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Cash in hand

Urban refugees, the right
to work and UNHCR's
advocacy activities

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Policy Development and Evaluation Service

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Introduction

1. As a dispersed population that often lacks secure legal status and access to social services, urban refugees face particular challenges. Urban economies are cash-based, and work is the key livelihoods strategy for refugees in urban settings. By becoming self-reliant and productive, refugees with the legal right to work can benefit their local communities and host countries in addition to improving their own situations. Urban livelihoods and refugees' right to work are therefore priorities for the UN High Commissioner for Refugees (UNHCR), and advocacy is an essential tool to help its staff to reduce barriers to this right.

2. In definitional terms, advocacy can be a means to influence policy in favour of persons of concern; to change behaviour and attitudes; to argue in favour of someone or something; or to help make others' voices heard. In some settings, particularly where the term "advocacy" is politically sensitive, it is referred to instead as "outreach", "liaison," or "policy dialogue." As this paper tries to show, its targets can and should include not just government officials but private sector entities, the host community, donors and others.

3. The research examined three countries in which livelihoods assessments had been carried out, but where the right to work remains both out of reach for most urban refugees and a difficult topic on which to conduct advocacy, due to socio-economic conditions, the host government's position on integration or other factors. These cases were chosen to highlight some of these challenges as well as to search for good practices or lessons learned in the face of adversity. In most instances, there is no formal advocacy strategy around the right to work *per se*, though in certain cases advocacy is planned as part of livelihood strategies that have recently gotten underway.

4. Even where refugees have the right to work and the situation seems more promising (e.g. Latin America), formal advocacy strategies are still needed at the national level.¹ As a result, data are scarce on responses to UNHCR and partner efforts to enhance the right to work. The paper therefore takes some licence in pointing to practices that could inform an advocacy strategy and be considered good practice, even if they are not always labelled as such in the field, and their actual impact has not been formally measured. Although the cases examined illustrate the significant challenges to advocating for urban refugees' right to work, they also confirm the importance of advocacy as a strategy, and reveal potential lessons for formal advocacy strategies.

5. The research for this paper was based on desk reviews of the literature and semi-structured interviews of several key informants, including staff or consultants from UNHCR and its implementing partners. In addition to India, Yemen and Egypt, the paper touches on other countries or regions where appropriate.

¹ For example, in speaking about the region, a staff member notes that UNHCR staff recognise the need for advocacy around the right to work, and that as offices conduct their livelihoods assessments, the approach is less ad hoc and linked to strategies involving stakeholders at all levels (national and civil society). Interview of Besem Obenson, Regional Livelihoods Officer, DDO-UNHCR Panama, Regional Unit for Operational Support, 17 December 2010.

6. The focus of the paper is on recognised refugees, as advocacy around this group's right to work is already quite challenging. It is worth noting, however, that legal status may not always be a relevant factor. As Bailey points out, many urban refugees lack host country recognition, and even where refugees have "secure legal status," their rights may be restricted by host government policies.

7. Legal urban refugees face situations of deportation, detention and exclusion from employment and self-employment, and "legal status...does not necessarily provide access to the rights guaranteed in international treaties or to socio-economic opportunities." In countries where the state "routinely violate[s] the rights of their nationals", refugees "may be even more vulnerable", and "the distinction between 'legal' and 'illegal' refugees matters less in this context of human rights abuses against nationals as well as non-nationals" (Bailey, 2004, pp. 26-7, 44-5 & 46).

8. The paper refers throughout to UNHCR's revised urban refugee policy (hereafter referred to as the urban policy). The objectives of the policy, published in September 2009, are "to ensure that cities are recognised as legitimate places for refugees to reside and exercise the rights to which they are entitled" and "to maximise the protection space available to urban refugees and the humanitarian organisations that support them" (UNHCR urban policy, 2009, para. 23).²

9. The policy includes a section on "promoting livelihoods and self-reliance," which acknowledges the "legal, financial, cultural and linguistic barriers" that urban refugees often face in trying to earn a living (para. 100). It seems to emphasise advocacy aimed at dismantling legal barriers, but as the research shows, though such barriers are crucial they are not always the main impediment to refugees' right to work. Procedural or practical impediments, local socio-economic conditions, and discrimination may be just as important. As such, advocacy around the right to work must address all of these barriers.

10. The urban policy is not intended to provide "detailed operational guidelines." UNHCR's Operational Solutions and Transition Section (OSTS, Livelihoods Unit) has, however, produced operational guidelines on urban livelihoods and is also creating practical guidelines on advocating for the right to work of displaced populations.³ This paper seeks to highlight challenges and opportunities in this area, and to contribute both to these guidelines and to the larger discussion around enhancing the space for realising urban refugees' right to work.

11. The remainder of the paper is structured as follows. Section 2 briefly presents some of the key issues around the right to work in each of the countries. Section 3 focuses on three particular challenges and possible advocacy responses to these. Section 4 presents a short case for comparison to the three countries. Section 5 proposes possible principles for an advocacy strategy.

² Protection space is defined as "the extent to which there is a conducive environment for the internationally recognised rights of refugees to be respected and upheld" (Crisp et al, 2009, p. 14).

³ See UNHCR, "Urban Livelihoods : Operational Guidelines" (forthcoming, 2011) and UNHCR, "Advocating for the Right to Work: A Practical Guide" (forthcoming, 2011).

The right to work

12. In all three cases examined, urban refugees either lack the legal right to work (India) or are technically allowed to work but in practice unable to access the formal sector due to major challenges, such as government restrictions and high unemployment rates among the host country population (Egypt, Yemen). This is not unusual among hosting states.

13. As one source notes, “while some states do allow the formal and informal economic activity of refugees, a large number of states have restrictive policies that local law enforcement officials use either to justify restricting the displaced from working or permit the economic exploitation of refugees” (WRC, May 2009, p. 8). This section takes a brief look at the context around refugees’ right to work in each of the three focus countries, then discusses selected issues in relation to this right.

Table: Comparison of India, Egypt and Yemen on the right to work for refugees (RTW)

Country	Legal RTW?	Signed instruments?	Refugee profile
India	No	No	Delhi: ca. 15,500 registered persons of concern (65% Afghan, 31% Myanmar) ⁴
Egypt	Yes but major obstacles	Yes, but with restrictions	Cairo and Alexandria: ca. 39,000 registered persons of concern (57% Sudanese, 17% Iraqi, 17% Somali) ⁵
Yemen	Yes but major obstacles	Yes	171,000 registered persons of concern, ca. 95% Somali. Most are in urban areas (Sana’a, Aden) ⁶

14. In India, refugees do not have the legal right to work. The country has not signed the 1951 Convention relating to the Status of Refugees (the 1951 Convention), and there is no national refugee legislation. Of the three countries, it has perhaps the least protection space.

15. In Egypt, the government has signed the 1951 Convention with reservations, including on labour legislation and social security (Art. 24). Refugees are treated the same as other foreigners. Due to these reservations, refugees’ right to work is regulated by domestic legislation governing the employment of foreigners, meaning that refugees must obtain a work permit in the same way as all foreigners (Grabska, 2006, p. 17). One source states that it is “virtually impossible” for refugees and asylum seekers in Egypt to obtain a work permit (WRC, July 2008,

⁴ Mishra, 2009, p. 5. The remaining refugees come from 21 countries.

⁵ UNHCR, Fact Sheet-Egypt, August 2010. Most of the refugees live in Cairo; about 1,200 live in Alexandria. Besides Sudanese, Iraqi and Somali refugees, there are smaller numbers of Ethiopian and Eritrean nationals.

⁶ UNHCR, “Yemen: Analysis of Gaps in Protection of Refugees and Asylum Seekers”, 2010, pp. 11-12. Most of the rest of the refugee population comes from Iraq, Ethiopia, Eritrea and Palestine. About 10% of refugees live in Kharaz camp.

p. 2). Although refugees have the right to work, it is the practical difficulties and the procedural obstacles to obtaining a work permit, more than the legal framework itself, that hinder their ability to work legally. These obstacles include the need for certain documents, which refugees fleeing their homelands often lack, and the cost of obtaining and renewing the work permit, which many refugees simply cannot afford.⁷

16. In Yemen, the government has signed the 1951 Convention and its Protocol. Although refugees have the right to work, however, the dire socio-economic situation is a major obstacle to their exercising this right. Work permits are difficult to obtain, and refugees are subject to restrictions on engaging in trade and self-employment (UNHCR Yemen Gap Analysis, 2010, pp. 10 & 55-6). As with all foreigners, refugees are also restricted from working in certain fields. As a result of these restrictions, most refugees who find paid work are in the informal sector (UNHCR Yemen Gap Analysis, 2010, p. 57).

17. Yemen has no refugee-specific legislation, and refugees are “generally governed as foreigners” (UNHCR Yemen Gap Analysis, 2010, p. 14). However, as of late 2010, UNHCR was working on getting the government to formulate such legislation and to integrate a section specifically on the right to work.⁸ As in Egypt, the law itself may not always be the most important obstacle to refugees’ ability to earn a livelihood: extremely high unemployment and poverty among nationals, and lack of appropriate vocational training and adult education opportunities may be more germane challenges to self-reliance. Against this backdrop, the following are some of the key issues that emerge in relation to the right to work.

18. In some countries (e.g. Egypt), refugees are afforded by law the same right to work as foreign nationals. But they face many obstacles that foreigners do not face, and for which the law does not make exceptions. For example, refugees may lack the necessary documents (diplomas, certificates) required to get a job. They may lack access to the same educational opportunities that foreigners have. They cannot leave and seek work elsewhere if they fail to find employment in the host country. And they may not be able to afford the cost of purchasing and renewing a work permit.

19. In Malaysia, the government does not distinguish between refugees and asylum seekers, on one hand, and undocumented migrants on the other. Refugees therefore have been caught up in government crackdowns on undocumented migrants in recent years. The Women’s Refugee Commission (WRC) has documented how the lack of both legal residency and the right to work have led to extreme vulnerability of refugee women in particular in Kuala Lumpur.⁹

20. All three host countries studied have very high unemployment rates. In India, the informal or “unorganised” sector provides employment for a large percentage of workers: according to one source, some 86% of workers are found in the informal sector in that country (Kumar Naik, 2009, p. 11). In Egypt, high unemployment rates make it difficult for Egyptian nationals to find work, and “even those with higher education have to often work in the informal sector” (Grabska, 2006, p. 15).

⁷Interview with Branch Office Cairo staff, 30 November 2010. The staff note that Sudanese refugees, who have special status due to the Four Freedoms bilateral agreement of 2004 between Sudan and Egypt, are charged only a nominal fee for the work permit.

⁸ Interview with Claire Bourgeois, UNHCR Representative in Yemen, 28 December 2010.

⁹ See, for example, Buscher and Heller, 2010.

21. The picture is most stark in Yemen: one of the world's least developed countries, it has 37% unemployment, and over 35% of the population lives below the poverty line (Madmouj, 2008, p. 16). The informal sector, which is the country's main economic sector, accounts for approximately 95% of small- and medium-sized businesses (UNHCR Yemen Gap Analysis, 2010, p. 57).

22. Regardless of whether refugees have a formal right to work, therefore, employment opportunities are scarce. As a result, if they work at all, urban refugees in all three countries work mostly in the informal sector. As this sector is unregulated, refugees are exposed to exploitation and abuse, and in the case of women refugees, sexual and gender-based violence is a serious problem.

23. Indeed, urban refugees' lack of the right to work may encourage unscrupulous employers to hire them precisely because they can be exploited and abused, and are unlikely to report mistreatment out of fear of arrest, deportation or harassment by the authorities. Lack of access to legal or at least decent work can also force refugees into negative coping mechanisms (begging, theft, child labour, selling sex) in order to survive, thus exposing them to further exploitation.

24. Lack of awareness or suspicion about refugees on the part of the host population may further impede refugees' right to work and make a living. For example, micro-finance institutions and banks are sometimes reluctant to make loans to refugees (for example, to start small businesses) out of fear that they will default. Xenophobia and discrimination have led to mistreatment of refugees in some urban settings. This can make them reluctant to leave their homes for fear of violence.

25. In Yemen, a recent UNHCR assessment noted that self-employment was the preferred form of employment "as it spares refugees from frequent discrimination and harassment" (Gastaldello, 2010, p. 4). In India, refugee parents are "unwilling to send their children to government schools, since they are easily recognised as foreigner[s]" (Mishra, 2009, p 12).

26. In Cairo, the WRC found, similarly, that "it is very difficult for refugee children to attend Egyptian schools" due to harassment and discrimination (WRC, July 2008, p. 4). For adults, discrimination and xenophobia within the host community can obviously affect their ability to earn a living. In the case of children, their failure to attend school exacerbates their poor prospects for employment later on.

27. Refugees themselves may lack awareness of their rights under local and international law. This can prevent them from taking certain measures that would enable them to work, such as applying for work permits where they are allowed to do so, or participating in livelihoods programmes. For example, an assessment for UNHCR in Egypt found a lack of information and awareness among refugees about work permits – "what the work permit means, how it might help them work, how to acquire it" (Moghaieb, 2009, p. 23).

28. WRC reports that an innovative livelihoods programme run by one of UNHCR's partners in Cairo was hampered by refugee misperception that if they participated in the programme, it would negatively affect the cash assistance they received (WRC, July 2008, p. 6). In describing refugees' lack of understanding of their rights in the Egyptian context, Grabska also reports "a

dearth of organisations able to provide proper legal advice and services and explain rights of refugees in the host community” (Grabska, 2006, pp. 34-5).

29. Mundane yet important practical impediments can also prevent refugees from realising their right to work. One example is the cost of transportation, which can stand in the way of a refugee’s ability to travel to a workplace. Another is the absence of child care facilities, which can hinder the ability of those with family responsibilities to seek and maintain employment. Restrictions on freedom of movement also impede the right to work.

30. In Yemen, for example, refugees are legally allowed freedom of movement. In practice, however, they are sometimes harassed at check points. According to one source, “the main consequence of restricted movement is lack of access to the job market” for some refugees in that country (UNHCR Yemen Gap Analysis, 2010, p. 34).

Challenges and responses

31. This section focuses on three specific challenges to advocacy, and offers possible ways to address these. The proposed advocacy approaches are based on practice from the field; the examples are gathered from both interviews and a review of livelihood assessments and other documents from the countries in question. In some cases, a particular practice does not have a long track record, so it is put forward with the caveat that research is needed to determine the long-term outcomes of these practices.

32. In many instances, the approaches are not necessarily labelled as advocacy *per se*, and it is not clear that they are viewed as such in the field. Rather, they are part of livelihood strategies or initiatives with implementing partners aimed at addressing refugee well-being in general. In this sense, there is scope for rethinking how certain activities not usually defined as advocacy might be built into a comprehensive advocacy strategy around protecting refugees' right to work.

- *Where refugees are prohibited by law or in practice from earning a living, what are the implications for advocacy for the right to work?*

33. UNHCR's urban policy asks whether the organisation should support refugee livelihoods even where refugees are denied the right to earn a living (UNHCR urban policy, 2009, para. 104). As the previous section indicates, urban refugees in the cases examined face significant obstacles to establishing a livelihood and becoming self-reliant. The formal right to work is out of reach for many refugees, and work in the informal sector can be exploitative, dangerous and precarious, as well as insufficient to meet basic needs.

34. Where refugees are barred legally or in practice from working in the formal sector, how can or should UNHCR balance protecting refugee rights on the one hand with supporting, on the other, the informal market, where a significant number of refugees might find work but in sub-optimal conditions in terms of protection? While the long-term objective of self-reliance calls for advocating for the legal right to work, in some places this may not be a realistic goal in the short or medium term.

35. The question then becomes, what kind of advocacy is needed where informal work prevails? The recent UNHCR study, "Surviving in the City" poses the question of whether UNHCR and its partners should help urban refugees establish livelihoods "despite the formal restrictions placed on their economic activity." It answers in the affirmative, arguing "such a strategy...is justified and indeed necessary, as long as it is undertaken in a discreet manner, focuses on low-risk livelihoods, such as home-based businesses, and is accompanied by continued advocacy efforts with the authorities" (Crisp et al, 2009, p. 55).

36. One can take issue with whether UNHCR should focus primarily on livelihoods such as home-based businesses or pursue livelihoods strategies in a strictly discreet fashion. This approach would seem to limit UNHCR's options, and it is likely that in certain contexts, UNHCR and its partners will have to take a higher-profile approach to livelihoods and refugees'

right to work. In any case, these arguments have yet to be tested (and their implications studied systematically) in the field.

37. The larger point remains, however, that, advocacy is particularly important for refugees in the informal sector. Precisely because they lack the formal right to work, they need advocates to protect their rights and address abuses in the workplace. The Michigan Guidelines confirm that “where refugees are found working in the informal sector, their rights at work...must be respected,” and the state has the duty to “ensure protection against exploitation by private employers” (Michigan Guidelines, 2010, p. 302).

38. Where refugees are denied the right to earn a living, a key issue to discuss with the host government is that, without the right to work, refugees will enter the informal market, and may engage in negative coping mechanisms to survive, thus increasing insecurity for all.¹⁰ In such cases, UNHCR and its partners might need to focus their advocacy on mitigating abuses of refugees in the workplace. The message becomes, how to make the situation in the immediate term safer for refugees working informally? How to increase opportunities for refugees to contribute to the local economy and capitalise on their skills?¹¹ It may be a balancing act of advocating for decent and safe work within the informal sector in the short or medium term while maintaining a long-term focus on the formal right to work (see below).

39. Part of the challenge seems to come from government officials’ perception of refugees and their interpretation or understanding of the concept of the right to work. Grabska cites an example, noting that Egyptian officials see refugees as “unskilled, uneducated, and illiterate, who compete for jobs with poor Egyptians” (Grabska, 2006, p. 22.)

40. In her view, this explains why in the past UNHCR could not get the government to remove the reservation on refugees’ right to work: “UNHCR stressed refugees’ right to work whereas for the government the right to work did not imply working in the formal economy, and working in the informal economy is already a fact for refugees” (Grabska, 2006, p. 22).

41. In a related vein, an ILO official points out: “we cannot ask the Egyptian government to regularise employment for refugees when it is not formalised for Egyptians,” prompting Grabska to ask an important question: “in an informal economy, what does the right to work mean?” (Grabska, 2006, p. 22).

42. This is something UNHCR and its partners will have to define. Does it mean the right to work in a safe environment? The right not to be discriminated against with respect to gaining and maintaining employment? The right not to be exploited or otherwise abused by one’s employer? The right to be self-employed or start a micro-enterprise without being arrested or otherwise punished or harassed? Further, to what extent are self-employment and starting a micro-enterprise within reach or achievable (partly through advocacy) in difficult environments such as the ones studied, and what role does advocacy play in getting there?¹²

¹⁰ Interview with Dale Buscher, Director of Protection, Women’s Refugee Commission, 14 December 2010. The urban refugee policy also underscores this point (UNHCR urban policy, 2009, para. 117.)

¹¹ Interview with Buscher, 14 December 2010.

¹² In its urban policy, UNHCR calls for realistic expectations about “the potential for self-reliance amongst urban refugees,” and notes that not all urban refugees will be willing or able to “engage in economic activities.” UNHCR urban policy, para. 106 & 108.

43. In relation to the informal sector, the research turned up examples of potential good practice in Cairo and New Delhi that could be called “advocacy by accompaniment.” The implementing partners in question serve as supporters, proponents or defenders of refugee rights in the workplace. Whether accompanying refugees to job interviews and placements or intervening on their behalf in relation to exploitative or abusive employers, partner organisations can play a role in increasing refugees’ work prospects as well as improving working conditions themselves.

44. WRC describes a bleak situation in Cairo, in which refugee women find it extremely difficult to gain employment. The lack of formal opportunities forces them into the informal sector, thus increasing their exposure to gender-based violence (GBV). WRC also highlights, however, promising instances of livelihood interventions. One of them is particularly interesting in relation to advocacy, although it was not clear as of writing whether the programme was still in existence (WRC’s review took place in 2008).

45. As part of its training and placement programme for domestic workers, the director of the Egyptian Sudanese Development Centre (ESDC) accompanied graduates of the programme to the homes where they were placed, and recorded employer information and the salary agreed upon. This action “promotes the protection and fair treatment of refugee women,” and “this small step serves to hold families accountable and illustrates the advocacy role the community centre is willing to play on behalf of refugee women” (WRC, July 2008, p. 7.)

46. In New Delhi, two implementing partners’ actions on behalf of refugees in the informal sector could also be considered advocacy by accompaniment. One involves the Social and Legal Information Centre (SLIC). When refugees encounter a problem with an employer – for example, they are not paid or are exploited or harassed, including sexually – SLIC accompanies the refugee in resolving the issue with the employer.

47. When an instance of non-payment is reported to SLIC, it intervenes directly with the employer. In cases of gender-based violence in the workplace, SLIC intervenes with the consent of the refugee or, if necessary, approaches the police.¹³ When employers see that refugees are not alone, there seems to be more likelihood of a resolution of the problem. This is advocacy not around the right to work *per se*, but rather around the right to be treated decently, even if, as in India, refugees do not have the formal right to work.¹⁴

48. Another partner, Don Bosco Ashayalam (DBA), maintains a list of “safe employers” for refugees, places refugees with them and raises complaints with employers on behalf of refugees. This latter function is particularly important in the informal sector because of the absence of formal complaints procedures in these workplaces.¹⁵ DBA accompanies refugees for interviews with prospective employers, and once a placement is made, it visits the employer and ensures that the workplace is safe, especially for women. DBA staff intervenes when there are problems, and meets with employers “to sensitise them towards refugee issues.”¹⁶ While this kind of initiative is not necessarily part of advocacy work *per se*, it could be.¹⁷ According to data from

¹³ Written correspondence received from UNHCR New Delhi, 24 January 2011.

¹⁴ Interview with Roberto Mignone, UNHCR Deputy Chief of Mission in India, 3 December 2010.

¹⁵ Interview with Karim Amer, UNHCR Desk Officer for India, 15 October 2010.

¹⁶ Written correspondence from UNHCR New Delhi, 24 January 2011.

¹⁷ Interview with Amer, 15 October 2010.

OCM New Delhi from January 2011, about 300 refugees had been placed with employers on DBA's list. Jobs ranged from thread cutting to TV assembly to sales, helper and housekeeping positions.

49. More research is needed on these programmes, and even these apparently promising examples are quite limited in scope. For example, SLIC's intervention is only for cases of abuse, and is not about the right to work *per se*. In addition, both SLIC and DBA are focused on the informal sector. DBA's placement programme seems to be used primarily by Burmese refugees; other refugees have not shown much interest in it because the jobs DBA has been able to identify so far are for unskilled workers only.¹⁸

50. According to WRC, as of 2008 the ESDC programme in Cairo seemed to serve a relatively small number of refugees per year (perhaps fewer than 100).¹⁹ These programmes indicate the need to define advocacy broadly and perhaps creatively. They might not necessarily be thought of in those terms, but to the extent that they bolster protection – by focusing, for example, on rights at work – these examples can inform the type of advocacy needed to protect refugees in the informal sector.

- *How can or should UNHCR and its partners advocate for the right to work in countries with poor or even dire socio-economic situations? What are the advocacy steps to build an enabling environment for refugees' right to work in such circumstances?*

51. As touched on in section II, all three countries examined have poor socio-economic indicators, and many nationals resort to the informal sector to earn a living. All three countries would fall into the category of “narrow protection space”: as one source describes it, this category includes situations where states have not signed the 1951 Convention or its Protocol, where states “struggle to support their own populations” or where there are “mass influxes of refugees” (Evans Barnes, 2009, p. 1).

52. Advocacy for refugees' right to work is particularly challenging in such circumstances, given sensitivities around issues such as the scarcity of employment among members of the host population. The research turned up possible approaches to advocacy – or principles that could guide it – in these situations.

53. These are based not necessarily on specific initiatives or measurable “good practice,” but rather on messages that filtered up consistently from the interviews and the literature. As such, although the following approaches could inform UNHCR's development of advocacy strategies around the right to work, further research is needed to determine whether and how they translate into an improvement in refugees' well-being.

54. The UNHCR urban policy calls for advocacy to emphasise self-reliance “as an important path to durable solutions,” and to underscore its role in providing refugees with dignity and “alleviating any pressure they might place on national services and welfare systems” (UNHCR urban policy, para. 103 & 105).

¹⁸ Written correspondence from UNHCR New Delhi, 7 February 2011.

¹⁹ Written correspondence from WRC, 7 February 2011.

55. These messages take on particular relevance in countries facing major socio-economic challenges. They should be backed up, in turn, by comprehensive urban livelihoods assessments of the refugee communities in question, including livelihood profiles (assets, opportunities, challenges and constraints) and refugee profiles (economic situation, vocational, entrepreneurship and other skills and coping mechanisms). These assessments, which have been carried out in several countries, are essential to focusing scarce resources on advocacy around the most urgent problems while also informing the longer-term advocacy strategy in a particular country.

56. There is evidence that refugees with access to livelihoods assets are more likely to use positive coping mechanisms, and are more likely to return home first when it is safe to do so²⁰ The livelihoods assessment in Yemen points out that refugees with fewer livelihood opportunities turn to negative coping strategies (prostitution, begging, theft), and, not surprisingly, refugees with “better access to livelihoods assets” use positive coping strategies (earning wages, selling food, running small businesses, offering services) (Madmouj, 2008, p. 38). Data showing these trends can be crucial to building the case to government and law enforcement authorities for refugees’ right to work.

57. The research also suggests that a key to undertaking advocacy in host countries with serious socio-economic challenges is to focus not only on refugee protection but also on the welfare of the local communities. Both the literature and interviews with UNHCR and implementing partner staff emphasise the importance of programmes that do not single out refugees but rather bring benefits to the host country population as well.²¹ The urban policy also highlights this point (UNHCR urban policy, para. 40).

58. To the extent UNHCR can point, for example, to livelihoods or income generation projects that benefit both groups, it may bolster the advocacy case for refugees’ gainful employment. Further, increases in refugees’ income may lead to increases in local populations’ income through forward and backward business relations (i.e. refugees become customers of, or sellers to, local businesses, which can be mutually beneficial to refugee and local populations.²² In Yemen, for example, Gastaldello presents data making the case that “refugee businesses, in addition to allowing entrepreneurs to generate income for their own use, also *positively contribute to the local economy*” (Gastaldello, 2010, p. 6, emphasis in original).

59. In relation to this issue, various sources speak of the need for UNHCR to revisit the message it uses in dialogue with the host government. An implementing partner representative argues for the need to “change the arguments,” with a possible message being that if the government grants refugees the right to work, then assistance money from the international community can be spent in a different way.

²⁰ Interview with Buscher, 14 December 2010. The Michigan Guidelines echo this by pointing out that not allowing refugees to work can jeopardise durable solutions, as the inability to work leads to refugees’ losing their skills, increasing their dependency: “Paradoxically, voluntary repatriation may also be hindered” if refugees have not worked for years and lack the skills and resources to return home (Michigan Guidelines, 2010, p. 296.)

²¹ In interviews, UNHCR and implementing partner staff bring up this point, as does Grabska (2006), WRC (July 2008, pp. 6-7), and Madmouj (2008, pp. 15 and p. 61).

²² Interview with Mohamed Shoman, UNHCR Livelihood Consultant in Cairo, 17 January 2011.

60. Instead of food and cash assistance to refugees, for example, resources can be spent on improving host country vocational training programmes and support to local micro-finance institutions (MFIs), with the aim of benefiting both refugees and local communities.²³ A UNHCR staff member proposes a “give and take” advocacy message to the host government, asking for some flexibility in removing restrictions on the right to work in exchange for UNHCR’s efforts to help both refugees and the local population.²⁴

61. Advocacy should focus both on very specific issues to address in the short term and on long-term goals (such as changing legislation to increase refugees’ access to employment), as well as the root causes of persistent challenges to the right to work. This nuance is not necessarily clear in the urban policy. The policy mentions the need for advocacy to remove legal barriers to self-reliance, and to establish an enabling environment for refugees to have sustainable livelihoods; it does not mention advocacy for the legal right to work *per se*.

62. As the research shows, this can be a difficult topic to broach in many situations. However, to the extent UNHCR considers legislative change to be part of its long-term approach to refugee protection, it is surprising that the policy does not offer more discussion of when and how to push for such change. Its call for exploring “every opportunity to encourage the authorities to be more flexible in their legislation and practice so as to facilitate the economic activities of urban refugees” is perhaps close, but still oblique in reference to the right to work (UNHCR urban policy, para. 104).

63. An interesting example in relation to short- and long-term goals comes from Egypt. At the time of writing, a UNHCR Livelihood Consultant at the Branch Office in Cairo was formulating a livelihoods strategy for eventual implementation by UNHCR. As such, it is too early to assess the results of the strategy, and the formulation of an advocacy approach is still in the ideas stage.

64. The consultant notes, however, that, considering the context in Egypt before 25 January 2011, the UN Human Rights Council’s Universal Periodic Review (UPR) of Egypt in 2010 provides a possible entry into policy dialogue with the government. Specifically, he explains that UNHCR might start by highlighting accepted recommendations of the 2010 UPR in relation to refugees and discuss how the organisation can work with the government “to help [it] fulfill its obligations. This can represent an entry point to further discuss the need for developing an administrative framework to organise and facilitate access to work for refugees.”²⁵

65. The consultant also notes that the short-term focus in dialogue with the government would not be directly on the right to work but rather on self-employment and allowing refugees to start micro-enterprises as a way to improve refugees’ prospects for reaching self-reliance. The

²³ Interview with Buscher, 14 December 2010.

²⁴ Interview with Mohamed Osman, UNHCR Desk Officer for Yemen, 14 December 2010.

²⁵ Interview with Shoman, 17 January 2011 and written communication from Shoman 18 January 2011. Recommendations from the UPR that Egypt accepted included: that it provide human rights education and training to the judiciary and law enforcement officials, with specific focus on protecting the human rights of refugees (UN, 2010, p. 18, para. 108); that it uphold its international obligations in relation to refugees (UN, 2010, p. 19, para. 110); and that it implement a programme “to adequately integrate the refugee populations into the society of Egypt” (UN, 2010, p. 19, para. 111). According to the final report of the UPR session, the government of Egypt considers these recommendations among those that “have already been implemented or [are] in the process of implementation” (UN, 2010, p. 19).

rationale for starting at this level is that advocacy around the right to work is particularly sensitive because of the perception that this right is directly linked to integration, to which the government is resistant.²⁶

66. Advocacy that addresses very specific obstacles to refugees' ability to work and support themselves (the cost of public transportation, for example, or the cost of renewing a work permit, where refugees are eligible to have one), might provide some early successes in improving refugees' immediate situation.

67. By starting with these building blocks in the shorter term, the idea is to address barriers susceptible to dismantling, as the longer-term goal of creating space for refugees' formal right to work will take time, but urban refugees are often in immediate need of increased self-reliance. As the UNHCR Livelihood Consultant in Egypt notes, one way forward could be to make refugee self-reliance a "common issue" between UNHCR and the government, and to move towards it gradually, monitoring the government's reaction along the way so as not to put advocacy efforts at risk.²⁷

- *Urban women refugees are especially affected by the lack of the right to work. How might advocacy strategies address this?*

68. A lack of legal work can lead to women refugees being pushed into negative coping mechanisms such as selling sex. It can also push them into unregulated areas such as domestic work, where they face significant risk of sexual and gender-based violence as well as exploitation by employers. In fact, WRC points out a paradox:

Economic opportunities may increase a woman's risk of violence. This is especially true in situations where women do not have legal status or the right to work in their country of refuge. In such cases, women who are abused or exploited by their employers, whether in domestic service or in the informal economy, are unable to seek protection from the police or authorities as they risk being imprisoned or deported (WRC, November 2009, p. 1).

69. In general, "refugee women's limited economic opportunities and lack of legal status make them more vulnerable to domestic abuse, abuse at the workplace and abuse while in detention" (WRC, May 2008, pp. 5-6). Thus they face a Catch-22: not working can increase their vulnerability, as can working. The case of Kuala Lumpur, cited in section II, illustrates these complexities, but they are also apparent in the three countries studied.

70. The research did not turn up examples of good practice with regard to advocacy that addresses refugee women's particular risks (outside of the example cited earlier on refugee women domestic workers in Cairo). However, a number of insights emerged from the literature and interviews. Perhaps the most important is the need to build gender-related issues into any advocacy strategy. This could include:

- disaggregating data collection by gender (as part of livelihoods assessments).

²⁶ Interview with Shoman, 17 January 2011.

²⁷ Interview with Shoman, 17 January 2011.

- dedicated studies of economic sectors where refugee women tend to concentrate, and the particular risks those pose.
- crafting messages to government officials that incorporate gender concerns identified: specifically, making a clear case that the right to work is an integral element in the protection of refugee women and the prevention of the violation of women's human rights. Although gender concerns should be integrated into communications with all ministries, it might also be necessary to include among advocacy targets any ministries that specifically oversee women's human rights.

71. Men are also an important part of the picture. WRC points out that "it is critical to involve men in livelihood programming," and that women's "having actual control" over economic opportunities and income generation is "essential to reducing the risk of violence against women."

72. As they note, however, "this step involves changing both the mindset of women and men within a community" (WRC, November 2009, pp. 1-2). In this sense, those designing advocacy strategies around the right to work should consider men (whether among refugees, the host population, employers, or others) as specific targets for messages, as it is often through these efforts that mindsets can begin to be changed.

A case for comparison

73. The above examples are drawn mostly from countries where refugees either lack the formal right to work or they technically have the right, but in practice are unable to exercise it due to legal restrictions or socio-economic or procedural obstacles in the host country. Latin America presents an interesting comparison.

74. Similar to the countries studied, some of the countries in Latin America have experienced poor or deteriorating economic situations. Argentina, for example, has been hard-hit by the financial crisis of the past three years. Unemployment is high and there is insufficient low-income housing for indigent Argentines, let alone for refugees and asylum seekers, and many refugees have resorted to working in the informal sector.²⁸

75. Although refugees in the region have the legal right to work,²⁹ they often lack access to employment due to obstacles such as non-recognition of documents, for example, or resentment of refugees (and reluctance to hire them) due to negative stereotypes. The region is therefore worth studying for potential lessons on reducing barriers to refugees' right to work. The research turned up examples of innovative and potentially promising approaches that could inform an advocacy strategy, although – as with earlier examples – these approaches are not necessarily referred to as advocacy *per se*.

76. In Argentina, the Public Information and Programme units of the Regional Office in Buenos Aires have produced, with support from the Ministry of Labour, a pamphlet for prospective employers that aims to “explain that asylum seekers and refugees can legally work in the country.”³⁰ In 2009 UNHCR in Argentina signed a Memorandum of Understanding (MOU) with Fast Food Sudamericana, S.A., the parent company of Burger King in Argentina, to create “first job” opportunities for refugees and asylum seekers in that country, particularly for youths with little formal education.

77. The implementing partner provides basic training and matches refugees with job openings, then follows up with both the employer and the refugees for several months.³¹ As part of the programme, Burger King also undertook initial sensitisation training of managers at the branch where refugees were hired. Besides Burger King, UNHCR has similar formal and informal agreements with other companies (ROARG, “Empresa solidaria”, 2009).

78. UNHCR's role in these initiatives is that of advocate, in the sense that it represents refugees vis-à-vis the company, educates the company about refugee rights and qualifications, and encourages private sector entities to use implementing partner programmes that place

²⁸ See UNHCR, Regional Office Argentina (ROARG), “Estrategia de integración de los solicitantes de asilo y refugiados espontáneos – Argentina (2010-2011): Los ejes de acción”, PowerPoint presentation, 2009.

²⁹ Asylum seekers have the right to work in eight countries in Latin America.

³⁰ See UNHCR-ROARG, “Propuesta de estrategia en material de integración de refugiados para la Oficina del ACNUR en Argentina (ROARG, 2010-2011)”, 2009, p. 9.

³¹ UNHCR-ROARG, “Memorando de entendimiento”, 2009 and UNHCR-ROARG, “Propuesta de estrategia en material de integración de refugiados para la Oficina del ACNUR en Argentina (ROARG, 2010-2011)”, 2009, p. 9.

refugees in jobs. UNHCR thus speaks on behalf of refugees not as charity cases but as people who can successfully fill job openings.³² This function is echoed in implementing partners' initial meetings with human resources staff of prospective employer companies to raise awareness about refugee rights and needs (ROARG, "Empresa solidaria", 2009).

79. In addition, in Brazil UNHCR-São Paulo has an MOU with Serviço Social do Comércio (SESC) and Serviço Nacional de Aprendizagem Industrial (SENAI), both providing vocational training in various sectors. They are sponsored by the Brazilian Chamber of Commerce, and thus industry-funded. The MOU gives refugees and asylum seekers access to vocational training and language instruction geared specifically towards refugees.

80. UNHCR considers SESC and SENAI's name recognition among businesses in Brazil to be an important factor in the initiative's success.³³ Bringing refugees to the attention of these entities represents a promising approach to addressing job training and placement for refugees and asylum seekers, and can have a multiplier effect in terms of raising awareness within the private sector of refugees' right to work.

81. UNHCR also has informal agreements with labour unions in certain industries (such as shoe manufacturing) in the region (Brazil, Argentina, Chile and Uruguay). UNHCR's role is to encourage unions to share job openings with UNHCR's partners and to circulate information about refugees' rights to unions' member organisations.³⁴

82. The above initiatives are in their early stages, and some of them are only a few months old. The number of refugees who have found jobs through individual programmes is growing.³⁵ To the extent that the programmes create or strengthen relationships between UNHCR and private sector entities that can hire refugees, and raise awareness among these entities of refugee rights and eligibility to work, they can serve as models for future advocacy around the right to work. Further, if early successes can be replicated, the number of refugees and asylum seekers who benefit from these initiatives can be scaled up.

83. The situation in Latin America, with refugees enjoying the formal right to work, is different enough from the cases of Egypt, Yemen and New Delhi that some of the lessons will not apply. On the other hand, the difficulties of access to employment that persons of concern still face in Latin America make the region worth examining as one that presents a particular set of challenges to advocacy around the right to work. The ideas being tried out there, though not a blueprint, could help inform the building of an advocacy approach, both in terms of UNHCR's own role in such an approach and the actors it might target.

³² Interview with Obenson, 17 December 2010.

³³ UNHCR, Regional Office Argentina, "Minimum Standards for Economic Recovery after Crisis: Example Box Submission", June 2010.

³⁴ Written correspondence from Obenson, 26 January 2011.

³⁵ More than 50 at the time of writing. Written correspondence from Obenson, 8 February 2011.

Principles for advocacy

84. The research undertaken for this review identified only a few examples of existing initiatives that might inform an advocacy strategy around urban refugees' right to work, and some of these are relatively new. In addition, the research for this paper drew on a short-term desk review of selected countries, without the opportunity to delve into the situation on the ground in any one case.

85. For both of these reasons, it is difficult to refer to "lessons learned" or "good practice" in relation to advocacy for refugees' right to work, and more research is needed on what does and does not work. Nonetheless, certain principles emerged from the literature and interviews: these could be tested as part of an evolving advocacy strategy. This section discusses several of these principles.

86. *The right to work should be defined as decent work* – not simply a job, but one that allows refugees self-reliance and dignity.³⁶ A staff member notes that one indication of jobs being inadequate for self-reliance is refugees' continued dependence on assistance even when they have full-time jobs, because these jobs might cover only part of their basic needs. Access to "dignified employment" is therefore key.³⁷

87. *Even where refugees have the legal right to work, advocacy is necessary.* For example, in Uganda, different ministries interpret the right differently, giving inconsistent information to refugees on the need for work permits. Therefore advocacy is needed on the part of UNHCR to ensure that government authorities interpret the law in a consistent manner.³⁸ In Latin America, although refugees are afforded the legal right to work in all countries in the region, advocacy is needed both to break down barriers to access to employment and to ensure that work is (as above) decent and dignified.

88. On the other hand, *where refugees are denied the legal right to work, advocacy is needed to protect refugee rights in the informal sector.* Advocacy for the right to work safely, including in the informal sector, is crucial to prevent the exploitation and abuse of refugees where they are denied the right to work under law or in practice.³⁹ The long-term goal is recognition and implementation of the legal right to work, and in that sense, "practitioners should be thinking about how to use the 1951 Convention and/or international human rights law to compel the host governments to uphold refugees' right to a livelihood" (WRC, May 2009, p. 13).⁴⁰

³⁶ The Michigan Guidelines recall that the International Convention on Economic, Social and Cultural Rights (ICESCR), which has been widely ratified, protects "decent work", which is defined as "work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration." Michigan Guidelines, 2010, p. 299, citing Econ. and Soc. Council, Comm. on Econ., Soc. & Cultural Rights, *General Comment No. 18: The Right to Work*, ¶ 7, U.N. Doc. E/C.12/GC/18 (Feb. 2, 2006).

³⁷ Interview with Obenson, 17 December 2010.

³⁸ Interview with Buscher, 14 December 2010.

³⁹ For more on this point, see WRC, May 2009, pp. 8-9.

⁴⁰ For more on legal standards regarding refugee rights in relation to employment and livelihoods, see WRC, May 2009, pp. 13-14, DaCosta, 2006, chapter 3, and the Michigan Guidelines, 2010.

89. But because refugees lacking the right to work will enter the informal market in order to survive, advocacy messages to the host government in such situations should focus on how to make work safe for refugees (for example through legalising contracts for domestic workers).⁴¹ Advocacy should also be aimed at employers of refugees in the informal sector, and include awareness raising of refugees' rights. Better protection in this area can both increase general security by eliminating the use of negative coping mechanisms and help refugees contribute to the local economy.⁴²

90. Related to this, *while the legal context is important, advocacy should also focus on practical obstacles to the right to work*. These might be reduced or mitigated through dialogue with the host government, by focusing on very specific obstacles, such as work permit fees. As above, part of the focus of advocacy should be on changing or modifying laws: for example, pointing out to government officials that the 1951 Convention requires the state to "give 'sympathetic consideration' to granting the right to engage in wage-earning employment on the same basis as nationals" (Michigan Guidelines, p. 298).

91. But the Michigan Guidelines also note that a case can be made, referring to Article 6 of the Convention, that states should waive work permit fees for refugees "in recognition of the generally limited nature of refugees' resources" (Michigan Guidelines, 2010, p. 299). The principle could be applied to the case of Egypt, with its considerable procedural obstacles to refugees' right to work.

92. *Building the capacity of others – including refugees themselves – to advocate for refugees' right to work is essential in the long run*. Just as durable solutions call for building the long-term capacity of implementing partners, refugee community-based organisations (CBOs), government agencies and others to address issues of refugee protection, advocacy strategies should include building the long-term capacity of others (besides UNHCR) to speak on behalf of refugees. This includes raising refugees' own awareness of their rights, including the right to work, and improving their capacity to exercise them. As one source argues, "it is key to build the capacity of refugees to address their needs and be their own advocates" (Dix, 2006, p. 9).

93. Recent research by UNHCR points to interesting examples of refugees as their own advocates. One example is Branch Office Damascus's "Express Yourself" campaign, in which refugees tell their own story, and press releases are issued "carefully drawing attention to both the plight and abilities of the refugees, as well as UNHCR's efforts to help them" (Crisp et al, 2009, p. 44.)

94. Another is the use of "innovative community outreach and communication methods," such as appointing female Outreach Volunteers from within the refugee community in Damascus, who (among other functions) have made presentations to donor states and the media

⁴¹ Along these lines, in Yemen, the UNHCR gap analysis of 2010 notes that the government could provide "a major form of prevention and response to gender-based violence" if it were to legalise the contracts of domestic workers (UNHCR Yemen Gap Analysis, 2010, p. 56).

⁴² Interview with Buscher, 14 December 2010.

(Crisp et al, 2009, p. 30). Where there are active youth or women's committees within the refugee community, these are also logical candidates to take on an advocacy function.⁴³

95. *Protection space – and advocacy around it – should be defined broadly.* UNHCR should consider incorporating advocacy about the right to work into interactions with law enforcement officials, the judiciary and other authorities. This follows on the notion of “protection space in the broad sense,” in which UNHCR focuses not only on “classical protection” issues such as registration, but also on “a broader range of issues, such as exploitative employment” (Crisp et al, 2009, p. 19). Thus in workshops and training for authorities on general protection issues, UNHCR and its partners should consider including messages about refugees' right to work.

96. *Cast the net widely for advocacy targets.* The urban policy notes the need for UNHCR, in promoting livelihoods and self-reliance, to partner not just with government authorities and development agencies, but also with “microfinance organisations, banks, the private sector and civil society institutions” (UNHCR urban policy, para. 101). The principle of targeting those beyond the “usual suspects” is a sound one, but specific guidance is lacking: whom to prioritise within this list? Whom to approach within the broad categories of private sector and civil society institutions, either as recipients of advocacy messages about refugees' right to work or as partners in bringing these messages to others?

97. The difficult situations prevailing in many urban environments call for UNHCR and its partners to think creatively. While host government officials are obviously a central target of any formal or comprehensive advocacy strategy, UNHCR should aim to reach many others, including those the organization may not have considered in addressing refugee protection. The following are examples:

Unions: the idea of involving labour unions in advocacy around refugees' right to work is mentioned briefly in certain livelihood assessment strategies.⁴⁴ The idea deserves more attention. It is worth noting unions' increasing focus on the rights of migrant workers, who share with refugees certain relevant characteristics in relation to work.⁴⁵ In this sense, unions' emphasis on rights-based approaches, and their efforts to organise migrant workers and strengthen protection of these workers' rights in host countries, could make them an important partner in UNHCR's advocacy around refugees' right to work (see box).⁴⁶ As ILO points out, unions are committed to protecting all workers, and

⁴³ In Yemen, for example, the livelihoods assessment reports that refugee youth in both Basateen urban area and Kharaz camp are “motivated and dynamic”, with “functional community leadership structures” (Madmouj, 2008, p. 23 and 29).

⁴⁴ In India, for example, Mishra calls for an “information campaign with employers union/Ministry of Labour/relevant institutions on available skills set within refugee/AS community” (Mishra, 2009, p. 25). In Malaysia, Strandberg reports that, in addressing abuse by employers, UNHCR “has further developed its partnerships with Tenaganita, Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM), Union Network International (UNI), the Malaysian Liaison Council and Migrant Worker's Desk” (Strandberg, 2009, p. 12).

⁴⁵ For example, they both suffer disproportionately from mistreatment and abuses in the workplace; their work situations are often particularly precarious because of their status in host societies; and due to these factors, they are both more likely than other kinds of workers to need strong advocacy for their right to work and their rights in the workplace.

⁴⁶ See, for example, ILO, 2008, which provides guidance to trade unions on their role in protecting migrant workers' rights. The document points out that, in the decade preceding 2008, “the attitude and engagement of the trade union movement as a whole has clearly given priority to organising migrant workers and promoting their rights, regardless

“recruiting members and organising in sectors traditionally outside the union movement...has become critical to the survival and growth of the trade union movement” (ILO, 2008, pp. 8-9). Given that some unions are already working to protect and advocate for the rights of the “traditionally isolated, hidden and super-exploited” among migrant workers, including those who are undocumented and women domestic workers (ILO, 2008, p. 120), arguably this work should extend to include not only migrant workers but refugee workers, as well.

98. *ILO*: Although ILO’s role can be unclear in countries where it does not have a strong presence on the ground, UNHCR might consider it as a possible ally in advocacy strategies in certain circumstances, due to its relationships with labour ministry officials. In addition, given the significant number of refugees (especially refugee women) in urban settings who work in the domestic sector, ILO’s interest in the issue of decent work for domestic workers could make it a logical partner for advocacy in this area.⁴⁷

99. *Companies* with a focus on, or proven record of, corporate social responsibility (CSR): UNHCR has begun to explore the possibility of signing agreements with such companies.⁴⁸ This is applicable only in countries where refugees have the legal right to work, as corporations otherwise will not be able to take the risk (legal and reputational) of hiring refugees. UNHCR’s agreements, described above, with fast-food restaurants in Latin America offer a possible model of how to integrate the private sector into an advocacy strategy, as corporations have the potential to provide work for a significant number of refugees. Those with a CSR focus in particular are more likely to be attuned to issues around decent work and rights in the workplace and therefore easier to engage on refugee protection concerns.

100. *Local business community members*: employers could be targeted for sensitisation about refugees’ right to (non-exploitative) work and their potential to make a positive contribution to the local economy, both as consumers and, in the case of refugees who run small businesses, as generators of income and jobs for others. This is particularly important in cases where local business owners perceive a threat from refugee involvement in small businesses or micro-enterprise.⁴⁹ It is worth investigating if there are businesspeople among the host population who share an ethnicity with refugees and asylum seekers, as they might be more receptive to the issue of refugees’ right to work.

of their immigration status” (ILO, 2008, p. 119). Interestingly, the guide notes examples of national unions (e.g. in the Netherlands and the United States) working to protect undocumented as well as documented migrant workers (Ibid, p. 120).

⁴⁷ At its 2010 International Labour Conference, the ILO considered a proposed convention on decent work for domestic workers. See ILO, 2010.

⁴⁸ See UNHCR, Regional Office Argentina (ROARG), “Estrategia de integración de los solicitantes de asilo y refugiados espontáneos – Argentina (2010-2011): Los ejes de acción”, PowerPoint presentation, 2009.

⁴⁹ See, for example, Mishra, 2009, p. 42, on the case of India.

101. *Human rights organisations*, both local and international: while UNHCR may already partner with many of these on the ground, it should consider approaching them to help build a strong and comprehensive advocacy strategy vis-à-vis other actors. One message to convey is that such a strategy could ease these other organisations' work, multiply the effects of this work and possibly bring more resources for them to serve the population more fully. This could mean defining advocacy broadly, and considering whether partners' legal assistance, livelihoods or other initiatives might enhance the larger strategy around ensuring the right to work.

102. *Embassies of countries of origin*: one UNHCR staff member points out that, in principle, the embassies of refugees' countries of origin located in the host country could be worthwhile advocacy targets: for example, in encouraging the host country's chamber of commerce to participate in realising refugees' right to work.⁵¹ It is not clear whether or to what extent home country embassies have actually played this role.

103. *Donors*: a number of sources refer to the need for a shift in mindset, as one author puts it, "from grant/relief mode to development/entrepreneurial mode" in order to respond properly to the increase in urban refugees (Mishra, 2009, p. 20). This extends to donors. A study of urban refugees in Nairobi makes the following statement: "The donor community must recognise the shifting of refugees from a predominantly camp setting to urban areas and develop policies and provide funding to address this reality. In particular, initiatives could facilitate refugee access to financial capital and microenterprise development" (Pavanello et al, 2010, p. 34.) This message must be reinforced in UNHCR's dialogue with donors.

⁵¹ Interview with UNHCR staff member, December 2010.

Conclusion

104. As noted at the outset, advocacy around refugees' right to work in urban settings seems to be ad hoc, or in its beginning stages. Examples of good practice or lessons learned are difficult to spot, and may not always be defined as advocacy in the field. Even the apparently promising cases examined in this paper face challenges and could not be considered robust examples of advocacy work by UNHCR or its partners. They are put forward more in the spirit of exploring potential approaches, and of reconsidering initiatives that might not otherwise be seen as part of an advocacy strategy, as the failure to do so can limit creative thinking of how to build such strategies.

105. UNHCR's urban policy outlines the need for the organisation and its partners to work towards creating, through advocacy, "an environment which is amenable for urban refugees to establish sustainable livelihoods" (UNHCR urban policy, para. 103). The need now is for UNHCR and others to build and test strategies and techniques that will allow them to carry out this advocacy successfully, including and especially in places where refugees are denied the right to earn a living, and therefore are in particular need of advocates.

106. There is no blueprint, however, as each host country's situation is unique, requiring a case by case examination of the opportunities and challenges in relation to refugee livelihoods and self-reliance in urban settings. Guidelines on advocacy for the right to work should therefore build flexibility into the approach, providing general principles and recommended steps that can be modified or built upon according to local conditions.

107. In-depth field research is needed in countries that are implementing livelihoods strategies. Ideally, the cases should vary as to their geographical location, the local socio-economic situation, the legal framework and specific conditions around the right to work, the profile of the refugee population and other factors, to allow for comparison and contrast that can best inform the continuous improvement of the guidelines.

108. Research could usefully focus, in each case, on issues such as existing constraints to advocacy around the right to work; specific resources available to UNHCR and its partners to carry out advocacy; promising examples of this advocacy as well as failed efforts and why they did not work; and the response to, and impact of, efforts to enhance refugees' right to work.

109. Creating indicators that properly measure this last element - the impact of advocacy efforts - will be particularly challenging, not least because it is difficult to know what one is trying to gauge. Is it the change in protection space around the right to work? Is it the expansion of urban refugees' level of gainful employment?

110. Qualitative indicators could include the level of receptivity (as measured by change over time) among ministry officials and other authorities to efforts to enhance refugees' right to work; the level of receptivity of employers; refugees' own assessments of the obstacles to the right to work (again, measuring change over time); and changes in legislation or government policies regarding refugees' right to work. In addition to finding the proper indicators to capture the

impact of advocacy, it will also be necessary to control for the influence of other factors so as not to overstate this impact.

111. Before creating indicators, however, UNHCR and its partners will need to step back and explore some of the fundamental issues in relation to advocating for refugees' right to work in urban settings. These include clarifying what the right to work means in an informal economy, identifying the key goals and messages around the right to work in settings where prospects for the realisation of this right are particularly dim, and figuring out how best to harness the skills and resources of the not-so-usual suspects. Examining these and other issues should be part of a comprehensive and systematic approach to advocacy around the right to work.

112. In the end, advocacy is only a tool – albeit an integral one – to advance refugee protection, and therefore should not be seen as a goal in itself. But it deserves more thorough and comprehensive attention from UNHCR and its partners in their efforts to create space for refugees' right to work. It should not be an afterthought: rather, a comprehensive or even systematic advocacy strategy should form part of UNHCR's approach to urban refugees' right to work.

113. This comes with a cost, as proper implementation of such a strategy requires time, persistence and money: for example, for training and sensitisation of advocacy targets, and for the collection and dissemination of good practices among UNHCR and partner staff. UNHCR's draft operational guidelines on advocacy for the right to work are an important step forward, but much work remains to be done.

REFERENCES

Bailey, Sarah. "Is Legal Status Enough? Legal Status and Livelihood Obstacles for Urban Refugees." MALD Thesis, Fletcher School of Law & Diplomacy, Tufts University, 21 April 2004.

Buscher, Dale and Lauren Heller, "Desperate Lives: Urban refugee Women in Malaysia and Egypt." *Forced Migration Review*, posted 11 May 2010.

Crisp, Jeff et al, "Surviving in the City: A Review of UNHCR's Operation for Iraqi Refugees in Urban Areas of Jordan, Lebanon and Syria". Geneva: UNHCR, Policy Development and Evaluation Service, July 2009.

Da Costa, Rosa, "Rights of Refugees in the Context of Integration: Legal Standards and Recommendations." UNHCR: Division of International Protection Services, June 2006.

Dix, Sarah, "Urbanisation and the Social Protection of Refugees in Nairobi." *Humanitarian Exchange Magazine*, issue 35, November 2006.

Evans Barnes, Anne. "Realising Protection Space for Iraqi Refugees: UNHCR in Syria, Jordan and Lebanon". UNHCR: New Issues in Refugee Research series, No. 167, January 2009.

Gastaldello, Federica. "Evaluation of Self-Reliance Interventions for Refugees 2008-2009", report prepared for UNHCR Yemen, May 2010.

Grabska, Katarzyna, "Who Asked Them Anyway? Rights, Policies and Wellbeing of Refugees in Egypt." *Forced Migration and Refugee Studies*, American University in Cairo and Development Research Centre on Migration, Globalisation and Poverty, University of Sussex, July 2006.

International Labour Organisation, "Decent Work for Domestic Workers." International Labour Conference, 100th session, 4th Agenda Item, Report IV(I). Geneva: ILO, 2010. Available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143337.pdf

International Labour Organisation, "In Search of Decent Work - Migrant Workers' Rights: A Manual for Trade Unionists". Geneva: ILO Bureau for Workers' Activities (ACTRAV), 2008.

Kumar Naik, Ajaya. "Informal Sector and Informal Workers in India", paper prepared for the Special IARIW-SAIM Conference on Measuring the Informal Economy in Developing Countries, Kathmandu, 23-26 September 2009.

Madmouj, Rawand. "Livelihoods Assessment and Strategy Development for Refugees in Basateen Urban Area and Kharaz Camp - Yemen." Report prepared for UNHCR and ILO. November 2008.

“Michigan Guidelines on the Right to Work”. *Michigan Journal of International Law*, winter 2010. http://www.law.umich.edu/centersandprograms/pral/Documents/Michigan_Guidelines_on_the_Right_to_Work.pdf

Mishra, Rajesh. “Urban Livelihoods Assessments and Strategies in India,” (final report). UNHCR, October 2009.

Moghaieb, Heba Saleh. “Strengthening Livelihood Capacities of Refugees and Asylum Seekers in Egypt.” Survey report commissioned by UNHCR, December 2009.

Pavanello, Sara, Samir Elhawary, and Sara Pantuliano, “Hidden and Exposed: Urban Refugees in Nairobi, Kenya.” Humanitarian Policy Group working paper, London: Overseas Development Institute, March 2010. Available at <http://www.odi.org.uk/resources/download/4786.pdf> (accessed 11 December 2010.)

Strandberg, Anna et al. “Urban Refugees’ Right to Work: Livelihood Options and Implications for Protection.” UNHCR, Operational Solutions and Transition Section (OSTS), January 2009.

UNHCR, “Urban Livelihoods: Operational Guidelines”, forthcoming 2011.

UNHCR, “Advocating for the Right to Work: A Practical Guide”, forthcoming 2011.

UNHCR, “Fact Sheet – Egypt.” Geneva: August 2010.

UNHCR, “Yemen: Analysis of Gaps in Protection of Refugees and Asylum Seekers” (final version). March 2010.

UNHCR, “Minimum Standards for Economic Recovery after Crisis: Example Box Submission.” Regional Office Argentina (ROARG), June 2010.

UNHCR and Fast Food Sudamericana S.A., “Memorando de entendimiento (ME).” Regional Office Argentina (ROARG), October 2009.

UNHCR, “Empresa solidaria.” Regional Office Argentina (ROARG), October 2009.

UNHCR, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas*. Geneva: September 2009.

UNHCR, “Propuesta de estrategia en materia de integración de refugiados para la Oficina del ACNUR en Argentina (ROARG, 2010-2011).” Regional Office Argentina (ROARG), 2009.

UNHCR, “Estrategia de integración de los solicitantes de asilo y refugiados espontáneos – Argentina (2010-2011): Los Ejes de Acción.” Regional Office Argentina (ROARG) PowerPoint presentation, 2009.

United Nations, *Report of the Working Group on the Universal Periodic Review: Egypt*. Human Rights Council, 14th session, Agenda Item 6, Universal Periodic Review, A/HRC/14/17, 26 March 2010.

Women's Refugee Commission, "Peril or Protection: the Link between Livelihoods and Gender-based Violence in Displacement Settings," Executive Summary. November 2009.

Women's Refugee Commission, "Building Livelihoods: A Field Manual for Practitioners in Humanitarian Settings." May 2009.

Women's Refugee Commission, "Earning Money/Staying Safe: The Links between Making a Living and Sexual Violence for Refugee Women in Cairo." July 2008.

Women's Refugee Commission, "Desperate Lives: Burmese Refugee Women Struggle to Make a Living in Malaysia", Executive Summary. May 2008.