The New Urban Policy in Context: What Hope does it Promise for the Dissolution of Refugee Camps?

To be submitted in partial fulfilment of MA: Development and Emergency Practice

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Word Count: 14,658
ACKNOWLEDGEMENTS

Barbara – Thank you so very much for giving me the idea. Your advice and guidance were invaluable. This work could not have been produced without you.

Thanks also to Nando, David, Rod and Simon. Your wonderful teaching has informed this in both big and small ways.

Tim and Dave – For all of your patience, technical support and squash, thank you.

Ian – Thank you so much for your support and understanding. You’re wonderful.

Anna – Where to start? Thank you firstly for your feedback and the huge amount that you brought to it academically. Thanks also for your patience and thoughtfulness. I couldn’t ask for a better sister.
ABSTRACT

Focusing primarily upon Africa, this paper contributes to the ongoing debate regarding refugee camps. It is concerned principally with the role of the United Nations High Commissioner for Refugees (UNHCR) in relation to refugee encampment policy and its alternatives.

This paper considers the location and livelihood strategies of refugees to be the foundations from which effective policy responses should be built. Not all refugees reside in camps. The majority, in fact, do not and this paper examines and contextualises UNHCR’s most recent policy response to those who chose to settle themselves in urban areas.

This paper situates the policy within the political context of asylum and durable solutions, as well as UNHCR’s previous policy initiatives. Furthermore, it utilises an earlier version of the policy as a contextual and comparative frame of reference. In July 2009, this draft version of the ‘Policy on Refugee Protection and Solutions in Urban Areas’ was placed on the desk of the High Commissioner to be signed. Before this took place, it was removed and altered significantly. Following these alterations, the draft version of the policy was leaked. The draft is unpublished and, to the author’s knowledge, has not been included in any academic research undertaken to date.

The paper examines the alterations that were made in order to gain new insights into the content of the approved policy. It contextualises these alterations and explores the extent to which they serve to neuter the draft. It concludes that UNHCR, although highly divided on the issue, remains unwilling to move beyond the camp paradigm.
ACRONYMS

AGDM – Age Gender Diversity Mainstreaming

DAR – Development Assistance to Refugees

DLI – Development through Local Integration

EU – European Union

HRW – Human Rights Watch

ICRC – International Committee of the Red Cross

ILO – International Labour Organisation

NGO – Non-governmental Organisation

OAU – Organisation of African Unity

PRS – Protracted Refugee Situation

RLP – Refugee Law Project

RSD – Refugee Status Determination

SGBV – Sexual and Gender Based Violence

UN – United Nations

UNDP – United Nations Development Programme

UNHCR – United Nations High Commissioner for Refugees

USCRI – United States Committee for Refugees and Immigrants
WFP – World Food Programme
METHODOLOGY

This paper is concerned primarily with policy documents and their contexts. Accordingly, the research has been desk-based.

The draft version of the ‘UNHCR Policy on Refugee Protection and Solutions in Urban Areas’ has not been the subject of any other research undertaken to date. An examination of this draft makes a crucial contribution to current scholarship regarding UNHCR policy-making. It provides much needed insight into the version of the policy that is currently operational.

While there is certainly a need for more primary research on the numbers and livelihood strategies of refugees in urban areas, such research is fraught with ethical and methodological challenges and is beyond the scope of this paper. This will not be to the detriment of the research or the conclusions drawn, as the New Urban Policy is sufficiently recent that its effects on the ground would be extremely difficult to ascertain at this stage.
INTRODUCTION

UNHCR is the only organisation mandated to protect and find solutions for refugees. There are three durable solutions to refugee situations: voluntary repatriation (when conditions in the country of origin are conducive), permanent local integration in the country of first asylum and resettlement to third country.

During exile refugees are entitled to certain rights, which UNHCR is mandated to uphold. These rights are stipulated by the terms of the 1951 Geneva Convention, the 1969 Protocol and the OAU Convention. Amongst other things, refugees are entitled to freedom of movement, to self-employment, to the ownership of property and to the same treatment as nationals as regards wage-earning employment. The rights specified under the 1951 Convention apply irrespective of location and national policy requirements.

Frequently, the policy of organised settlement in the global South violates these rights. The deficiencies of this policy have been documented by academics and practitioners alike; a wealth of research attests to the adverse effects of both encampment and the relief model from which the camp paradigm derives. This paper principally focuses upon encampment. It should be noted, however, that many of the problems associated with it apply equally to settlements. Both derive from the same relief model, a model that exists almost exclusively in the global South.

Camps have evolved in response to large-scale, uncontrolled displacement, and are financed by the international community. Based on the assumption that provision is temporary, they seek to provide basic needs and to ensure protection. It is, however, the
needs and goals of host governments, aid agencies and donors that underlie this policy of containment or ‘organised settlement’.

THE POLITICAL CONTEXT OF ASYLUM AND DURABLE SOLUTIONS

The twentieth and twenty-first centuries have witnessed a general increase in the regulation of international migration. This trend has been informed by the perception that uncontrolled migration - and asylum migration in particular - presents a threat to states’ ethnic identity and economic capacity.

During the Cold War and the anti-colonial liberation struggles of the 1960s and 1970s, those fleeing Communist regimes and colonial oppression were granted refugee status by states in the global North, on the assumption that repatriation was not an immediately viable option. The granting of asylum served various political and ideological functions for the states that received these refugees, as well as providing ready labour in a period of considerable economic expansion. Resettlement and local integration were therefore the principal durable solutions until the 1980s.

In the wake of the Cold War, however, Northern states have largely limited the asylum they offer to refugees and have focussed their efforts on containing them within their regions of origin. The increase in arrivals of refugees from conflicts in Africa, Asia, the Caribbean, Central America and the Middle East during the 1980s prompted the introduction of measures intended to reduce the number of individuals seeking asylum on the territories of Northern states. These measures included non-arrival policies, diversion policies (such as
safe third-country agreements), an increasingly restrictive application of the 1951 Convention, and a range of deterrent policies (Loescher, Betts and Milner 2008: 101).

These challenges to the basic tenets of refugee law have involved some European states openly advocating the abolition of the 1951 Convention (Schuster 2005: 2-3). This ‘crisis of asylum’ in the North has been exacerbated by heightened security concerns following the September 11th attacks, as migration and asylum policy became linked to the global ‘war on terror’; post 9/11 the numbers admitted to Northern countries for resettlement have been less than the established world ceiling (Campbell 2005a: 208).

These political changes should also be contextualised within the framework of economic globalisation processes. As Northern states have coordinated their efforts to create trade and investment regimes to support the processes of the global economy (of which they are the principal beneficiaries), so they have opened their borders evermore to the free trade of goods and services. Simultaneously, however, they have closed their borders to the free movement of people. They have not sought to develop a comprehensive labour regime; rather than moving to further internationalise the 1951 Convention, they have sought to weaken it. ‘As states have lost much of their authority [...] and can therefore no longer be held accountable for many sweeping economic changes that have contributed to the decline of the welfare state, the state has in return introduced a new intensity and significance into the politics of the border’ (Campbell 2005a: 55-56). As the authority that states wield over economic realities lessens, it is increased migration flows that are cited as the major threat to state sovereignty (Campbell 2005a: 56). This helps to explain why Northern states are increasingly interested in organised resettlement programs and humanitarian visa systems, as they render movement more predictable. Indeed, states are more willing to open their borders for immigrants who come under planned and regulated flows than those who arrive unpredictably and in an unregulated or ‘irregular’ manner.
States in the global South have also altered the ways in which asylum is managed in the post Cold War era, most notably by showing increasing reluctance to accept local settlement and local integration.

After the Cold War, the two Superpowers discontinued much of the aid that was being given to their former ‘client’ states. Structural adjustment policies have also led to reductions in welfare spending and the availability of services. Participation in the global economic system on disadvantageous terms renders poorer countries vulnerable to inflation, fluctuations in commodity markets and unemployment in amplified form (Zolberg, Suhrke and Aguayo 1992: 231). And with the adoption of democratic systems, politicians, fearful of the political repercussions of increased pressure on local services, have shown reluctance to emphasise refugees’ entitlements in the face of generalised poverty.¹ This is compounded by the unwillingness of the international donor community to commit to long-term financial investments, which would better equip governments to host refugees in a declining economic situation. From the perspective of many Southern states, self-reliance and other such schemes often appear to be pretexts to cut funding, and the rhetoric of burden-sharing is undermined by the ‘egregious gap’ between states’ obligations to refugees and their financial commitments (Jamal 2003: 6).²

Thus, as refugee numbers continued to rise in the 1990s, some Southern states sought to limit the quantity of asylum they offered by closing their borders, as well as advocating the early, and often unsustainable, repatriation of refugees to their countries of origin. Limits

¹ For the example of Sudan see Kuhlman (1994: 132-133).
² Although there have been attempts to encourage a more favourable approach to local integration, (initiatives such as development through local integration (DLI) and development assistance to refugees (DAR), for example), many southern states have shown a disinclination to accept either local integration or self-reliance unless it is accompanied by a significant increase in development spending. Attempts to develop such approaches to refugee assistance have also met with resistance from donor countries. For example, a joint developmental scheme for assisting Ghanaian refugees in Togo during the early 1960s was scrapped by donors due to concerns regarding cost (Vedirame and Harrell-Bond 2005: 288-289).
have also been placed on the quality of asylum offered to refugees through organised settlement in spatially segregated rural areas, which often involve the denial of social and economic rights. Not all states in the global South permit camps. Those that do, however, do so in the face of minimal international commitment to refugee solutions. ‘They may be inefficient and miserable but they are eyesores and, as such, likely to attract at least some funding’ (Jamal 2003: 6). Host governments typically devolve responsibility for the management and maintenance of camps almost entirely to UNHCR as a means of shifting responsibility to the international community.

As donor states have increasingly regulated and reduced immigration in general, and asylum in particular, prospects for resettlement in the global North have diminished to such an extent that it is rendered largely insignificant as a durable solution (Human Rights Watch (HRW) 2002: 176). Prospects for local integration in the global South have also diminished leading to the emergence of repatriation as ‘the preferred durable solution’ of states and of UNHCR.3

The tendency to favour repatriation can be seen to cast exile as little more than a wait for conditions to become conducive to return. In the global North and South, ‘the preference is for temporary protection and restrictions on refugees, including encampment, until repatriation takes place’ (Jacobsen 2001: 2). The on-going nature of many refugee-producing conflicts, however, prohibits voluntary repatriation, and the protracted refugee situation (PRS) has emerged.4 In such situations camps provide an ‘all too convenient means of disposing of refugees’ while the international community attempts to work towards durable solutions (Smith 2004: 39). Indeed, long term encampment has emerged as ‘a defacto and all too durable solution’ in and of itself (Smith 2004: 38), leading the United States Committee

3 The 1990s was UNHCR’s self-proclaimed ‘decade of repatriation’.
4 UNHCR define a PRS as more than 25,000 people in exile for more than 5 years with no prospect of a durable solution in sight.
for Refugees and Immigrants (USCRI) to launch a campaign in 2004 condemning the practice of what it refers to as the ‘warehousing’ of refugees. While much of the rhetoric surrounding the installation of camps concerns their supposed temporality, such rhetoric is belied by the reality of most of the world’s refugee situations.

As donor and host states have increasingly focused their policies on the containment of refugees, international humanitarian assistance has come to be seen by many refugee advocates as a mechanism through which this objective is pursued (Zetter 1999: 75-76; Verdirame and Harrell-Bond 2005: 325).

THE RESPONSE OF UNHCR

The priorities that have come to guide UNHCR’s program direction have shifted significantly in the post-Cold War era, and changes in the general pattern of refugee emergencies that it posed. For example, UNHCR’s increasing role in ‘in-country protection’ or, as High Commissioner Ruud Lubbers put it, trying to ‘create an environment in which people are not forced to flee’ (cited in Campbell 2005a: 278), has been encouraged by states to limit the possibility that humanitarian emergencies will lead to those displaced crossing borders and seeking asylum. ‘Traditional supporter states have begun to cry louder and louder for UNHCR to focus more on fixing problems rather than meeting the needs of alienated victims’ (Hathaway 1995: 291). Under High Commissioner Ogata, UNHCR thus dramatically expanded its agenda and was in many ways transformed from a refugee organisation into a more broadly based humanitarian agency. Increasing numbers of its operations took place within countries of origin, in zones of ongoing conflict, than had previously been the case. UNHCR became the chief means by which the international community provided relief (rather than protection and political solutions) to those caught up in civil wars, principally as a means of containing the outpouring of refugees and the
destabilisation of regions. Ogata’s pragmatic approach to the political climate succeeded in making UNHCR ‘relevant in world politics’ (Ogata cited in Loescher 2001: 274) as its prestige and prominence grew. Simultaneously, however, it ‘diluted the Office’s focus as the main international actor responsible for promoting asylum and providing legal protection for refugees’ (Loescher 2001: 338).

THE OF DOWNGRAING OF PROTECTION

Within the hierarchy of the organisation, the operations division was below the protection division until the mid-1980s, indicating the emphasis placed upon UNHCR’s core mandate responsibilities. In an effort to make the Office more operational and responsive to donors, High Commissioner Hocke demoted protection within the organisation. This move was consolidated during UNHCR’s expansion of its mandate during the mid 1990s when it undertook a review of its internal structure, priorities and operations, known as ‘Project Delphi’. This further sidelined the protection department and decentralised its functions to the field. Although one of the main recommendations of the Project Delphi review was to appoint two Assistant High Commissioners, one for operations and one for protection, to restore parity between the departments, High Commissioner Ogata proposed only the former to the Secretary General. Protection simply did not figure prominently in the orientation of the office under a High Commissioner who emphasised the delivery of relief and assistance, and political relevance to states. 5

During the 1990s, UNHCR placed less emphasis on enhancing refugee protection or on finding durable solutions, other than repatriation once the emergency phase was over. One major incentive for the organisation’s continued focus on repatriation is funding – ‘eliminating refugees is far cheaper for UNHCR than maintaining them in exile’ (Harrell-

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5 It was not until 2006 that the post of Assistant High Commissioner for Protection was created in an effort to give additional prominence to UNHCR’s protection functions within the politics of headquarters.
Bond 2006: 24). Due to the protracted nature of many conflicts, and in the absence of the political will to find alternatives, UNHCR’s ability to find solutions for refugee situations has steadily decreased. 

6 In 1993 the average length of exile was nine years. By 2004, the average length of exile was seventeen years (Loescher, Betts and Milner 2008: 112).
FORCED REPATRIATION

The downgrading of protection and the emphasis on repatriation has led UNHCR to participate in the return of refugees under less than ideal circumstances. An example of this occurred in 1996 when UNHCR was confronted with the expulsion of Rwandan refugees from Tanzania. The Division of International Protection felt that UNHCR should denounce the forced repatriation as *refoulement*. 7 The African Bureau instead took the view that such a stance would jeopardise UNHCR’s position to assist those who were being forcibly returned. Ogata failed to hold the line on forced repatriation. In so doing, she effectively condoned the forced return of hundreds of thousands of refugees. ‘[N]ot only has *refoulement* reared its ugly head’ but UNHCR has offered a degree of cooperation in the process (Roberts 1998: 390).

As donor states have increasingly sub-contracted their responsibilities to UNHCR, the office has allowed itself to be used as a political tool for containment, and undermined its core mandate. As Hathaway has observed, this has been made possible in no small part ‘[...] because of its funding vulnerability and skewed power structure’ (Hathaway 1995: 293).

UNHCR AND ITS DONORS: THE POLITICS OF FUNDING

As UNHCR’s Annual Budget has grown over the past 50 years, so the proportion supplied by the UN Regular Budget has diminished. The latter presently accounts for less than three per cent and the result is that UNHCR is almost entirely dependent on voluntary contributions from states (Loescher, Betts and Milner 2008: 92). This problematises multi-

7 *Refoulement* refers to the practice of returning a refugee to any place where his/her life or freedom could be at risk, and is prohibited under the terms of the 1951 Refugee Convention.
year planning as UNHCR cannot predict with any degree of accuracy what funds it will have available for particular programs. The Office frequently finds itself in crisis, leading to cutbacks and program closures.

Fundraising and donor relations, therefore, have become a priority, with around three quarters of its budget coming from a relatively small number of traditional donors. ‘The carefully crafted and enduring financial dependency of the UNHCR effectively inhibits its power and ensures that, behind its humanitarian raison d’être, the organisation acknowledges the political interests it must serve’ (Zetter 1999: 60).

Donors’ insistence that refugees constitute an emergency, together with the enduring relief/development divide, ensures that refugee situations are relegated to the aid budget. This has done much to consolidate the organisation’s working approach. The incompatibility of many developmental principles (sustainability, capacity-building and empowerment) with traditional modes of humanitarian assistance is well documented (DeVriese 2006: 1). While participatory approaches are increasingly part of the rhetoric of international agencies, policy itself largely excludes refugees and locals from project design, implementation and evaluation. The provision of assistance is instead ‘guided almost exclusively by the top-down, self-enclosed logic of bureaucracy’ (Waldron 1988: 155-6).

The influence of donors over the work of the Office is further enacted through the practice of ‘earmarking’ funds (the specification of how, where and on what basis contributions may be used). Some states employ this practice more than others: the US, the biggest donor, earmarks all its contributions, whereas the Scandinavian states do so far less. The advantage of earmarking is that it creates incentives for states to contribute, yet it also makes contributions selective and based often upon the interests of states rather than the needs of refugees.
Earmarking makes donations less predictable, less coherent and frustrates long-term planning. It allows donors to wield considerable influence over the work of the organisation, as programmes that they consider to be important receive vastly more support than those they do not. Their strategic concerns as regards foreign policy, security, migration and trade relations strongly influence their decisions as to which programmes to fund. Refugee situations in Africa, for instance, were largely sidelined during the crises in Kosovo and East Timor.

UNHCR’S CAMP BIAS

Camp policy ‘reflects the bureaucratic requirements of relief: the need to spend money quickly and to undertake highly visible action which justifies donations for the donor countries’ (Schmidt 1998: 48). Visibility is imperative to the attraction of funding, and is most effectively assured through the installation of camps (Schmidt 1998: 42). Not only do they exploit a conception of refugees as helpless victims – a conception that is necessary for the relief regime’s survival – the dependency which they create ensures the agencies’ continued role (Zetter 1999: 74). ‘Thus the need to segregate, label and keep refugees in one place becomes the means by which humanitarian organisations can legitimize their raison d’etre (Harrell-Bond, Voutira and Leopold 1992: 218).

In order to obtain funds it is necessary to demonstrate refugees’ need for them. Amongst the self-settled it can be difficult to distinguish between the aid provided to refugees and that provided for the local population and ‘confusing them would raise all sorts of thorny issues regarding the competence of agencies and the earmarking of funds’ (Kuhlman 1994: 122).

In Swaziland in 1990, UNHCR ceased food aid for self-settled Mozambican refugees amid concerns that they were sharing it with their host families. Receipt of food aid was
instead made contingent upon residence in camps. The result was the destruction of the ‘highly complex, custom made network of patron-client and gift exchange relations’ which had emerged. (Harrell-Bond, Voutira and Leopold 1991: 221). Similarly in Guinea in 1989, ‘the mixing of refugees with the host population complicated targeting of food aid intended only for refugees; consequently this liberal policy [was] changed and new arrivals [were] concentrated in camps.’ (van Damme 1995: 361).

Assistance through camps fulfils several important functions for UNHCR which are in-keeping with its organisational priorities. Camps are assumed to be less costly than assistance to self-settled refugees and they are seen to facilitate repatriation, not least because ‘the austere conditions discourage people from staying in them long’ (Jacobsen 2001: 7). They are also logistically convenient because refugees can be more easily controlled, which simplifies and functionalises the provision of assistance. Furthermore there is a requirement to account for expenditure to donors, and camps have become the primary mechanism for facilitating this process.

It is for these reasons that UNHCR steers much of the encampment debate towards improving camp life rather than questioning the policy itself. While it is frequently stated by UNHCR officials that encampment is undesirable, the alternatives are dismissed as unfeasible and unworkable. Over the past decades ‘powerful bureaucratic and institutional interests have developed in keeping refugees in camps and dependent upon relief’ and exploring alternatives is ‘an immediate threat’ to the interests that refugee camps serve (Harrell-Bond 2000: 11).

In a very real sense camps have become self-perpetuating. The UNHCR has failed to explore alternatives and, consequently, experience and knowledge of assisting refugees in other ways is lacking. Although UNHCR frequently bemoans the illiberal policies of host
governments, in situations where this has not been the case, it has found itself unable to adapt adequately to the very conditions it purports to favour. Liberian refugees in Cote d’Ivoire, for example, were, in 1989, received by President Felix Houphouet-Boigny as ‘brothers in distress’ (Kuhlman 2002: 11). The government opposed camps and instead permitted refugees to settle amongst the local population, although restricted to a specific region. They were granted access to land, employment opportunities, the right to start small businesses and the right to access state services. It was not until 1995 that one camp (Nicla) was established. From 2001, UNHCR made receipt of assistance conditional on settlement there for all new arrivals, actively promoting the camp as the proper place to cater for refugees. Despite conditions being favourable to local integration, UNHCR opted for parallel assistance structures. Eventually, due to funding cuts, local integration was pursued, but at a point when conditions were far less conducive to this solution. In this way ‘UNHCR policies have not been significantly different from those in other, less liberal, countries in Africa’ (Kuhlman 2002: 3).

UNHCR’S ORGANISATIONAL CULTURE

The organisational culture of UNHCR (the ‘overt and unspoken assumptions and understandings that are learned and passed on to new members’ (Wigley 2005: 1) provides some explanation as to why it supports the lasting installation of refugee camps despite affirming their undesirable nature (Schmidt 1998: 52).

Wigley’s research found that owing to funding insecurity there exists a propensity to define operational objectives in terms of organisational survival (Schmidt 1998: 47). Secondary and auxiliary tasks, to which the organisation must attend, often gain precedence over the primary task and undermine its achievement (Wigley 2005: 17). Decisions are often
based on cost and convenience rather than a consideration of the future livelihoods needs of beneficiaries (DeVries 2006: 31), with camps providing a clear example of this.

It can, of course, be argued that ‘the organisation is, often unwittingly, engaged in the act of “betraying” its beneficiaries in order to manage the demands and needs of donors when making decisions about funding and priorities’ (Wigley 2005: 45). This interpretation is, however, linear and fails to do justice to the complex ways in which the institutional context of aid provision has informed the development and evolution of UNHCR’s organisational culture and the significant tensions it has created.

The refugee camp, a locus for these tensions, is often justified on the grounds that it is ideal from the perspective of assistance delivery. It is also, however, synonymous with the violation of refugee rights. In the provision of assistance UNHCR becomes complicit in protection failures. Tensions between the protection department and others within the organisation, suggest that their immediate objectives are, at times, perceived to be incompatible. When considered alongside the shifting position of protection within the organisational hierarchy, UNHCR’s oft-stated assertion that protection is best administered through assistance is compromised.

The organisation’s practice of rotating staff denies the possibility of long-standing familiarity with a given situation. In its absence, innovation is inhibited, and established modes of working endure. Short-term thinking and planning makes for a short-term organisational memory and reduces the capacity to learn from past mistakes. ‘Routinised but merely reactive behaviour’ is a major contributory factor to UNHCR’s support of camps (Schmidt 1998: 52).

The pressured working environment of UNHCR, the exposure of staff to suffering and vulnerability and the inability to alleviate much of this suffering, generates a wealth of
negative emotions. Wigley’s findings within UNHCR support those of Walkup regarding the coping-strategies of humanitarian personnel (Walkup 1997). These strategies contribute to an organisational culture in UNHCR that is highly defensive when faced with criticism and prone to denial. In the midst of institutional inadequacy and failure, staff may adjust their perceptions to create the illusions of success. The ‘fabricated myth of proficiency’ is not simply constructed to safeguard the image of the organisation for donors, rather this behaviour is adopted to mediate the pressures of guilt and enable staff to feel a sense of self-worth and accomplishment. When problems are acknowledged, one pervasive coping strategy is transference. Such responses, ‘highly prevalent throughout UNHCR’, foster a culture of blame, competition and contempt, and limit the capacity for effective evaluation (Wigley 2005: 31). The endurance of camps as a primary means of assistance delivery in the global South must be understood in this institutional context.

**UNHCR AND ITS RELATIONSHIP WITH REFUGEES**

The relationship between the Office and those it assists is characterised by a lack of accountability. The absence of formal, independent monitoring mechanisms, whereby UNHCR can be held accountable, leaves refugees with little or no recourse in cases where programs and policies are unsatisfactory (Loescher, Betts and Milner 2008: 85). As Malloch-Brown has observed, ‘there exists no other organisation in the political, governmental or commercial world which has such an absence of mechanisms for determining citizen or customer satisfaction’ (cited in Harrell-Bond, Voutira and Leopold 1991: 220).

The relationship between UNHCR and refugees is uneasy. Both are under pressure to maintain the image of benevolent, altruistic helper, and needy, grateful recipient. The extent to which these stereotypes influence perceptions is difficult to ascertain, although over half of UNHCR workshop participants reported that within the organisation the prevailing
assumptions towards refugees were patronising. It was felt that staff regarded them as dependent upon UNHCR to solve their problems. The underlying assumption was that this was due to an inferior ability to help themselves (Wigley 2005: 33).

The reality, however, departs radically from these stereotypes: refugees often direct their anger at field officers, who frequently respond by distancing themselves from face-to-face contact and blaming refugees for institutional failures. In this way, refugees can come to be seen as the problem, as opposed to people with problems. This is particularly the case regarding the attitude of the organisation to urban refugees who are ‘in a very real sense, conscientious objectors to the wishes of host governments and international humanitarian institutions’ (Sommers 2000: 64).

As the following section details, ‘[h]ost governments and the international community are hardly addressing the issue of urban displacement arguing that this is opening a Pandora’s Box. Substantial additional resources would be required and assisting displaced populations in urban settings could act as a pull factor and thus attract hordes of refugees to the cities, an environment that is more difficult to control and manage compared with rural areas’ (DeVriese 2006: 16).
WHY REFUGEES AVOID CAMPS

Most of the world’s refugees neither reside in camps nor receive international assistance. Rather, they find ways to settle themselves among local populations (Jacobsen 2001: 5, 9; Sommers 2000: 65), and it is in urban areas that the majority are to be found.

Many of these self-settled refugees have chosen to leave camps or to avoid them entirely. Refugees, it seems ‘prefer the hard struggle for survival as underprivileged aliens among the local population’ to the camps and settlements ‘where supposedly their subsistence is guaranteed, where social services such as education, health and water are provided [...] A curious phenomenon indeed’ (Kuhlman 1994: 124).

HEALTH

Some refugees avoid camps because they require access to medical treatment, which is only available in the cities. If adequate treatment is unavailable in a camp or settlement, as is often the case, UNHCR and governments, in principal, assist refugees to leave. The practical application, however, often proves difficult and many refugees leave independently.

While camps have been hailed as ideal for quick, direct healthcare assistance, the link between ill-health and encampment is widely acknowledged (Van der Borgh and Philips 1995: 907-908).

A comparative study of encamped Rwandan refugees near Goma in 1994, and self-settled Liberian and Sierra Leonian refugees in Guinea in 1989 documented 50,000 disease-related deaths in two weeks in the camps (van Damme 1995: 360-1). More aid, more efficient logistics, and better preparation and coordination could ‘only marginally’ have improved the
situation; it was the approach of concentrating the refugees, as opposed to allowing them to disperse, which was the fundamental problem. In contrast, epidemics of disease among the self-settled affected hundreds (rather than thousands) of people, and caused no more than a few dozen deaths. Measles, cholera, dysentery and meningitis can become major killers in camps due to increased transmission through overcrowding. ‘The bigger the camps, the more pronounced these effects become’ (van Damme 1995: 361). Yet there are no fixed international standards for determining the size of camps and, despite the existence of guidelines, senior figures within UNHCR admit that adhering to them is not always possible (Crisp and Jacobsen 1998: 29)

Nutrition-related diseases are common because refugees are almost entirely dependant on food aid, which is often insufficient in quantity and quality. During the first four months of 2002, the World Food Program (WFP) was only distributing 1,400 kcal per refugee per day in Dadaab, Kenya. This is significantly below their 2100 kcal recommendations. (HRW 2002: 126-127). In camps avitaminosis, such as beri-beri, pellagra and scurvy, is often widespread. In closed camps or where camps are so remote as to not give access to alternative food, high mortality rates are almost inevitable. In contrast, Van Damme found that among the self-settled in Guinea in 1994, only one third of the normal food rations were distributed, amounting to 700 kcal per day without any signs of increasing malnutrition on the part of refugees (van Damme 1995: 361).

Insufficient water supply is a problem in most camps. While there is often enough for cooking and consumption, there is not always enough for personal hygiene requirements. Negative health consequences include scabies and body lice.

Health risks associated with residing in camps lead many refugees to leave, with or without permission (HRW 2002: 133-134). And even in camps where basic needs are met,
the minimum standards paradigm remains lacking in terms of the recognition of rights and freedoms (Jamal 2003: 5).

EDUCATION

Theoretically UNHCR ensures primary education. This, however, is rarely a priority. The setting up of schools often takes place long after populations are established in camps, and opportunities for secondary education are scarce (Harrell-Bond 2000: 8). Research in Kyaka II, Uganda, found that in practice there were severe limitations upon educational provision: for 4268 children between 5 and 17 years old, there existed three primary schools and one secondary (Refugee Law Project (RLP) 2005: 33). Similarly, in Kakuma only a small proportion of primary school graduates are able to go on to the camp’s secondary school facilities (Crisp 1999: 28). The lack of education provided in camps is a major incentive for refugees to leave and seek better opportunities elsewhere (HRW 2002: 133).

EMPLOYMENT

Lack of employment and income-generating opportunities provides another incentive for refugees to leave. In Dadaab only 15% of the population are thought to have any regular source of income apart from the assistance they receive (Crisp 1999: 28).

In their ‘reconsideration’ of refugee camps Crisp and Jacobsen stress that not all camps are alike in their conditions, and that some restrict freedom more than others. For evidence, they cite Edith Bowles’ research into camps along the Thai-Myanmar border (Crisp and Jacobsen 1998: 27).

In situations of encampment, however, opportunities for economic self-sufficiency, for the most part, simply do not exist. Even these camps have been the subject of concern: an open letter from Thai civil society to international donors of June 2009 states that refugees
within them are ‘chronically dependent upon international aid because they are not allowed to live elsewhere or pursue livelihoods in Thailand’.89

POWER RELATIONS

Hyndman characterises camps as ‘sites of neo-colonial power relations where refugees are counted, their movements monitored and mapped, their daily routines disciplined and routinised by the institutional machinery of refugee relief agencies’ (Hyndman 1997 cited in Schmidt 1998: 7). While conceived of as places of shelter and relief, these institutions simultaneously serve ‘as the means to exercise power and control’ (Schmidt 1998: 9).

Harrell-Bond’s research has placed much emphasis upon the power differential between the humanitarian aid-worker and the refugee within the camp setting. The former, the distributors of aid, the symbolic givers, decide who receives aid, as well as the quantity and manner in which it is received. Refugees are divested of power and relegated to the role of passive recipient (Harrell-Bond 2002: 55-57). On the assumption that refugees cannot be trusted, counting and census-taking is often undertaken at night, without any prior consultation. The practice has caused concern amongst advocates and often leads to retaliatory violence from refugees (Harrell-Bond, Voutira and Leopold 1991: 213).

In this context, allegations of harassment, intimidation and beatings of refugees by agency staff, for example Mark Walkup’s description of a UNHCR field officer beating refugee women (Walkup 1997 cited in Verdirame and Harrell-Bond 2005: 137-8), can be seen as a ‘symptom of power relations between refugees and their “helpers”’ that are ‘so

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8 For the petition see: www.khonthaijaidee.org/thai/campaign.OpenLetterJune09
9 In camps, refugees are not expected to be self-sufficient, unlike in settlements. Despite the intention to promote self-sufficiency therein, however, and despite ‘inordinate amounts of international financial support’, they ‘have historically been a failure’ in this regard (Jacobsen 2001: 8). As Kuhlman’s research has shown, aid spent on refugees in settlements ‘cannot be shown to have had a positive impact on their economic well-being’ (Kuhlman 1994: 130).
imbalanced as to give rise to this “socio-pathology”’ (Vedirmame and Harrell-Bond 2005: 294). The location of camps in remote areas, out of sight of the media, renders them conducive to the perpetration of such abuses.

In Kakuma in April 1994 a number of refugees demolished the enclosures that had been built for headcounts and food-distribution. In response, UNHCR suspended the distribution of food for the entire refugee population for twenty four days (Vedirame and Harrell-Bond 2005: 193). That a UN agency can inflict collective punishment against a refugee population – and it has, more than once – bespeaks a power dynamic vastly skewed in its favour.

SOCIAL RELATIONS

Much research attests to the negative psychosocial impact of encampment on refugee populations. Relief systems tend to be impersonal and often undermine the complex social customs of the receiving group (Harrell-Bond 1991: 209). ‘[F]ailure to recognise refugee initiatives or traditional structures’ has often come with a perception that these structures have been dismantled by the experience of flight (Kibreab 1993: 333). Agencies intervene to ensure the equitable distribution of resources, yet case studies indicate that principles of fairness inform the distribution of resources when people are left to their own cultural devices (Harrell-Bond 1992: 218). Indeed, per-capita distribution undermines the values of cooperation, sharing and reciprocity that hold society together (Harrell Bond 1994: 18).

Turner’s research in Lukole camp, northwest Tanzania, suggested the fundamental incompatibility of the ideology of equality (actively promoted as part of the relief operation), and that of the refugees’, which was hierarchical (Turner 1999: 147). Interviews revealed a perception of social disintegration related to inter-generational and gender relations. Young men were ‘heavily affected’ by the changes that encampment wrought in terms of gender
roles. Enforced idleness and deprivation of the functions that give them authority and status in their countries of origin erode their self-esteem (Turner 1999: 149). Not only do women retain their traditional functions, however, the extra recognition and status conferred upon them by agency staff typically enhances their roles.

Negative coping strategies employed in response to such social changes impact upon women, children and social dynamics in general (Verdirame and Harrell-Bond 2005: 125). Substance and alcohol abuse increases, as does domestic violence, and family breakdown is common. Following a visit to Dadaab camp in 1993, the Lawyers Committee for Human Rights noted that beatings, sexual assault and rape of refugee women were ‘daily and nightly occurrences’ (Lawyers Committee for Human Rights 1995: 66). It is the living conditions within camps that give rise to these social phenomena.

INSECURITY

It is well known that the congregation of refugees in camps can create insecurity. UNHCR Standing Committee notes, ‘[t]he high incidence of violence, exploitation and other criminal activities are disturbing manifestations of the refugees remaining passive recipients of humanitarian assistance and continu[ing] to live in idleness and despair’ (UNHCR Standing Committee 2003: 10).

Camps located near border areas are easy targets for attacks from bandits, military and paramilitary groups. One particularly brutal example of this occurred in April 1996 when a rebel group led by Juma Oris entered Uganda from Sudan and attacked Ikafe camp, mutilating and kidnapping the inhabitants. (Harrell-Bond 2000: 7). The threat of forcible recruitment into armies of guerrilla fighters is persistent.

‘In addition to the military problems like raids and direct attacks experienced by camps, their culture and organisation make for a climate of violence and intimidation [...] The
presence of weapons increases the combustability of the situation [...] as does the problem of bored and frustrated young men. These are the ingredients for crime and violence [and] the rise of political and ethnic factions’ (Jacobsen 2001: 13).

A UNHCR security report from Kakuma, Kenya (12th August 1999) provides an insight into this climate of violence: ‘[o]n 6 March 1998, a 40 year old refugee from Bahr-el-Ghazal named Mr [] was shot dead. In the same night, unknown gunmen invaded the Bajuni Somali community and took away 3 goats. On the evening of 9 March 1998, an inter-ethnic fight broke out between Sudanese Dinka Bahr and Dinka Bor, resulting in serious injuries to 55 persons. On the evening of 9 March 1998 Mr [] was stabbed dead with a sword. On the evening of 15 March 1998, a lone gunman shot a Ugandan refugee in the arm while being pursued by Ethiopian community local guards’ (Crisp 1999: 3).

It should be noted that the extent of security risks varies from camp to camp. By no means do they uniformly replicate those in Zaire and Tanzania during the Rwandan exodus, for example. Not every camp is unsafe to the point of being inaccessible for agency staff beyond food distribution points; not every camp has zones where those responsible for genocide terrorize and intimidate refugee populations (van Damme 1995: 361) This, however, does not mitigate the failure of camps to provide the kind of safe haven implied by the term ‘refuge’. In the case of Kakuma and Dadaab, despite the ‘concerted effort on the part of UNHCR and its partners to address both the causes and consequences of insecurity’, ‘the problem may actually be getting worse’ (Crisp 1999: 14).

For many refugees, the risks outweigh the benefits. While some leave because of generalised insecurity, others fear targeted violence for reasons of ethnicity, or previous political or religious affiliations. Ineffective measures for combating both general and
targeted violence lead many to take matters into their own hands: to leave camps or to bypass them entirely.

Despite the provision of humanitarian assistance there, refugees continually migrate into urban areas in search of better life opportunities and often because their physical and material security is at risk. The vast majority of them receive the initial relief they need from local institutions (churches, mosques, individual contributions) and ‘survive by dint of their capacity to coexist with locals, only turning to camps as a last resort’ (Harrell-Bond 1994: 18).
THE POLICY RESPONSE

MARGINALISING URBAN REFUGEES AND DENYING THE NUMBERS

UNHCR have, however, been slow to publicly recognise the migration of refugees to urban areas. According to its Statistical Yearbook for 2009, refugees in urban areas only came to outnumber those in camps in 2007 (UNHCR 2009a: 46).

There is ample evidence, however, to suggest that this is not such a recent phenomenon (Harrell-Bond, Kalyango, Kibreab and others, cited in (RLP 2002: 17). It was estimated in 1992 that in Africa, between 60 and 70 percent of refugees were self-settled (Harrell-Bond, Voutira and Leopold 1991: 212). Of Mozambican refugees, 60 percent in Malawi and 50 percent in Zimbabwe were independent of aid and 80 percent of Eritreans in Sudan in the early and mid 1980s were outside of camps (Zetter 1999: 74).

Governments, international and voluntary agencies concur, however, that organised settlement should be given precedence over self-settlement (Kuhlman 1994: 125). So UNHCR, whose mandate is to protect and assist all refugees, tends to focus on those in camps. In most cases, local governments and humanitarian agencies also overlook the existence of the self-settled. The principal actors tend to operate according to where they think refugees should be, rather than where refugees want to be or where they are. The majority of UNHCR’s budget is spent on camps (Harrell-Bond 1994: 18), and its numerous guidelines make almost no mention of refugees in urban areas. This has been justified by

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10 ‘Many, many more ethnic Somalis and Oromo who fled Ethiopia to Somalia’ in 1977-87 were self-settled than in camps (Waldron 1988: 155).
11 See for example UNHCR Guidelines on the Protection of Refugee Women, July 1991 (29-30) which makes detailed recommendations on planning for the delivery of assistance within the layout and location of refugee
extremely low estimates of their numbers. A UNHCR Discussion Paper stated that ‘one can estimate that urban refugees world-wide might number in the region of 200,000 or approximately 1.4% of the 14.4 million refugees world-wide or 0.7% of the 27.4 million people of concern to the High Commissioner’ (UNHCR 1995b: 31).

‘[E]ach “authoritative” source has its own agenda and set of reasons for the numbers it puts out [...] Statistical information received from official bodies, particularly governments and political organisations, should be treated with caution.’ The reality is that there are no independent counts, or any kind of rigorous study of the numbers of urban refugees (Jacobsen 2006: 275).

Insufficient research into the numbers, needs and livelihood strategies of refugees in urban areas is a policy failure that leads to further policy failures. The ensuing lack of protection and insecure legal status renders them highly vulnerable to harassment, extortion, beatings, arbitrary arrest, detention and deportation. Refugees, therefore, often prefer to keep a low profile which, in turn, impedes accurate counting of their numbers. As Sommers observes, ‘[a]ccurately counting the numbers of ‘illegal’ refugees in cities and rural villages will require an extension of protection measures that officially recognise the presence of refugees outside of refugee camps. In many contexts this would call for UNHCR to assert its role in refugee protection in cities, becoming a strong advocate with local governments to recognise the presence of ‘illegal’ refugees there – to make, in other words, the ‘illegals’ legal. Without such commitments, refugees will probably continue to hide and make it difficult to develop accurate estimates’ (Sommers 2000: 85).

1997 POLICY ON REFUGEES IN URBAN AREAS

Note that there are no similar recommendations for assistance programs or housing arrangements for women refugees in urban areas. This problem has been acknowledged by UNHCR (Obi and Crisp 2002: 4).
Urban areas are the most practical, existing alternative to organised settlement. Their physical, social and economic infrastructure is conducive to the self-reliance of many refugees. The policy approach of UNHCR towards its work in urban areas, therefore, provides perhaps the most telling indicator of the extent to which the Office is prepared to pursue alternatives to encampment.

UNHCR claims that encampment policy is dictated by host governments. Yet when the organisation formulated its 1997 Policy on Refugees in Urban Areas its camp bias was evident. The presence of refugees in urban areas was, in many ways, delegitimized.

Following its issuance in March 1997, the policy was retracted and revised amid serious concerns as to its content, from both within the organisation and external actors. When the second version emerged in December, despite amendments, the basic position with regard to urban refugees remained unchanged.

This position was articulated in April 2002 by UNHCR’s Uganda representative at a press conference in Kampala: ‘It is easier for [UN] HCR to deal with refugees in the camp setting. At some point we have to stop paying the rent of refugees. We recommend to refugees that they should go to the settlements’ (HRW 2002: 79).

FINANCIAL CONTEXT

The policy was informed by UNHCR’s need to make cutbacks. From 1992 to 1997, international assistance dropped by 21 per cent (Loescher 2001: 321). By 1995, as the agency became increasingly aware of donor fatigue, it was being suggested that they ‘may no longer be prepared to support long-term care and maintenance of urban cases’ (UNHCR 1995b: 4). From this year on lack of donor support caused several years of steady budget decline and the agency reduced its general programmes.
According to the policy, a refugee eligible for assistance must be a ‘person of urban background in the country of origin and who is neither an irregular mover, nor part of a *prima facie* caseload’\textsuperscript{12}, and, if of ‘rural background – for whom, in the country of asylum, the option of rural settlement which offers an opportunity for self-sufficiency does not exist’ (UNHCR 1997a: paragraph 7)\textsuperscript{13}. Given the context, this decision was ‘strongly influenced by the need for UNHCR to reduce budgets’ (Obi and Crisp 2002: 1). It enabled the organisation to deny assistance to any ‘person whose status was determined on a *prima facie* basis’, or who ‘moved independently’ to an urban area in the same country, or who was an ‘irregular mover’ from another country of asylum. (Vedirame and Harrell-Bond 2005: 298).

**DEFYING RURAL TO URBAN MIGRATION**

An increasing proportion of refugees of rural origin, in becoming displaced, are becoming urbanised (Sommers 2000: 67). The magnitude of this migration generally remains unknown, in large part because their flight is illegal and clandestine. ‘The creeping change in the character of refugee populations in Sub-Saharan Africa’ (RLP 2002: 4), however, has been noted. Research by the Refugee Law Project (RLP) found that 69% of refugees in Kampala were rural to urban migrants (RLP 2005: 10) and Sommers’ research on Burundian refugees in Dar-es-Salaam found that the majority of urban refugees were not from urban backgrounds, but had grown up in camps and subsequently left (Sommers 2000: 71). The accelerated population shift from rural areas to cities in Sub-Saharan Africa has been described as ‘one of the most dramatic and far-reaching impacts of war, drought and economic hardship in the 1980s’ (Kibreab 1996: 131).

\textsuperscript{12} *Prima facie* status is granted in many situations where refugees face generalised insecurity and conflict. It refers to the assumption that conditions are objectively dangerous in a country of origin thus refugees are recognised without the need for further proof. This is usually employed in situations where it is not possible to ascertain whether every person involved in an influx meet the criteria for individual recognition. Low-income countries often do not have the logistical, administrative or financial capacity to undertake individual refugee status determination (RSD). (HRW 2002: 21).

\textsuperscript{13} All policy documents will be referenced by paragraph number rather than page unless stated otherwise. The draft version of the policy is annexed with paragraph numbers added.
Misrecognition of the composition of urban refugee populations was one of the most fundamental false assumptions that informed the policy. Urban refugees were generally thought to be ‘of urban origin, usually a student, former politician or civil servant, a professional, a trader or a skilled, non-agricultural labourer.’ Although the policy noted that ‘other definitions’ included ‘people with rural backgrounds seeking work or education, one-parent (female) families, sick and disabled people who have been referred from camps and rural settlements for treatment or rehabilitation, or refugees who have left the country of first asylum’, the profile of the typical urban refugee had, nonetheless, been established (UNHCR 1997a: 44).

It went on to note that ‘[f]or individuals sent from rural settlements to an urban area for medical assistance, every effort should be made to promote their return to the rural centres as soon as essential medical treatment has been completed. Similarly, for students sent from rural settlements to an urban area for the purpose of study, every effort should be made to promote their return to their communities once their studies are complete [...] those moving temporarily to an urban area should be required to sign an undertaking to return to the rural area before travelling to the city for the stated purpose’ (UNHCR 1997a: 66).

Refugees from rural backgrounds who were obliged to spend time in urban areas were to be returned to the rural settlements as soon as possible. For those who insisted upon living in the towns and cities the penalty was the refusal of assistance. In this way, the 1997 Policy was based on a denial of demographic and economic trends in Africa. It affirmed and propagated the class structure of the country of origin, and sought to deny both upward social mobility and urbanisation (Verdirame and Harrell-Bond 2005: 298-299).
FALSE ASSUMPTIONS AND POLICY OBJECTIVES

Many of the assumptions about urban refugees that formed the bedrock of the policy have been shown to be spurious. Most urban refugees, for example, do not have their right to reside in urban areas recognised by the authorities and they do not necessarily seek out the rights, protections and provisions that official recognition can provide.

The most significant assumptions that informed the policy can be discerned from its opening paragraph: ‘[t]he objective of this document is to provide clear guidelines for the provision of assistance to and the promotion of solutions for refugees in urban areas. It takes account of both their specific situation and the problems that may be created by unregulated movement to urban areas, whether this movement takes place within the country or form another country where the refugee had found protection’ (UNHCR 1997b: 1).

The policy assumed, therefore, that the primary concern of UNHCR was assistance (no reference was made to refugees’ protection needs or legal status); that urban refugees were over-reliant upon UNHCR assistance; that the majority arrived as a result of ‘irregular’ movement; and that, on these grounds, their presence was fundamentally illegitimate and created problems.

IRREGULAR MOVERS

Although there is no place in international refugee law for the ‘first country of asylum’ or ‘direct flight’ rule (under which refugees are expected to claim asylum only in the first country in which they arrive) (Verdirame and Harrell-Bond 2005: 99),¹⁴ over a third of the 1997 Policy focussed on the subject of ‘irregular movement’.

¹⁴ Nor has it acquired customary status under international law.
The ‘first country of asylum’ rule emerged with the advent of the 1985 Schengen Agreement and the 1990 Dublin Convention, as signatories sought to counteract the increased openness of Europe’s borders by limiting movements of asylum seekers and other migrants (HRW 2002: 168). The result is the return of asylum seekers to countries that they have transited. In some cases they are at risk of deportation from these ‘safe third countries’ to states without adequate protection mechanisms, or that have not agreed to consider their claims (HRW 2002: 169). Asylum seekers are at risk of being refouled to face torture or other serious harm.

While UNHCR’s European offices have criticised this policy, the organisation has promoted its application in the global South, eroding the right of asylum seekers to choose their country of asylum. This has been driven partly by the influence of donor states over UNHCR’s Executive Committee (ExCom). In 1985 ExCom noted, ‘with concern [...] the growing phenomenon of refugees and asylum-seekers who, having found protection in one country, move in an irregular manner to another country’, and expressed the hope that ‘the problem this represents can be mitigated’ (ExCom Conclusion 36, cited in Verdirame and Harrell-Bond 2005: 100). ExCom Conclusion 58 clarified the exact nature of this ‘problem’, highlighting the ‘destabilising effect’ that ‘irregular movements [...] have on structured international efforts to provide appropriate solutions for refugees’ [emphasis added](cited in Verdirame and Harrell-Bond 2005: 100).

The extent to which attempts to combat ‘irregular’ movement were dictated by governments, however, is questionable. UNHCR workshops held in Harare and Kuala Lumpur in May 1995 pointed out that the exclusion of ‘irregular movers’ from resettlement processing would require governments to be briefed on the issue in order to ‘elicit their cooperation.’ They recommended the establishment of mutually compatible databases to better enable the return of ‘irregular movers’ to the country in which they had found
protection. ‘Support of governments in both first and second countries of asylum and/or country of origin’ was cited as ‘a pre-requisite’ (UNHCR 1995b: 22).

The 1997 policy repeatedly stated that ‘UNHCR has an interest in adopting measures to reduce irregular movements’ (UNHCR 1997a: 26, 32), and much of the document was devoted to the ways in which this could be achieved. It suggested that ‘[f]ollowing the example of the European Union, such [safe third country]agreements could be drawn up within the framework for intergovernmental cooperation and coordination [...] Where such agreements do not yet exist, UNHCR should periodically examine whether and how it may promote their setting up’ (UNHCR 1997a: 33). ‘Irregular’ movement could ‘place demands on UNHCR’s resources’, could render voluntary repatriation ‘less likely and more costly’, and could ‘encourage others to follow suit’ (UNHCR 1997b: 14). The ‘destabilising effect’ of ‘irregular movements’ was a concern, not only for state governments but also for UNHCR’s ‘structured’ efforts in the global South.

A major criticism of the March version of the policy concerned its definition of ‘irregular movers’, which encompassed both refugees who had found protection in a third country and those who could have. The revised version applied the term only to those who had found such protection. Although it acknowledged that ‘a refugee who is compelled to move because of specific protection or security problems in his/her previous country clearly cannot be considered to have found protection there’ (UNHCR 1997b: 13), it immediately went on to discuss the ways in which UNHCR could discourage ‘irregular’ secondary movement (HRW 2002: 164). Its emphasis on the methods for returning ‘irregular movers’ stood in contrast to its lack of focus on how to provide adequate protection in the new country of asylum to those with legitimate reasons for moving (UNHCR 1997b: 18; HRW 2002: 166).
The policy also failed to make clear that urban refugees are not always the result of ‘irregular’ movement. At no point did it substantiate its assumption that most refugees are ‘irregular movers’. Indeed, the findings of Human Rights Watch suggest otherwise: of 150 refugees interviewed, only 5 were ‘irregular movers’ (according to the second definition), and many had serious security reasons for moving (HRW 2002: 165).

While the policy affirmed that obligations to protect irregular movers were unchanged, it emphasised that ‘material assistance from basic care and maintenance, higher education [and] resettlement [...] can legitimately be denied by UNHCR to irregular movers, irrespective of the practicality of return to a first asylum country’ (UNHCR 1997a: 28). The ‘containment of future irregular movement’ was to be ensured through the denial of assistance (UNHCR 1997a: Introductory Note, paragraph 4). In order to do so, ‘irregular movers’, together with prima facie refugees, were considered as distinct from the ‘legitimate urban caseload’ (UNHCR 1997a: 49), and their prospects of finding a durable solution could be permanently jeopardised.

The policy cast urban refugees ‘in a wholly unwelcoming light’ (HRW 2002: 19-20). Concerns that they moved ‘irregularly’ and overburdened UNHCR assistance programs were compounded by the emphasis placed on their unreasonable, demanding and violent nature. (UNHCR 1997b: 19). A discussion paper of 1995 illustrates the way in which UNHCR linked this behaviour to refugees in urban areas, particularly with ‘irregular movers’:

‘it is often those individuals who succeed in moving from one country to another in the hope of gaining a better standard of assistance and access to resettlement, who become aggressive and violent if their expectations are not met. The phenomenon has become a feature of urban refugee programmes in all regions of the world with hunger strikes, demonstrations, physical assault of UNHCR and
operation partner staff, damage to and/or occupation of office premises and suicide threats now commonplace’ (UNHCR 1995b: 17).

This policy was to be applied in all urban areas, whether the government operated a camp-confinement policy or not. As such, it revealed the extent of UNHCR’s own camp bias, rather than the extent of its compliance with governments. The document affirmed, at the level of policy, that the proper location for refugees was in camps, and granted minimal support to a small proportion of those who resided elsewhere.
THE NEW URBAN POLICY

Following over a decade of discontent with the 1997 policy, a revised ‘UNHCR Policy on Refugee Protection and Solutions in Urban Areas’ was published in September 2009. Its publication came after ‘a host of consultansies’ (Edwards 2010: p. 48), and emerged against a backdrop of increased emphasis within UNHCR upon PRS’s, and an increased recognition of the growing numbers of refugees in urban areas. The High Commissioner in 2010 stated that, ‘What is new is the appreciation that increasingly cities will be the main site of the humanitarian response to the needs of this population’ (Guterres 2010: 8).

To what extent the new urban policy promises hope for the dissolution of refugee camps is yet to be thoroughly analysed. Thus far, criticism has used the 1997 policy as a comparative frame of reference. In July 2009, however, a draft version of the new urban policy was placed on the desk of the High Commissioner to be signed. Before this took place, it was removed and altered significantly. Following these alterations, the draft policy was leaked. The present discussion examines this draft and the alterations that were made in order to gain new insights into the content of the approved policy. It explores the extent to which these alterations serve to neuter the draft, and considers what this suggests about the (un)readiness of UNHCR to move beyond the camp paradigm.

DATA-COLLECTION

Understanding refugee livelihood strategies is requisite to improved interventions (DeVriese: 1). Both versions of the policy acknowledge that registration and data-collection are necessary for programme planning, needs assessment and budgeting (UNHCR 2009: 52; 15 To the author’s knowledge, this draft version of the new urban policy has not been included in any academic research undertaken to date.)
Draft: 33). Yet the approved states that registration is ‘primarily a state responsibility but in many instances has been left to UNHCR’ (UNHCR 2009: 53). Where the draft states that the office ‘will endeavour to register and collect data on all urban refugees, and to disaggregate that data in accordance with AGDM principles’ (Draft: 35), the approved states that the office ‘will support the registration and collection of data on all urban refugees, and strive to disaggregate that data in accordance with AGDM principles’ (UNHCR 2009: 55) [emphasis added]. Comparative analysis reveals the reluctance of UNHCR to commit fully to the much-needed redoubling of efforts at data-collection.

**MIGRATION FROM CAMPS TO URBAN AREAS**

The approved policy fails to appreciate that many refugees are present in cities as a result of leaving camps. While it acknowledges that the number of refugees in urban areas exceeds that in camps, this is attributed to the general process of global urbanisation. Following a discussion of this trend it states that, ‘[i]n view of these developments, it is no surprise to find that a growing number and proportion of the world’s refugees are also to be found in urban areas’ (UNCHR 2009: 3). In contrast, the draft acknowledges the ‘broader pattern of rapid urbanisation’, yet, in its opening paragraph, it also attributes the presence of refugees in cities to ‘the difficult conditions of life in many refugee camps’. It notes that within them, the rights of refugees are ‘seriously restricted and their needs are not properly met’. Thus, ‘significant numbers [...] have left the camps they once lived in so as to take advantage of the better opportunities and services that appear to be available in urban areas’ (Draft: 1). Not only does the approved suggest a reluctance towards acknowledging that many refugees leave camps to move to urban areas, the alterations also suggests a desire to de-emphasise ‘the difficult conditions of life’ in camps.
The introduction of the approved seeks instead to emphasise the difficult conditions of life in urban areas. It stresses that the ‘large numbers of refugee women, children and older people’ found within them are ‘often confronted with a range of protection risks: the threat of arrest and detention, *refoulement*, harassment, exploitation, discrimination, inadequate and overcrowded shelter, as well as vulnerability to sexual and gender based violence (SGBV), HIV-AIDS, human smuggling and trafficking’ (UNHCR 2009: 5). In contrast, the equivalent section of the draft places no such emphasis upon the insecurity of the urban space. This trend is in evidence throughout the documents. The draft notes the dispersal of refugees throughout ‘sprawling urban areas’ (Draft: 34); in the approved, sprawling urban areas become ‘sprawling slums’ (UNHCR 2009: 53). The two versions differ significantly in their areas of emphasis. The draft engages with the protection risks for refugees in urban areas, while emphasising the many negative aspects of encampment. The approved version removes many negative references to camps, and places increased emphasis upon the difficulties associated with urban areas.

The two versions also differ in their treatment of the implications of movement to urban areas. The draft provides neutral but explicit recognition that ‘unless they are able to live secure and productive lives, some camp-based refugees will inevitably feel compelled to move to an urban area, even if they are not formally allowed to do so’ (Draft: 10). The approved is less willing to state the link between poor conditions in camps and migration to urban areas, and is preoccupied with the negative implications of such migration for all stakeholders. It states that ‘if they are unable to pursue secure and productive lives *elsewhere*, some refugees will inevitably feel compelled to move to an urban area, even if they are not formally allowed to do so. This will increase the number of urban refugees seeking support from UNHCR and other actors, place additional pressures on scarce services and resources, and may generate tensions between refugees and the resident population’ (UNHCR 2009: 40).
Amendments made to the draft version of the policy dilute its stance as regards movement out of camps. In its attempts to ‘limit the difficulties that can ensue when refugees move from camps to urban areas’ the approved policy effectively limits the circumstances that would facilitate such movement (UNHCR 2009: 137). By comparison to the draft, it is far more tentative regarding measures to assist refugees who travel from camps to urban areas. Where the draft states that the office ‘will ensure that refugees who make such journeys are provided with identity documents’ (Draft: 103), the approved will ‘strive to ensure that refugees who travel to urban areas are provided with adequate documents’ (UNHCR 2009: 149) [emphasis added]. Not only does the approved make no firm commitment to supply documentation, the replacement of ‘identity documents’ with ‘adequate documents’ adds uncertainty to the form this might take. The draft states that ‘it may also be legitimate for UNHCR to help camp-based refugees reunify with close family members who reside in urban areas, especially when those family members are self-reliant’ (Draft: 106). This is removed from the approved version. The amendments made serve to render the document less clear and to diminish any commitment to measures that would facilitate movement out of camps.

In circumstances where persons of concern are unable to survive in the city, both versions make clear that they will be offered the opportunity and means of transport to take up residence in a camp, if this option exists. The draft, however, is at pains to stress that ‘the office will take great care to avoid giving the impression that this is an obligation and that by choosing to remain in an urban area refugees will forfeit the protection of UNHCR’ (Draft: 78) [emphasis added]. The approved de-emphasises this assertion, stating instead that ‘it will be made clear that this is not an obligation and that those who chose to remain will not forfeit
the protection of UNHCR’ (UNHCR 2009: 132). The approved is much weaker than the draft in terms of its willingness to facilitate movement out of camps and with regard to assuring that no refugee will be pressured to return to them.

ASSISTANCE

The stance of the approved regarding assistance undermines these assurances further. It states that in circumstances where ‘refugees have no legal status or residency rights, are not allowed to engage in income generating activities, where they are deprived of access to public services on the same terms as nationals and where the option of being assisted in a camp does not exist [...] particular care will be taken by UNHCR to identify those refugees who need support and to determine and provide the level of assistance they require’ (UNHCR 2009: 120-1) [emphasis added]. In countries where camps have been established, on the other hand, refugees ‘who have moved to an urban area’ will normally ‘receive financial assistance from UNHCR only if they have a demonstrable need to be in that location’ (UNHCR 2009: 131). While the draft includes a similar clause, it emphasises that ‘this principle may be waived’ and provides guidance as to what constitutes ‘demonstrable need’ (Draft: 106). It cites protection and security problems specifically, and, given the emphasis that it repeatedly places upon the security risks associated with camps, this serves to qualify the denial of assistance to those who have left them. The approved provides no such qualifier, no guidance as to what constitutes ‘demonstrable need’ and removes many of the references to the negative implications of encampment.

The draft states that UNHCR will ‘strive to ensure that all refugees within a given country and region enjoy equal treatment’ and equal access to durable solutions (Draft: 91) [emphasis added]. The distinction, strongly asserted in the approved, between assistance in urban areas in countries where the camp option exists, and that where it does not, informs the
change from ‘equal treatment’ to ‘similar standards of treatment’ (UNHCR 2009: 137). The alterations in the approved document demonstrate UNHCR’s refusal to endorse that which the draft proposes. The effect is that the approved version of the policy preserves and affirms the organisation’s camp bias in a way that the draft does not.

Comparative analysis suggests UNHCR’s concern to safeguard its role in the provision of assistance and services to refugees in camps. The draft makes clear that ‘in urban as in other contexts [...] support should ideally be provided for a limited period, pending the time when the state is able to undertake key functions such as refugee status determination and the provision of services and assistance to refugees’ (Draft: 17) [emphasis added]. In contrast, the approved makes clear that support will ideally be provided for a limited period, ‘pending the time when the state is able to assume responsibility for key functions, including refugee status determination and the provision of services and assistance to refugees’ but is at pains to clarify that this applies only ‘in urban areas’ (UNHCR 2009: 29) [emphasis added].

SELF-RELIANCE

In view of the limited assistance made available to refugees in urban areas where the option of going to a camp exists, the only viable alternative for those who are intent on remaining is self-reliance. The emphasis placed upon self-reliance, therefore, provides a clear indicator of the extent to which UNHCR is prepared to support alternatives to encampment. Outside of its protection measures, which are designed to create an environment conducive to self-reliance, the policy devotes very little attention to what will be done to promote livelihoods and self-reliance.

Both versions of the policy note that upholding the social and economic standing of refugees by means of vocational training, livelihoods-promotion and self-reliance initiatives can be difficult in situations where refugees are formally barred from the labour market and
are not permitted to engage in income-generating activities. The draft, however, immediately goes on to affirm that ‘the livelihoods-oriented approach that UNHCR has developed in relation to protracted refugee camp situations is of equal relevance in the urban context’ (Draft: 24). The approved makes no mention of this. Instead, ‘UNHCR will make every effort, in cooperation with the authorities to ensure that urban refugees have access to such opportunities’ (UNHCR 2009: 44). While the draft is more specific in terms of the approach to be taken in the face of obstructive government policy, and affirms parity between camps and urban areas in terms of the organisation’s livelihoods approach, the approved commits to nothing more than making ‘every effort’ to ensure access.

The draft also provides clear indications as to how livelihoods and self-reliance will be promoted in cases where refugees are denied the right to gain an income under national law. It acknowledges that often ‘such laws are not applied in practice’ and that ‘the authorities turn a blind eye to the economic activities of refugees’. It provides clear guidance as to what to do in such contexts: ‘encourage and support the efforts of refugees to become self-reliant in a judicious manner, focussing on low risks activities’ (Draft: 62-3). The approved, by contrast, fails to point out that there often exists a difference between restrictive legislation and its practical application, and the most it will commit to is to ‘explore the opportunities that exist to support the efforts of refugees to become self-reliant in an unobtrusive manner’ (UNHCR 2009: 105).

**RIGHTS AND PROTECTION**

The New Urban Policy makes much of its focus on protection, yet protection encompasses ‘all articles aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law’. (International Committee of the Red Cross, Background Paper, Third Workshop on Protection, cited in RLP 2005: 42).
As Edwards observes, much of the approved opts to utilise the non-legal language of ‘protection space’ rather than ‘protection’ or ‘rights’ language. Its vagueness on the issue of rights, such as that to work, is not helped by its policy rather than legal orientation (Edwards 2010: 49). ‘Protection space’, for example, is defined as ‘a concept employed by the office to denote the extent to which a conducive environment exists for the internationally recognised rights of refugees to be respected and their needs to be met’ (UNHCR 2009: 20).

Edwards’ observation is more significant given the content of the draft. Much of the original rights language, in which it was written, is omitted in the approved. Where the draft states that the approach of the organisation ‘to urban refugee populations is both rights and community-based’ (Draft: 21) [emphasis added], the approved states that the office’s approach ‘in urban settings will be community-based’ (UNHCR 2009: 39). The draft affirms a commitment ‘to capacitating and empowering refugee communities so that they can exercise their rights’ (Draft: 21); the approved will instead ‘strive to mobilise and capacitate the refugee population, so as to preserve and promote their dignity, self-esteem, productive and creative potential’ (UNHCR 2009: 39). The first stated objective of the policy is ‘to ensure that cities are recognised as legitimate places for refugees to reside and exercise the rights to which they are entitled’ (UNHCR 2009: 23). Yet without the draft’s emphasis upon the rights of refugees in urban areas, this objective is undermined and the entire protection focus of the policy is compromised.

Even prior to the 1997 policy there was a body of opinion within UNHCRS that an effective urban policy should be protection-focussed: ‘in the view of some long-serving colleagues it is essential to reassert protection as the starting point for our approach to urban refugees. The essential issues thus become not whether to assist or not, but whether or not the refugees are recognised by the government, whether or not they have the right of abode and

16 For an example of the removal of a reference to the right to work contrast draft (64) with approved (106).
whether or not they have the right to work. If the answer is no to any of these questions we should seek to put pressure on the government to provide protection within the terms of the convention’ (UNHCR 1995b: 40).

Where the approved incorporates much of the content of the draft in terms of affirming the legitimacy of seeking protection in urban areas, it fails to incorporate to the same extent the draft’s commitment to the actions necessary to secure it. Where the draft version makes clear that ‘UNHCR considers states to have primary responsibility for the protection of refugees’ (Draft: 17), the approved version instead states that ‘national and local authorities have a primary role to play in providing refugees with protection, solutions and assistance’ (UNHCR 2009: 27). The approved hesitates to affirm that protection is a state responsibility, further undermining the purported emphasis on protection.

Where the draft makes clear the Office’s willingness to support the authorities ‘by means of operational activities and capacity-building initiatives if the government lacks the means to exercise this [protection] responsibility itself’ (Draft: 17) [emphasis added]. The approved ‘stands ready to support states in undertaking the tasks of refugee protection, solutions and assistance by means of capacity-building and operational activities, especially in countries where the authorities lack the means and expertise required to achieve these objectives’ (UNHCR 2009: 28). These amendments expand the areas of support which UNHCR intends to provide to governments, as well as the circumstances in which they will be provided. In this way, concern to safeguard the relevance of the Organisation regarding its non-protection activities dilutes its focus upon advocating for governments to assume their protection responsibilities. The primary protection function of UNHCR is de-emphasised in comparison to the draft.
EVADING COMMITMENTS

Edwards notes that the policy is ‘vague in its specifics’ (Edwards 2010: 49). As the approved omits much of the draft’s rights-language, so too does it render many of the commitments made in the draft vague and insubstantial.

The draft, for example, states that ‘[v]isits to local police stations, immigration detention centres, prisons, human rights and civil society organisations will also be undertaken’ (Draft: 49). The approved evades this commitment: ‘Opportunities for visits to local police stations, immigration detention centres, and prisons, as well as human rights and civil society organisations will also be pursued with the authorities’ (UNHCR 2009: 80) [emphasis added].

In its discussion of assistance payments, the draft states that ‘[w]hen it is necessary to make cash payments to refugees, they will be based either on the national minimum wage or, if a minimum wage does not exist, at a level assessed by relevant UN agencies, such as ILO or UNDP’ (Draft: 76). The approved is amended to give no commitment as to the amount: ‘[w]hen cash payments are made to refugees, the amount of money provided to them will be assessed by UNHCR and its partners, with appropriate advice from agencies that deal with the issue of urban poverty reduction’ (UNHCR 2009: 123). This simultaneously renders the commitment so unspecific as to be meaningless, and safeguards UNHCR’s primacy as the deciding agency – this, despite the fact that the agencies listed in the draft would be far more experienced and better placed to decide upon appropriate levels of assistance.

Effective work in urban areas, particularly with respect to promoting sustainable livelihoods, is developmental in its orientation. As such it is dependent upon effective coordination between relevant organisations, both intergovernmental and non-governmental.
These amendments to the policy seem to suggest the persistence of ambiguity regarding the respective roles of UN agencies. Such ambiguity has been exacerbated by the persistence of territoriality and competition between them, which the approved appears to confirm.

**DURABLE SOLUTIONS**

The draft states explicitly that pull-factor considerations, with regard to resettlement, ‘will not detract from the fact that UNHCR’s mandate is to protect and find durable solutions for refugees’. It goes on to state that ‘these objectives can sometimes best be met (and indeed only be met) by means of resettlement’ (Draft: 97). It also makes clear that it is ‘understandable’ that many refugees, particularly those with special needs and specific assets such as higher education, ‘should regard resettlement as their preferred solution’ (Draft: 98). The approved makes no mention of these considerations. Its discussion centres around fair and transparent access to resettlement, outreach, appropriate mechanisms to establish the veracity of reported security incidents, and the encouragement of refugees already in the resettlement process to remain engaged in self-reliance and the exploration of other solutions. Resettlement is actively de-emphasised: it is only ‘one component of a comprehensive protection and solutions strategy’ (UNHCR 2009: 145).

In its discussion of the promotion of the legal and political dimensions of local integration, the draft lists several activities for the organisation. These include ‘advocacy and technical assistance efforts that encourage the authorities to facilitate the naturalisation process by means of appropriate legislation and procedures’ (Draft: 95). In the approved this becomes ‘advocacy and technical assistance efforts that facilitate decisions on the part of the authorities to provide for naturalisation legislation and procedures’ (UNHCR 2009: 141) [emphasis added]. The draft states that UNHCR will ‘advocate for more positive government policies on the issues of local integration and self-reliance’, and suggests means by which this
might be done. In particular, emphasising to authorities that ‘a “resettlement only” approach to durable solutions [...] may actually increase rather than diminish the number of refugees residing on its territory’ (Draft: 101). The approved instead sees its role as ‘assisting the authorities to identify those individuals and groups of urban refugees who are best placed to, who wish to and are permitted to settle on an indefinite basis in their country of asylum’ (UNHCR 2009: 140). The approved policy fails to commit itself to advocating for local integration.

The draft notes that refugee camps are ‘designed to facilitate the provision of protection and assistance’ (Draft: 47) [emphasis added]. The approved notes instead that they are designed to facilitate ‘the provision of protection, solutions and assistance’ [emphasis added], and it goes on to state that ‘that is not the case with regard to urban areas’ (UNHCR 2009: 77). The solution to which the policy refers can only be that of voluntary repatriation; resettlement processing is not contingent on the camp setting and local integration is not facilitated by encampment. What is more, self-reliance in urban areas provides an ideal scenario from which local integration can be pursued. Local integration remains ‘the forgotten solution’, even within a policy document which supposedly seeks to create the circumstances conducive to it. Rather, the link between encampment and the preferred solution of voluntary repatriation is restated.

The approved version of the policy is specific as to how it will promote voluntary repatriation, (UNHCR 2009: 139). It is, however, extremely vague as to how it will promote resettlement, and fails to commit itself to any measures that would actively promote local integration. The organisation’s preference for voluntary repatriation is affirmed by the amendments made to the draft. Encampment is pursued because it is thought to facilitate voluntary repatriation. Yet it so often becomes protracted because, in most situations, this durable solution is unavailable. The reaffirmation of voluntary repatriation as the preferred
durable solution of UNHCR, evidenced by the amendments to the draft, undermines hope for the dissolution of refugee camps.

‘IRREGULAR’ OR ONWARD MOVEMENT

‘Irregular movement’ provided the chief means by which the presence of refugees in urban areas was delegitimized by the 1997 Policy. As the draft states, ‘[m]uch of the debate has focused on the meaning and measurement of “effective protection” and the circumstances under which it is legitimate for a refugee or asylum seeker to move from one country to another’ (Draft: 109).

The draft does not, however, engage closely with this debate: ‘an assessment must be made as to whether a person has found effective protection in another country before they are admitted to regular RSD (Refugee Status Determination) procedures’. If they are deemed to have engaged in an onward movement, it is clear that ‘the UNHCR office concerned will consult with the UNHCR office in the country of first asylum to explore the possibility of return’. In the event that this is not possible it states that the ‘person will be treated like any other refugee.’ (Draft: 110) [emphasis added]. In the event that readmission is possible it stipulates that ‘UNHCR will counsel the person concerned and offer them incentives to return.’ It stresses, however, that ‘such individuals will not be compelled or induced to return by refusing them protection or denying them essentials needs’ (Draft: 111).

The approved omits these guarantees. In fact it has almost nothing to say as to what practical measures will be taken in the event that a refugee has engaged in onward movement. It notes ‘numerous practical problems and ethical dilemmas’ associated with the return of those who have engaged in ‘unnecessary’ onward movements. Yet it provides no clear guidance in this respect. Instead it goes on to resurrect the ‘unresolved debate on the meaning and measurement of “effective protection” and the circumstances under which it is legitimate
for a refugee or asylum seeker to move from one country to another,’ by providing criteria by
which this can be measured. The circumstances under which a secondary movement can be
seen to be legitimate are, however, vague. When a refugee moves to seek family re-
unification where this is not possible in the country of first asylum, for example, or moves as
a result of ‘other strong linkages’ with the country of destination ‘the onward movement may
[...] be justified’ (UNHCR 2009: 154) [emphasis added].

The approved is unclear as to what constitutes legitimate onward movement. The
removal of the practical guidance regarding appropriate action in the event that someone has
engaged in onward movement, present in the draft, compounds the uncertainty. While the
policy purportedly seeks to affirm that urban areas are a legitimate place to seek protection, it
fails to offer sufficient reassurance that onward movements will not effectively delegitimize
the presence of many urban refugees in practice.

SECURITY

The draft version has very little to say about the security problems that so preoccupied
the 1997 Policy. It devotes one paragraph to the topic, in which it guarantees that security
guards will be provided with training on the mandate and code of conduct, and that a zero
tolerance policy will be applied when they commit abuses (Draft: 30). The approved inserts a
section, stretching to some five paragraphs, on the issue of ‘maintaining security’, which
includes a discussion of security incidents ‘that are liable to occur’ (UNHCR 2009: 96). The
tenor of the approved represents an improvement on the 1997 Policy. In comparison to the
draft, however, it reveals the persistence of perceptions that informed the 1997 document.

RURAL TO URBAN MIGRATION

Unlike the draft, the approved policy contains a concluding section. It opens: ‘[r]apid
urbanisation is one of the most significant “mega-trends” confronting our planet today. It is
also an issue that interacts with and reinforces many other global developments’. The global developments cited are entirely negative: ‘climate change, environmental degradation, volatile commodity prices, financial and economic instability, and the absence of decent work for growing numbers of young people’ (UNHCR 2009: 156). It is ‘in this context’ that UNHCR considers it ‘essential to reconsider the organisation’s position’ on refugees in urban areas and adopt ‘an approach to this matter that is more positive’ than hitherto. The prefix to this new-found positive sentiment, however, undermines it considerably. The context in which UNHCR is choosing to view the movement of refugees to urban areas bespeaks a fundamentally unfavourable perception of it (UNHCR 2009: 157). The emphasis of the approved upon the difficult conditions of life in urban areas, reinforced in the document’s closing paragraphs, is all the more illuminating when considered in light of the draft, which places its emphasis elsewhere: upon the difficult conditions of life in camps.
CONCLUSIONS

If UNHCR is to shift its focus from organised to self-settlement in the global South, cities will be central to this initiative. They are ‘among the few places in developing countries where UNHCR and NGOs already have an infrastructure and offices and where refugees can be included in overall development programming without creating the entirely fake economy and environment of a refugee camp’ (HRW 2002: 191). The education, infrastructure and employment needs in cities are vast, creating conditions that can enable refugees to contribute to their countries of asylum and fulfil their human potential.

Refugees are demonstrably an economic asset and they find means of survival even in the face of social and economic exclusion. They ‘confound perceptions of them as passive, compliant victims of violence’ (Sommers 2000: 64). The image of the dependent refugee must be dismantled and recast to accord with this reality.

A significant change is required in both the form and objectives of relief programmes. This change must go to the heart of relief-provision. Rather than making refugees come to the relief, the relief should follow the refugees; rather than finding solutions for refugees, UNHCR should support refugees to find their own.

The transnational networks that form a key part of the livelihood strategies of urban refugees, connect those in camps, in urban areas and those in the wider Diaspora. Urban refugees do not merely use remittances to survive; they send them to friends and family members in camps and in their countries of origin. As they both send and receive remittances, ‘[u]rban refugees are today the pinnacle link between the camps, the homelands and the wider Diaspora’ (Campbell 2005a: 17). They provide necessary assistance and support both
to those who are unable to work, and to those who are in the process of becoming self-sufficient. In this context, urban refugees must come to be seen, not as a manifestation of the problem, but as fundamental to its solution.

The draft New Urban Policy promised a new way of working for UNHCR, and provided some hope for the dissolution of refugee camps. The amendments that were made to the draft version, however, effectively neutered it. Even if, as Edwards concludes, the approved version partially dislodges UNCHR’s camp bias, the fact that these changes were made, demonstrates clearly that the organisation is unwilling to uproot this bias. If the draft represents a recognition on the part of UNHCR as to what is required of the organisation, the approved represents a refusal to implement the necessary changes.

What is more, the emergence of these two, very different policies from the same organisation bespeaks deep-seated divisions within it. Sections of UNHCR are calling for change. The fact that the draft reached the High Commissioner’s desk permits some room for hope. For now, though, these calls are being silenced, as bureaucratic and institutional interests continue to take precedence over human lives.
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APPENDIX

jc/pdes

30 July 2009

Draft: not for circulation

UNHCR policy on
refugee protection and
solutions in urban areas

July 2009
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1. Introduction

[1] A growing number and proportion of the world’s refugees are to be found in cities, a trend that reflects the broader pattern of rapid urbanization that is taking place throughout the globe, especially in developing regions. But this development is also a result of the difficult conditions of life in many refugee camps. Finding themselves in situations where their rights are seriously restricted and their needs are not properly met, significant numbers of refugees have left the camps they once lived in so as to take advantage of the better opportunities and services that appear to be available in urban areas.

[2] As well as increasing in size, the world’s urban refugee population is also changing in composition. In the past, a significant proportion of the urban refugees registered with UNHCR were young men who possessed the energy and determination needed to survive in the city. Today, however, large numbers of refugee women, children and elderly people are also to be found in urban areas, particularly in those countries where camps have not been established.

[3] This is particularly the case in the cities of Amman (Jordan), Beirut (Lebanon), Cairo (Egypt) and Damascus (Syria), where a large-scale influx of refugees from Iraq, as well as a smaller number of arrivals from the Horn of Africa, has led to a considerable increase in the world’s urban refugee population. According to UNHCR’s most recent statistics, around half of the world’s refugees now live in cities.

[4] Responding to these important developments, UNHCR has undertaken a review of its existing policy on refugees in urban areas, a document which dates back to 1997. On the basis of this review, the Office has concluded that a new UNHCR policy is required, better suited to the challenges and opportunities now confronting the organization and its beneficiaries in urban settings.

[5] This paper presents the new policy, and thus replaces the 1997 document. It is intentionally concise, setting out the broad contours and underlying principles of UNHCR’s engagement with urban refugees.

[6] The paper does not provide detailed operational guidelines, and recognizes the need for the policy to be adapted to the specific circumstances of different countries and cities. The policy is primarily related to the situation of urban refugees in developing and middle-income countries.

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17In some countries, for example, refugees have the option of living in a camp or organized settlement, whereas in others they do not. Some countries with urban refugee populations have signed the 1951 Refugee Convention and provide refugees with a legal status, residence rights and the right to work. In other countries such conditions do not prevail. In some countries where camps exist, refugees are officially obliged to stay there.
2. Places of protection

[7] This policy statement is based on the principle that UNHCR’s mandated responsibilities towards refugees are not affected by their location, the means whereby they arrived in an urban area or their status (or lack thereof) in national legislation. The Office considers urban areas to be a legitimate place for refugees to seek and be provided with protection and solutions.

[8] At the same time, UNHCR recognizes the difficulties that can arise in situations where significant numbers of refugees spontaneously take up residence in urban areas.

[9] Such movements can place considerable pressure on resources and services that are already unable to meet the needs of the urban poor. Refugees who move to a city may also expose themselves to protection risks such as detention and deportation, especially in situations where they are officially excluded from urban areas and the labour market.

[10] To avert such scenarios, UNHCR considers it essential for host states and the international community to ensure that refugees who are accommodated in camps are able to exercise all the rights to which they are entitled and are able to live in acceptable conditions. Unless they are able to live secure and productive lives, some camp-based refugees will inevitably feel compelled to move to an urban area, even if they are not formally allowed to do so.

3. Protection space

[11] When refugees take up residence in an urban area, whether or not this is approved by the authorities, UNHCR’s primary objective will be to preserve and expand the amount of protection space available to them and to the humanitarian organizations that are providing those refugees with protection, assistance and solutions.

[12] While the notion of protection space does not have a legal definition, it is a concept employed by the Office to denote the extent to which a conducive environment exists for the internationally recognized rights of refugees to be respected and their needs to be met.

[13] In most refugee situations, protection space is not static, but expands and contracts periodically according to changes in the political, economic, social and security environments. This other countries, the movement of refugees from camps to urban areas is either permitted or tolerated.
process cannot be measured with any degree of scientific precision, but can be assessed in a qualitative manner on the basis of several different criteria. These include, for example, the extent to which refugees:

- are threatened by protection risks such as arbitrary eviction, detention and deportation, harassment or extortion by the security services;
- enjoy freedom of movement, association and expression;
- have access to the labour market and are protected from exploitative treatment by employers, landlords and traders;
- are able to gain secure residency rights and be provided with documentation;
- have access to public and private services such as healthcare and education;
- are able to benefit from the solutions of voluntary repatriation, local integration and resettlement; and,
- enjoy harmonious relationships with the host population, other refugees and migrant communities.

The extent to which ‘protection space’ exists in a refugee situation can also be assessed in terms of the circumstances in which UNHCR and its humanitarian partners are able to work. In simple terms, the protection space can be regarded as relatively narrow in situations where the Office has restrictions placed upon its movements and activities, is limited in its ability to make direct contact with refugees, is unable to choose its own implementing partners and does not enjoy a constructive dialogue with national or municipal authorities. In situations where these conditions pertain, however, the protection space can be considered to be relatively broad.

4. Key principles and approaches

UNHCR’s policy on refugees in urban areas thus has two principal objectives:

- to ensure that cities are recognized as legitimate places for refugees to reside and exercise the rights to which they are entitled; and,
- to maximize the protection space available to urban refugees and the humanitarian organizations that support them.

The remaining sections of this paper identify the principal ways in which UNHCR will strive to attain those objectives.

Before proceeding to that analysis, however, it is necessary to underline that UNHCR’s work with refugees in urban areas is underpinned by exactly the same set of principles and approaches that apply to all other aspects of the organization’s work.

First, in urban as in other contexts, UNHCR considers states to have primary responsibility for the protection of refugees. At the same time, the Office stands ready to support the authorities by
means of operational activities and capacity-building initiatives if the government lacks the means to exercise this responsibility itself. Such support should ideally be provided for a limited period, pending the time when the state is able to undertake key functions such as refugee status determination, and the provision of services and assistance to refugees.

[18] Second, the work of the Office in urban areas is based on the principles of Age, Gender and Diversity Mainstreaming (AGDM). This approach recognizes that the different groups to be found within any refugee population have varying interests, needs, capacities and vulnerabilities, and seeks to ensure that these are taken into full account in the design of UNHCR programmes.

[19] For example, while young refugee men are not normally considered to be particularly vulnerable, those who work illegally and in the informal sector of urban areas may be at particular risk of detention, deportation, exploitative and hazardous employment. UNHCR also recognizes that refugee women and girls may be put at risk if steps are not taken to address the diminished role of men when they lose their role as family breadwinner.

[20] Third, UNHCR’s activities in urban areas are based on the notion of equity. In accordance with this principle, the Office will take steps to ensure that all of the refugees living in an urban area enjoy the same amount of protection space, that they are treated in the same way by UNHCR and that any assistance they receive is commensurate with their needs and is not based on other considerations, such as their nationality.

[21] Fourth, UNHCR’s approach to urban refugee populations is both rights and community-based. Like all refugees, those who live in cities are entitled to protection and solutions. In its efforts to realize those entitlements, the Office will encourage host governments to accede to and respect the international refugee instruments and to adopt appropriate domestic refugee legislation. At the same time, UNHCR is committed to capacitating and empowering refugee communities so that they can exercise their rights, while at the same time fostering harmonious relations between refugees and other members of the urban population.

[22] Partnership is a fifth key component of UNHCR’s work, requiring the Office to establish effective working relationships with a range of different stakeholders. In urban contexts, these will normally include national and municipal authorities, the police and judiciary, the private sector, development agencies, UN Country Teams, NGOs, legal networks and other civil society institutions. All of these actors have an important role to play in expanding the protection space available to refugees. UNHCR will strive to maximize the contribution that each of these stakeholders makes to the task of refugee protection and solutions.
Sixth, UNHCR recognizes that the establishment of partnerships with these other actors does not absolve UNHCR of the responsibility to have direct contact with refugees in urban areas. While acknowledging that a relatively small number of urban residents can absorb much of the time, energy and resources of a UNHCR office, the agency is committed to the establishment of mechanisms that enable the organization to reach out to urban refugees and to ensure that they are aware of their rights, obligations and opportunities.

Finally, UNHCR’s work in urban (as in other areas) is based on a commitment to upholding the dignity, self-esteem, social and economic standing of refugees, particularly by means of vocational training, livelihoods promotion and self-reliance initiatives. While these can be difficult tasks in situations where refugees are formally barred from the labour market and are not permitted to engage in income-generating activities, the livelihoods-oriented approach that UNHCR has developed in relation to protracted refugee camp situations is of equal relevance in the urban context.

5. Providing reception facilities

Asylum seekers and refugees living in urban areas frequently seek direct access to UNHCR’s offices in order to register with the organization, apply for refugee status, report on protection problems and request help in the form of assistance and solutions. It is therefore essential for UNHCR to establish reception arrangements that are both convenient for refugees and which facilitate the work of the organization’s staff.

UNHCR will respect a number of basic principles with regard to reception arrangements in urban areas.

First, no refugee or asylum seeker will be prevented from having direct access to UNHCR offices and staff members, although such access will, of course, have to be carefully regulated and supervised.

Second, UNHCR will provide appropriate facilities in the waiting rooms and reception areas that are established in urban areas. Such facilities will include access to clean drinking water and bathrooms, adequate shade or heat, and special facilities for disabled people, children and women, especially pregnant and lactating mothers.

Efficient appointments and referral systems will be established, so as to minimize the length of time that refugees are kept waiting at UNHCR’s offices and to limit the number of people gathering there. Such systems will provide for the priority reception of people who wish to report urgent protection problems and security threats. These systems will also keep persons of concern informed.
about the progress of their refugee status determination, resettlement and assistance applications.

[30] Most UNHCR offices, especially those in developing countries, employ security guards to ensure that good order is maintained when refugees and asylum seekers approach the organization’s premises. UNHCR will ensure that such guards are easily identifiable by refugees and that they are provided with training about UNHCR’s mandate and Code of Conduct. A zero-tolerance policy will be applied by the Office in situations where security guards are found to be engaging in an improper behaviour, including corruption, exploitation, physical and verbal abuse.

[31] Refugees and asylum seekers will be provided with relevant information when they approach a UNHCR office, translated into their own language whenever possible. Such information may be transmitted by means of leaflets, posters or video films, and will cover issues such as the rights and responsibilities of asylum seekers and refugees; registration and refugee status determination processes; the procedures to follow in the event of a protection threat or urgent medical problem; the services provided by UNHCR and other agencies; and durable solutions options.

[32] In addition, persons of concern to the Office will be informed that UNHCR services are provided free of charge, and that UNHCR staff members are bound by a Code of Conduct which bars them from engaging in abusive, exploitative or corrupt behaviour.

6. Undertaking registration and data collection

[33] The importance of registering refugees and asylum seekers residing in urban areas cannot be overstated. It is a vital tool of protection, as it provides protection against refoulement, access to basic rights, the identification of refugees with urgent needs, the reunification of refugee families and the pursuit of durable solutions. Registration also enables UNHCR to collect accurate statistics on urban refugee populations and thereby facilitates the task of programme planning and budgeting.

[34] It has not proved easy for UNHCR to undertake the systematic registration and enumeration of city-based refugees, as they are often dispersed throughout sprawling urban areas, unlike those who have congregated in highly visible camps. In some situations, moreover, people who are of concern to UNHCR prefer for various reasons not to make themselves known to the organization. As a result, UNHCR’s efforts to collect information on urban refugee populations have sometimes been confined to those people who are receiving different forms of assistance and support from the organization.

[35] In view of the fact that non-assisted refugees remain of concern to UNHCR, and that they
may well encounter difficulties in relation to their protection and solutions, the Office will endeavour to register and collect data on all urban refugees, and to disaggregate that data in accordance with AGDM principles.

Registration and data collection will not be confined to capital cities, but will be extended to provincial centres where refugees are to be found. To ensure comprehensive coverage, mobile registration teams may be employed to engage with refugees in their homes, neighbourhoods and community centres.

In urban areas where refugees and asylum seekers are arriving alongside other people who are on the move, UNHCR’s ‘10 Point Plan of Action on Mixed Migratory Movements’ provides a valuable framework for action. Those parts of the Plan dealing with data collection and analysis, reception arrangements and mechanisms for profiling and referral are of particular relevance in this respect and will be utilized by UNHCR’s offices.

7. Ensuring that refugees are documented

Refugees and asylum seekers in urban areas are likely to come into regular contact with a variety of official actors, including police and security personnel, local government officials, workplace and marketplace inspectors, as well as service-providers in areas such as healthcare and education. In such a context, the provision of documents to persons of concern to UNHCR, attesting to their identity and status, can play an important role in the prevention and resolution of protection problems.

To maximize their effectiveness as a protection tool, UNHCR will endeavour to ensure that such documents are issued or, if they are provided by UNHCR, are formally recognized by the authorities. Such documents will ideally be presented in the national language and stipulate the rights to which the document holder is entitled. Children born to refugees and asylum seekers will be registered and provided with an identity document, either by the authorities or by the Office.

UNHCR’s efforts in the area of documentation will be supported by sensitization and advocacy campaigns, targeted at both refugees and at representatives of the host state, so as to ensure that there is a mutual understanding with regard to rights and responsibilities of refugees.
8. Determining refugee status

[41] In many urban contexts, national refugee status determination (RSD) systems are either non-existent or dysfunctional, requiring UNHCR to exercise its mandate in relation to the examination of asylum applications and the recognition of refugees.

[42] The difficulties associated with such situations are well known, and include the limited capacity of UNHCR to undertake RSD in a thorough and efficient manner; the dispersal of asylum seekers throughout a city and the consequent difficulty of maintaining contact with them while their claim is assessed; and the frequent absence of legal advice and material support for refugee claimants.

[43] Such problems are compounded by the fact that asylum seekers often have to wait long periods of time for their applications to processed, and yet in many instances are officially prohibited from working or gaining an income while they wait for a decision to be made on their case.

[44] While there are no simple solutions to such difficulties, UNHCR will strive to address them in a number of ways, including transparent and consistent RSD procedures; secure and private RSD interview facilities; staffing arrangements that enable timely and quality assessments to be made (including short-term deployments when backlogs threaten to build up); harmonized RSD procedures and criteria at the level of the city, country and region; and independent appeals procedures.

[45] With regard to legal and social counselling and the preparation of individual asylum applications, UNHCR will encourage NGOs, legal networks and human rights organizations to play an active role in the procedure. In appropriate situations, moreover, UNHCR may recognize refugees on a *prima facie* basis and thereby avert the need for the individual assessment of asylum applications.

9. Reaching out to the community

[46] It is often assumed that persons of concern who reside in urban areas enjoy easy access to UNHCR. That is not necessarily the case. Refugees may be effectively confined to a slum area, shanty town or suburb, a long and expensive journey away from the UNHCR office. In situations where refugees are not welcomed by the local authorities and population, they may also feel obliged to limit the extent to which they venture outside their place of residence. Some refugees might not even know of UNHCR, while others may be confined to their homes as a result of disability or sickness.
Further complications arise from the fact that urban refugees are often scattered throughout a city, making it difficult to make contact with them, to determine their needs and identify the most vulnerable amongst them. In refugee camps, UNHCR and its partners have a ‘captive audience’, concentrated in a restricted space which is in some respects designed to facilitate the provision of protection and assistance. That is not the case with regard to urban areas.

To address such difficulties, UNHCR will pursue a community outreach approach in urban areas where significant numbers of refugees have congregated. Such programmes will adopt a variety of different methods, including:

- the engagement of trained refugee Outreach Volunteers who are able to keep in daily contact with all segments of the refugee community and to liaise with UNHCR;18

- the establishment of local community centres, where refugees and other members of the urban population can socialize and gain access to information, services, counselling and recreational facilities;

- an active programme of community communications (replacing the former UNHCR notion of ‘mass information’) that enables UNHCR to keep in touch with refugees by means of SMS messages, telephone hotlines, interactive websites, cultural events and complaints boxes;

- sample surveys and opinion polls, undertaken or commissioned by UNHCR with the intention of gaining a better knowledge of the living conditions, attitudes, intentions and aspirations of urban refugees; and,

- the establishment of Field Units and Field Offices in cities and countries with particularly large and dispersed urban refugee populations.

In addition to such activities, UNHCR staff will strive to make periodic visits to the neighbourhoods where refugees have congregated and to facilities used by refugees, such as schools and health centres. Visits to local police stations, immigration detention centres, prisons, human rights and civil society organizations will also be undertaken.

18In Syria, for example, Iraqi Outreach Volunteers undertake the following tasks: identifying and visiting particularly vulnerable refugees and referring them to UNHCR if necessary; providing refugees with counselling and practical forms of assistance; facilitating refugee access to services and passing on relevant information with respect to UNHCR’s assistance programme; identifying community resources and mobilizing refugees to play an active role in support of their compatriots; sharing information so as to gain a better understanding of the refugee population, including their location, movements and living conditions; supporting UNHCR’s public information and external relations activities by making presentations to donor states and the media.
10. Fostering constructive relations with refugees

[50] It is no secret that UNHCR’s relationship with refugees in urban areas has sometimes been a tense one, characterized by a degree of mutual suspicion. This has been to some extent inevitable, given the unrealistic expectations that some refugees have of what UNHCR can provide to its city-based beneficiaries in terms of protection, solutions and assistance.

[51] In view of such difficulties, UNHCR’s community outreach and communications efforts will form part of a broader strategy to establish a constructive dialogue and positive partnership with refugees in urban areas. This is an admittedly challenging task, especially in cities where refugees are frustrated by the absence of solutions or their exclusion from the labour market, and where exiled populations are fragmented along national, ethnic, religious or ideological lines.

[52] In its efforts to work with these communities, UNHCR will hold regular meetings with groups of urban refugees and their representatives, whenever possible in the areas where they reside. UNHCR will also support (and encourage other actors to support) the cultural, social, recreational, sporting and community activities of refugees in urban areas. The Office will also facilitate the establishment of urban refugee associations, especially those which promote self-reliance and community support.

[53] In refugee camps, UNHCR has recognized that such activities can play an important part in maintaining the individual self-esteem and social fabric of communities which find themselves in very difficult circumstances. The same principle will guide the organization’s work in urban areas. One means to such ends will be the establishment of specialized ‘refugee support groups’, which enable appropriately qualified refugee volunteers to advise their compatriots and fellow exiles in relation to issues such as health, education, sexual and gender-based violence.

[54] UNHCR acknowledges that the tasks of reaching out to the urban refugee community and fostering good relations with its members will require some adjustments to the way the organization operates. Such tasks are, for example, the primary responsibility of the Community Services function, and yet that function has not enjoyed particularly high levels of esteem, visibility or funding in the recent history of the organization.

[55] If, as the High Commissioner has predicted, urban refugee numbers are destined to grow in the years to come, then this function will have to be reinforced and reoriented to address the specific challenges that confront UNHCR when working in cities. A first step in this direction will be a review of the adequacy of existing tools, beginning with the 2008 publication ‘A Community-Based Approach to UNHCR Operations’.
An additional step will be to promote the development of closer field level links between the community services, protection and programme functions. As a recent UNHCR report has observed, “community services play a major role in the identification of protection problems and have an equally important role to play in the formulation of appropriate programmatic responses to those problems.”

In keeping with the spirit of this statement, UNHCR will encourage the establishment of multifunctional teams in cities with large refugee populations, comprised of staff from the community services, protection and programme functions. As well as developing a common strategy for community outreach and communications, such teams will monitor and assess the impact of implementing partner activities, ensure that such partners have established beneficiary complaints and accountability mechanisms, that they engage refugees in programme design and work in accordance with AGDM principles.

11. Promoting livelihoods and self-reliance

Urban refugees are often confronted with numerous legal, financial, cultural and linguistic barriers in their efforts to establish independent and sustainable livelihoods. In many cases, they have little alternative but to join the informal economy, where they find themselves competing with large numbers of poor local people for jobs that are hazardous and poorly paid. In some cases, employers may actually choose to engage refugees rather than nationals, but only because they are less likely to complain or seek redress if they are treated unfairly.

To the extent possible, and when permitted by the authorities, UNHCR will support the efforts of urban refugees to become self-reliant, both by means of employment or self-employment. In pursuit of that objective, the Office will work in close partnership with the authorities, development agencies, microfinance organizations, banks, the private sector and civil society institutions, especially those that have experience in the area of livelihoods and have a good knowledge of local market constraints and opportunities.

Such activities will be based on AGDM principles, will be complemented by advocacy efforts that are designed to remove any legal barriers to self-reliance, and will be supported by vocational training, skills development and language programmes that will assist refugees in their efforts to become self-reliant.

One of the most difficult questions confronting UNHCR in urban contexts is whether to promote refugee livelihoods and self-reliance in countries where they are denied the right to gain an income under national law and practice.

The Office will adopt a flexible approach in relation to this matter. It would clearly be irresponsible for UNHCR to undermine the protection of refugees by exposing them to situations where they are at risk of arrest, detention and deportation. At the same time, there are many situations in which such laws are not applied in practice, and where the authorities turn a blind eye to the economic activities of refugees.

In such contexts, UNHCR will encourage and support the efforts of refugees to become self-reliant in a judicious manner, focusing on low-risk activities such as the establishment of small-scale and home-based enterprises. In its advocacy efforts with the authorities, UNHCR will also point out that providing refugees with skills is a valuable way of retaining their dignity, maintaining social capital and preparing them for durable solutions.

UNHCR’s expectations about the potential for self-reliance amongst urban refugees will be realistic. People who have no legal status, who do not have the right to work, who are subjected to legal, social, economic and racial discrimination, who have limited access to public services and few systems of social support, cannot realistically be expected to become self-reliant in a short period of time.

The Office will also make a clear distinction between self-reliance and a refugee’s ability to survive without assistance. Unassisted refugees cannot be regarded as self-reliant if they are living in abject poverty, or if they are obliged to survive by means or illicit or degrading activities.

UNHCR also recognizes that some urban refugees may be disinclined to engage in economic activities, especially those who are active in exile politics and who are able to live on the remittances they receive. The Office will not provide material support to those refugees who are unwilling to take up the livelihoods opportunities that are available to them.

12. Strengthening public and private services

Refugees in urban areas are confronted with a number of disadvantages in comparison with other low-income city-dwellers. In addition to the protection problems with which they are
confronted, they often lack the social networks and community support systems that help poor nationals to survive. They may also find it difficult to access or afford the often overstretched healthcare, education and other services on which the local population relies.

[68] To address this issue, UNHCR will adopt a three-pronged strategy. First, the Office will advocate on behalf of its beneficiaries, with the intention of convincing the authorities to make public services available to refugees at no or a minimal cost.

[69] Second, UNHCR and its partners will monitor the health, nutritional status, living conditions and general welfare of urban refugees, so as to ensure that these do not fall below acceptable standards. The information collected in this way will also be used to support UNHCR’s advocacy efforts and to target the organization’s limited resources on the most vulnerable individuals and most critical welfare gaps.

[70] The third component of UNHCR’s strategy will be to augment the capacity of existing public and private services, both directly (when funding is available) and through the engagement of other UN agencies, such as UNDP, UN-HABITAT, UNICEF and WHO, as well as the involvement of appropriate NGOs and civil society organizations. To attain this objective, UNHCR will work closely with UN Country Teams, encouraging them to include refugees in municipal development and poverty-reduction programmes.

[71] As a general rule, when working in urban areas, UNHCR will avoid the establishment of separate and parallel services for its beneficiaries, and will instead seek to reinforce existing delivery systems, both public and private. As well as being a more efficient use of limited resources, this approach has the added benefit of encouraging the authorities and the local population to recognize the additional resources that urban refugees can bring to the cities in which they have settled.

[72] Given the need to prioritize its efforts and allocation of resources, UNHCR will focus on the provision of services to those beneficiaries whose needs are most acute. While these priorities will vary from city to city, they will usually include:

- safeguarding the health and nutritional status of pregnant and lactating women, children under five, the elderly and those who are seriously ill;

- providing primary school education to refugee children, as well as identifying and supporting children who are at risk, especially those who are unaccompanied or separated; and,
• providing care and counselling to refugees with special needs, especially disabled people, those who are traumatized or mentally ill, victims of torture and sexual and gender-based violence.

13. Meeting material needs

[73] Because of the difficulties that confront many urban refugees in their efforts to become self-reliant, UNHCR has in many situations provided regular cash payments to those who are unable to support themselves.

[74] Such programmes have a chequered history, however, as they are difficult to administer in an equitable manner and, once they have been established, are very difficult to terminate without provoking negative reactions from the recipients. Because of the perceived abuse of such payments by refugees who have other sources of income, they have often required the establishment of means-testing mechanisms that are both resource intensive and ineffective. Cash payments may also deter some refugees from trying to establish independent livelihoods when such opportunities are available to them.

[75] On the basis of this experience, the provision of cash allowances to refugees will in most instances be an exceptional measure, granted on a time-bound basis and only when an individual’s survival is at stake and alternative means of support do not exist.

[76] When it is necessary to make cash payments to refugees, they will be based either on the national minimum wage or, if a minimum wage does not exist, at a level assessed by relevant UN agencies, such as ILO or UNDP. The provision of cash payments will always be accompanied by efforts to find livelihoods for those who are in receipt of such benefits, except for those who are unable to work by virtue of their age, physical or mental capacity.

[77] In situations where self-reliance is not a viable objective, UNHCR and its partners will seek alternatives to the payment of cash allowances. These might include the establishment of collective accommodation centres (as long as they meet acceptable standards), the provision of subsidized housing, as well as the distribution of free or subsidized foodstuffs and other basic necessities. In situations where the state provides subsidized goods to its citizens, every effort will be made to incorporate refugees in such welfare programmes.

[78] In countries where refugee camps have been established, persons of concern to UNHCR who are unable to survive in the city will be offered the opportunity and means of transport to take up
residence in a camp. In doing so, the Office will take great care to avoid giving the impression that this is an obligation and that by choosing to remain in an urban area refugees will forfeit the protection of UNHCR.

UNHCR’s policy on the provision of assistance to refugees in urban areas is an admittedly and necessarily restrictive one, given the limitations of the organization’s budget and the general preference of refugee-hosting countries to avoid the growth of large urban refugee populations. The policy will, however, be applied in a sensitive and flexible manner.

UNHCR recognizes that a variety of different protection and social welfare problems are likely to arise in situations where refugees are unable to meet their basic needs. Higher levels of physical and mental illness, as well as an increased incidence of delinquency and domestic violence may well occur in such scenarios.

If they cannot support themselves by legitimate means, some refugees may become involved in activities such as theft, drug dealing, smuggling and prostitution. They may also seek to move on to other countries, often by irregular means, or return prematurely to their country of origin. Recognizing the negative consequences of such survival strategies, UNHCR and its partners will monitor the situation of urban refugees closely, so as to identify and address such problems as soon as they occur.

While it is taken for granted that camp-based refugees will receive indefinite assistance if they are unable to engage in agriculture and other economic activities, it is sometimes assumed that refugees in urban areas are able to cope in the absence of such support. That is not necessarily the case, especially in countries where refugees have no legal status or residency rights, are not allowed to engage in income-generating activities, where they are deprived of access to public services on the same terms as nationals, and where the option of being assisted in a camp does not exist. Refugees may also be severely hampered in their efforts to support themselves by discrimination on the basis of their nationality, ethnic origin or religion.

In circumstances such as these, particular care will be taken by UNHCR to identify those refugees who need support and to determine and provide the level of assistance they require. At the same time, host governments will be consistently encouraged to remove any legal obstacles which prevent refugees from becoming self-reliant.

UNHCR is fully aware that the minimization and premature termination of the assistance it provides to urban refugees may be contrary to the organization’s commitment to the principles of AGDM. As one UNHCR report has pointed out, “ensuring the healthy development of children and assisting refugee women engaged in building the future of their family must mean a level of engagement which goes some way beyond providing the minimum level of support for the shortest
possible time.”

This observation will be taken into full account in the implementation of UNHCR’s urban refugee policy.

[85] In many countries, UNHCR has engaged in periodic means-testing so as to determine the assistance needs of refugees living in urban areas. Experience has shown, however, that means-testing often creates considerable resentment and prompts refugees to conceal their assets and level of income.

[86] As a result, UNHCR and implementing partner staff, ostensibly employed as social workers, become progressively involved in the tasks of inspection, spot-checking, interrogating and generally ‘policing’ the refugee population, a tendency which has done further damage to UNHCR’s relationship with refugees in urban areas.

[87] To minimize such difficulties, means-testing exercises will be undertaken by properly trained UNHCR and implementing agency staff, and will be combined with other and more positive initiatives relating to the well-being of refugees. Home visits, for example, provide a good opportunity for the identification of protection-related issues as well as the collection of information about refugees’ aspirations, intentions, education and skills - data that has an evidently useful role in the development of self-reliance and durable solutions strategies.

[88] With respect to asylum seekers in urban areas, UNHCR will make every effort to ensure that such people are assisted by the municipal authorities, NGOs, community-based and civil society organizations pending an assessment of their claim.

[89] If no other source of support is available and if the well-being of an asylum seeker would otherwise be at serious risk, UNHCR will provide that person with limited forms of assistance, such as emergency medical treatment. UNHCR will also endeavour to meet any specialized needs that have arisen from the circumstances of an asylum seeker’s flight. Those who have injuries or who are seriously disturbed, for example, may require specialized health care and counselling.

14. Promoting durable solutions

[90] As in any other context, UNHCR’s activities in urban areas will be oriented towards the early attainment of durable solutions for all refugees. A comprehensive approach will be adopted, recognizing that different refugees may benefit from different solutions.

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In urban settings, where refugees tend to be better educated than those who live in camps, openness and transparency on the part of UNHCR are of particular importance. Refugees will consequently be provided with full and accurate information about the durable solutions options available (and not available) to them. To avert the spontaneous movement of refugees from camps to urban areas and from one country of asylum to another, UNHCR will also strive to ensure that all refugees within a given country and region enjoy equal treatment and have equal access to durable solutions opportunities.

On the basis of the latter principle, the procedures employed by UNHCR to facilitate voluntary repatriation, local integration or resettlement will not differ significantly in the case of urban and camp-based refugees. At the same time, some specificities of the urban context will be taken into account.

With regard to voluntary repatriation, refugees will not be disadvantaged because they live in an urban area. They will benefit from the information and guidance that UNHCR provides to potential returnees and will be assisted to return to their country of origin, whether by means of transport, a cash grant, a repatriation package or a combination of these resources. Urban refugees will also benefit on an equal basis from any reception and reintegration support provided by UNHCR in the country of origin.

As far as the solution of local integration is concerned, UNHCR has an important role to play in identifying those individuals and groups of urban refugees who are best placed to, who wish to and are allowed to settle on an indefinite basis in their country of asylum.

Earlier sections of this paper have referred to some of the ways in which UNHCR can promote the socio-economic dimensions of this process, by, for example, supporting refugee livelihoods, encouraging them to become self-reliant and enabling them to access public services. UNHCR will also play a role in relation to the legal and political dimensions of local integration. Relevant activities might include:

- public information and media campaigns that combat xenophobia and racism and thereby create an environment that is conducive to local integration;

- advocacy and technical assistance efforts that encourage the authorities to facilitate the naturalization process by means of appropriate legislation and procedures; and,

- information, training and integration programmes for refugees that enable them to learn the local language, to develop a better knowledge of the society in which they intend to settle and to understand the naturalization process.
One of the factors that is said to encourage refugees to reside and remain in urban areas is the prospect of resettlement to a third country. Indeed, the quest for resettlement is often alleged to be at the root of some other problems that frequently confront UNHCR in urban contexts: the reluctance of some refugees to pursue other durable solutions that are available to them; the submission of resettlement requests that are based on inaccurate information and exaggerated claims of vulnerability; and the persistent efforts of refugees who wish to be resettled, often those who are most articulate and vocal, to gain access to UNHCR’s premises and staff.

Such considerations will not detract from the fact that UNHCR’s mandate is to protect and find durable solutions for refugees, and that these objectives can sometimes best be met (and indeed only be met) by means of resettlement.

Given the protracted nature of many refugee situations, it is also understandable that many refugees, especially those with special needs (e.g. disabled people, those with chronic health problems, female-headed households and victims of sexual and gender-based violence) and those with specific assets (e.g. higher education, professional or vocational skills, family members living abroad) should regard resettlement as their preferred solution.

Any determination that resettlement is needed for individual refugees will be made with strict reference to the criteria set out in UNHCR’s Resettlement Handbook. Those criteria will also be applied in a fair, consistent and equitable manner so as to counter the hostility that can arise if one urban refugee group feels that it is being treated less favourably than another.

In a number of countries around the world, the authorities have ruled out the local integration of refugees, have placed serious constraints on their ability to become self-reliant and have insisted that UNHCR organize the resettlement of such persons of concern. When resettlement is undertaken in such circumstances, there is an evident risk that additional asylum seekers and refugees will be attracted to the country and city concerned, leading to the growth of an unmanageable urban caseload.

To avert such scenarios, UNHCR will advocate for more positive government policies on the issues of local integration and self-reliance, and will also point out that a ‘resettlement only’ approach to durable solutions on the part of a government may actually increase rather than diminish the number of refugees residing on its territory.
15. Addressing mobility issues

[102] While recognizing the difficulties that can arise for UNHCR and the authorities when large numbers of refugees leave their camp and move to a city, there is also a need for some understanding with respect to such movements. Freedom of movement is a principle enshrined in international human rights law, and UNHCR encourages states to respect it.

[103] Any mobility restrictions placed on camp-based refugees should also take account of the need for people to move to a city, in order, for example, to reunite with family members or to seek medical treatment. The Office will ensure that refugees who make such journeys are provided with identity documents and will advocate with the authorities and security services to ensure that they are not penalized for travelling.

[104] There is also considerable evidence to suggest that many refugees move to urban areas because their physical and material security are at risk in their camps, because secondary and tertiary education opportunities are non-existent there, because they do not have access to livelihoods and because they have no immediate prospect of finding a solution to their plight.

[105] In order to avert the need for refugees to move to urban areas, UNHCR will endeavour to ensure that acceptable standards of protection and assistance are available in camps, as well as educational, recreational, wage-earning and other income-generating opportunities. Camp-based refugees will have the same access to resettlement opportunities as refugees living in urban centres. Finally, UNHCR will disseminate relevant information to refugees in camps so as to counter the images and rumours that may encourage them to move to urban areas.

[106] Refugees who have the option of living and receiving assistance in a camp but who choose to reside in an urban area should not normally receive material support from UNHCR. This principle may be waived in situations where a refugee has a demonstrable need to leave their camp, a scenario which is most likely to arise when that person is confronted with specific protection or security problems. It may also be legitimate for UNHCR to help camp-based refugees to reunify with close family members who reside in urban areas, especially when those family members are self-reliant.

[107] Some of the individuals who seek to register with and receive support from UNHCR in urban areas have arrived from other countries where they either have lived for a period of time or through which they have transited. It is not always evident whether they have sought asylum in that country and found effective protection there.
Executive Committee Conclusion 58 stipulates that refugees who have found effective protection in a particular country should normally not move on to another state in an irregular manner. The Conclusion also provides for the return of such individuals to the country where they enjoyed effective protection, with UNHCR’s involvement in their readmission and reception.

The issue of ‘secondary’ or ‘onward’ movements has proven to be extremely complex and controversial, and cannot be explored at length in this paper. Much of the debate has focused on the meaning and measurement of ‘effective protection’ and the circumstances under which it is legitimate for a refugee or asylum seeker to move from one country to another. The difficulties associated with return and readmission to the first country of asylum have added another and more practical element to this discussion.

UNHCR considers that an assessment must be made as to whether a person has found effective protection in another country before they are admitted to regular RSD procedures. If they are deemed to have engaged in an onward movement, then the UNHCR office concerned will consult with the UNHCR office in the country of first asylum to explore the possibility of return. When that country refuses readmission or if return is not possible for any other reason, then that person will be treated like any other refugee.

When readmission can be arranged, UNHCR will counsel the person concerned and offer them incentives to return. Such individuals will not be compelled or induced to return by refusing them protection or denying them essential needs. Unless they are confronted with serious protection problems, they will not be considered for resettlement.