and city clusters should be given information in their own languages, which includes: the right to seek asylum, the refugee definition as per the 1951 Geneva convention and other applicable regional law, the host government’s refugee policy, refugee status determination procedures, assistance available and where, and the prospects of finding a durable solution including accurate information on resettlement procedures and time lines as a lack of understanding can increase both their physical and social vulnerability.

28. Protection Officers, Eligibility Officers, and Resettlement Staff should reach out to urban refugee communities both directly and through Community Services Staff and implementing partners and provide clear, accurate information on resettlement eligibility without raising unrealistic expectations while being particularly sensitive to the presence and needs of women, children and adolescents in urban refugee populations.
29. UNHCR must continually review refugee access mechanisms and implement policies and practices that enhance refugees' access to resettlement. Practice based merely on refugees' accessing UNHCR offices of their own accord and filing applications as the only route to possible resettlement must be integrated with other outreach mechanisms or supplemented with other practices so that not only the savvy and well-informed are put forward for resettlement. Access to UNHCR must be based upon equity of access for all refugees so that those most vulnerable and most in need of protection are those identified and referred for resettlement.
30. Resettlement of urban refugee caseloads should be applied in the context of broader durable solutions and responsibility sharing and should, thus, include simultaneous work with host governments for the local integration of a portion of the urban caseload¹⁴, as has been, in fact, one of the recommendations of the UNHCR EPAU Case Study Review of Cairo. The Study states, "UNHCR should aim to come to a burden-sharing agreement between the Egyptian government and the key resettlement countries to the effect that resettlement opportunities would be maintained or increased while, at the same time, Egypt would be more flexible in authorizing measures aimed at promoting self-reliance of those refugees who cannot or do not wish to be resettled."

B. Registration and Refugee Status Determination

31. UNHCR / host government registration of urban refugees should be carried out whenever possible with those most vulnerable and in need of urgent protection identified for possible resettlement.¹⁵ Registration would allow for profiling of the refugee population and the development of criteria so as to prioritize amongst the population those most in need of resettlement. As stated in the new draft urban refugee policy, "UNHCR should endeavor to compile data on all refugees who are living in urban areas, disaggregated to the extent possible by age, gender, education, occupation, etc. The collection of such data should not be confined to capital cities, but should be extended to those major provincial centers where refugees are to be found."¹⁶ Refugee Status Determination procedures and the identification of appropriate durable solutions should be in place to cover the urban as well as the camp based refugee populations. RSD should be implemented in an equitable, transparent and timely fashion with RSD consultant support to reduce lengthy backlogs and provide for access to an independent appeal process, access to counsel, and the provision of written reasons for RSD decision. In situations where resettlement is the only viable durable solution for refugees (in many countries in the Middle East, for example), UNHCR Branch Offices have a duty to provide transparent and timely information to waiting refugees as to their resettlement applications rather than leaving them in limbo for years.

¹⁴ See "Agenda for Protection," Goal 5, Objectives 4, 5 & 6 - Local integration having its proper place as part of a comprehensive strategy for durable solutions, expansion of resettlement opportunities, and more efficient use of resettlement both as a protection toll and as a durable solution.

¹⁵ See, "Agenda for Protection," Goal 1, Objective 11 – Better registration and documentation of refugees.

¹⁶ Protection, Solutions and Assistance for Refugees in Urban Areas: Guiding Principles and Good Practice, EPAU UNHCR, draft 17.3.03

32. Fast track determination procedures should be established to determine whether an asylum seeker has a valid claim to refugee status and, hence, reduce asylum seekers time in limbo without access to assistance or a durable solution. Fast track determination processes, however, need to safeguard the quality and integrity of the RSD procedures.

C. Human Rights

33. UNHCR's policy on urban refugees should be informed by human rights and refugee protection standards including social, cultural and economic rights.
34. More work should be done with governments that currently limit assistance to urban populations with the aim of securing protection for all refugees regardless of their locale and the provision of assistance to those most vulnerable even in urban areas. Work should also continue with governments to encourage them to adopt legislation or policy for the granting of residence or stay permits for urban refugees and that which allows them to seek employment.¹⁷

D. Resettlement Priorities and Fair Practices

35. A refugee in an urban area should have neither more nor less chance of resettlement than he or she would have had in a refugee camp.
36. UNHCR and government donors should support the implementation of innovative NGO projects to work with urban refugee communities that, in addition, to providing for urgent needs and services, could also identify those most in need of resettlement. Durable solutions projects, counseling services, and Refugee Legal Assistance Centers are three such examples. Such projects also relieve the UNHCR branch offices from being overwhelmed by refugees on their doorsteps.
37. Resettlement criteria must be applied in an even-handed, transparent, and consistent manner with fair access for all refugees based on individual protection and durable solution needs and be widely available in countries throughout each region. Application of such criteria would reduce irregular or secondary movements among refugees in search of a resettlement solution, if they knew that their chances for resettlement were the same everywhere.¹⁸ The movement of a refugee should be considered "primary" until such time as that person finds "effective protection." Additionally, UNHCR's obligations in respect to international protection should not be affected either by the location of refugees or the nature of movement to that location.
38. UNHCR and resettlement country governments should consider piloting enhanced resettlement efforts coupled with increased emphasis on local integration and, when appropriate, repatriation amongst protracted urban refugee caseloads such as those in Delhi, Johannesburg, Nairobi, and Cairo in parallel to that being considered for some protracted refugee camp situations.¹⁹
39. Resettlement governments should allow more urban refugees who are at high risk to take advantage of expedited referral procedures by accepting referrals from UNHCR and NGOs for such and designating embassy personnel for expedited resettlement implementation particularly in places such as Nairobi where thousands of refugees were caught in the corruption scandal backlog.
40. Resettlement governments should more broadly adopt women at-risk programs and other such initiatives targeting high-risk urban refugee populations for resettlement

¹⁷ See, "Agenda for Protection," Goal 5, Objective 7 – Achievement of self-reliance for refugees.

¹⁸ See, "Agenda for Protection," Goal 2, Objective 4 – Reduction of irregular or secondary movements.

¹⁹ See, "Agenda for Protection," Goal 5, Objective 1 – Realization of comprehensive durable solutions strategies, especially for protracted refugee situations.

processing. Such programs might include the resettlement of human rights activists as has been initiated by some governments for in-country processing of Colombians; enhanced Best Interests Determinations for urban unaccompanied and separated refugee minors with resettlement of those without family reunification options; the identification and resettlement of urban refugees who have been victims of torture; the enhanced use of resettlement for urban refugees who have been victims of sexual and gender based violence including that based on sexual orientation particularly when local conditions and national legislation in countries of first asylum criminalize such identification and behavior.