



Navigating Nairobi

A review of the implementation
of UNHCR's urban refugee
policy in Kenya's capital city

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Executive summary

Despite an official policy that prioritizes the notion of accommodating refugees in camps located in remote parts of the country, Kenya has tolerated the growth of an increasingly large refugee population in the capital city of Nairobi and other urban centres.

In recent years, the UNHCR Branch Office in Nairobi has responded to this development by a significant reorientation of its programme. Based on a recognition of the right of refugees to enjoy freedom of movement, to take up residence in the capital city and to enjoy a steady expansion of the protection space available to them there, UNHCR has established a concerted set of activities related to urban refugees.

These activities have had some very positive consequences. Over the past five years, more refugees in Nairobi have been registered, documented, provided with access to healthcare and education than in the whole of the Branch Office's previous history. The city's refugee population has also been protected to some extent from the threat of arrest, detention, extortion and conviction.

As a result of its urban initiative, UNHCR has developed a much better understanding of and relationship with the refugee population in Nairobi. At the same time, it has established a wide range of productive new partnerships: with local government, the security services and judiciary, service providers, civil society and the NGO community.

As documented in this report, many of the approaches adopted by UNHCR in Nairobi can serve as examples of effective practice for urban refugee programmes in other countries and regions. But the organization's experience in the city has also revealed some of the difficulties associated with the organization's decision to embrace the urban refugee issue.

It has been difficult for UNHCR to decide how to prioritize its urban refugee programme, which currently serves in the region of 50,000 people, in a country where more than 350,000 refugees are to be found in overcrowded camps.

While UNHCR has expanded its range of activities in Nairobi, the capacity and resources available to the Branch Office are not commensurate with the demands that it must meet. A particularly negative consequence of this situation is to be found in the length and inefficiency of the process whereby refugees register with UNHCR, have their status determined and are issued with refugee certificates.

The growing number of refugees in Nairobi are confronted with other difficulties in the urban environment: insecurity, corruption, unemployment, overstretched public services and poor housing standards.

In a city where 40 per cent of the population are unemployed, 50 per cent live below the poverty line and 60 per cent are accommodated in slums, the daily life of a

refugee will inevitably be tough. Even so, by means of a creative programme focused on improved communication, new partnerships and extended local networks, UNHCR has been able to expand the protection space and services available to refugees in Nairobi.

Introduction to the review

1. At the Dialogue on Protection Challenges in December 2009, the High Commissioner made a commitment to undertake real-time evaluations of UNHCR programmes for refugees in a number of urban areas. The Kenyan capital of Nairobi was among those selected, together with Dushanbe, (Tajikistan), Kuala Lumpur, (Malaysia), San Jose (Costa Rica) and Sofia (Bulgaria).
2. The primary purpose of these reviews is to identify and examine the challenges and opportunities involved in the implementation of UNHCR's new Policy on Refugee Protection and Solutions in Urban Areas and to document lessons-learned and effective practices that are of relevance to other urban contexts.
3. This review of UNHCR's activities in Nairobi involved two PDES staff members, one of whom originates from the city and is fluent in Kiswahili, and a staff member from Refugees International (a Washington DC-based advocacy organization) who has extensive knowledge of the urban refugee situation in Nairobi.
4. Their methodology involved a thorough review of programme documents and other relevant literature, including a report on UNHCR's Kenya operation as a whole, prepared by the Inspector General's Office (IGO) and published in November 2010.
5. In addition to this background research, the team engaged in face-to-face and telephone interviews as well as e-mail exchanges with relevant staff in UNHCR headquarters and the field. The team subsequently undertook a 10-day mission to Nairobi, where discussions were held with a diverse range of stakeholders, including UNHCR, other UN agencies, national and local government officials, the security services, judiciary and public service providers, as well as NGO and civil society representatives.
6. The team made particular efforts to meet refugees, asylum seekers and other residents in their local communities, including neighbourhoods such as Eastleigh, Kayole, Kangemi, Kitengela, Ruiru and Umoja. In accordance with UNHCR's evaluation policy and the organization's commitment to Age, Gender and Diversity Mainstreaming (AGDM), the team's interlocutors included women, men, young and elderly people, as well as individuals and groups with specific needs. National UNHCR staff members and community outreach workers provided translation when it was needed.
7. At the close of the mission, the team participated in an Open Day event organized by the Department of Refugee Affairs at the University of Nairobi, which was attended by a wide range of official, non-governmental, civil society and community-based organizations.
8. The review was not confronted with any major constraints, other those associated with a relatively short mission to a large and busy city with a diverse and scattered refugee population. It was not possible for the team to meet all of the many

different organizations that are providing some kind of support to refugees in Nairobi, nor was it possible to visit other urban areas in Kenya where refugees are known to reside.

9. The team would like to thank all of the many people who contributed to the review, especially the national UNHCR staff members who accompanied and facilitated the work of the team in a consistently effective and gracious manner.

Urban refugee policy in Kenya

10. At the end of 2010, Kenya was hosting well over 400,000 refugees and asylum seekers, primarily from Somalia (83 per cent), Ethiopia (eight per cent), Sudan (six per cent), the Democratic Republic of Congo (two per cent), as well as Burundi, Eritrea, Rwanda and Uganda (one per cent collectively).

11. Kenya is a signatory to the 1951 UN Refugee Convention and its 1967 Protocol, as well as the 1969 OAU Refugee Convention. It is also a signatory to other international and regional human rights instruments that are relevant to refugee protection. On the domestic front, however, Kenya lacked any national refugee legislation until 2007, when the Refugee Act came into force.

The historical context

12. Notwithstanding the relatively recent introduction of national refugee legislation, Kenya in general and Nairobi in particular have a long history of hosting refugees from neighbouring and nearby countries. In the 1970s, for example, significant numbers of Ugandans fled from the violence in their own country and took refuge in Kenya, many of them teachers and other educated people who, because of their skills and cultural affinities, settled successfully in the country.

13. Until the end of the 1980s, when the country began to experience mass influxes from the Horn of Africa, refugees and asylum seekers were able to reside in any place of their choice. There were no camps, although the Thika Reception Centre, established some 40 kilometres from Nairobi, provided accommodation for a few hundred refugees and asylum seekers and where the government's Eligibility Committee undertook Refugee Status Determination (RSD).

14. In the early 1990s, following large-scale refugee arrivals from Ethiopia, Somalia and Sudan, refugee camps were set up in the border areas of Kenya. While many of the Somalis initially made their way to Mombasa and coastal areas of the country, they were subsequently relocated to three large camps in Dadaab, in north-east Kenya. Refugees from Ethiopia and Sudan, meanwhile, were accommodated primarily at Kakuma camp, in the north-west of the country.

15. At that time, it was anticipated that these new refugee situations would be temporary in nature, and that most of the people concerned would soon be able to return to their countries of origin. For both the authorities and UNHCR, the camp option seemed to be the most appropriate one in terms of facilitating the eventual repatriation of the refugees, protecting Kenya's national security interests and organizing the provision of food, shelter and other forms of assistance to the new arrivals. Given the scale and nature of these new influxes, refugee status determination on a case-by-case basis became increasingly untenable and was replaced by the granting of *prima facie* refugee status.

16. As a result of these developments, UNHCR assumed a predominant role in the task of providing refugees in Kenya with protection, assistance and solutions, while

that of the authorities was diminished. As one analysis has explained, UNHCR assumed the attributes of a 'surrogate state', responsible for administering large numbers of people, a significant amount of territory, a very substantial budget and a wide range of services.¹

17. The respective roles of UNHCR and the Kenyan government have started to change in recent years. As indicated already, the most notable development has been the entry into force of the Refugee Act, a development that followed a change of government and effective lobbying by UNHCR and the NGO community. The Act, which UNHCR also played a significant role in drafting, paved the way for the establishment of the Department of Refugee Affairs (DRA), headed by a Commissioner.

18. With the support of UNHCR and other stakeholders, DRA is currently striving to augment its capacity and to assume greater responsibility for refugee and asylum issues in Kenya. A national refugee policy is in preparation, while DRA has undertaken a refugee registration exercise in Nairobi and plans to assume progressive responsibility for RSD.

Encampment policy

19. From the early 1990s onwards, the Kenyan authorities effectively required refugees to reside in either Dadaab or Kakuma, camps which are located in remote, underdeveloped and insecure areas of the country, where there are very limited livelihoods opportunities. Movement out of the camps has been restricted, and those refugee residents wishing to travel have been required to seek written permission.

20. In practice, however, these restrictions have been less rigorous than they appear to be. First, while encampment has been the working policy of the government for some two decades, it has not been fully enshrined in law. Kenyan legislation (the Refugee Act and Alien's Restriction Act) makes it a punishable offence for refugees to be found outside of specifically demarcated areas, but in fact such areas have never been designated or gazetted.

21. Second, over the past 20 years, UNHCR and the authorities have been able to agree on certain exceptions to the encampment rule, enabling refugees to leave the camps and to take up residence in urban areas if they need to access higher education or specialized medical care, or if they are confronted with serious protection threats in the camps.

22. Third, and irrespective of any official constraints imposed on them, refugees in Kenya have proven to be highly mobile, making their own way to Nairobi from the camps, and increasingly avoiding the camps altogether, in their quest to reach the Kenyan capital. Such journeys are facilitated by the regular bus services that link Nairobi to the border areas, as well as the ease with which refugees can buy their way through the police checkpoints that are to be found on those routes.

23. Finally, the growing presence of exiled communities in Nairobi is symptomatic of a schism within the Kenyan administration on the issue of urban refugees. While

¹ Amy Slaughter and Jeff Crisp, 'A surrogate state? The role of UNHCR in protracted refugee situations', *New Issues in Refugee Research*, no. 168, January 2009.

some parts of government (most notably those concerned with national security) continue to espouse the notion that refugees must be confined to Dadaab and Kakuma, other parts (especially DRA) have broadly agreed to the notion that a refugee presence in Nairobi is both legitimate and inevitable.

24. In practice, refugees in Nairobi are not at risk of compulsory relocation to the camps, although UNHCR and its partners facilitate voluntary movements to Dadaab and Kakuma for those refugees who are unable or unwilling to remain in the capital city. But with the exception of a small number of particularly vulnerable individuals and families, Nairobi's refugees do not avail themselves of this option.

Refugee numbers and location

25. The number of refugees living in Nairobi has expanded significantly in recent years. Some 46,000 have been provided with a Mandate Refugee Certificate (MRC) by UNHCR. Another 11,000 have registered with the organization and are waiting for their status to be determined. At the end of 2009, the largest numbers of registered refugees originated from Somalia (43 per cent), Ethiopia (26 per cent), the Great Lakes countries (18 per cent) and Sudan (five per cent).

26. UNHCR and NGO staff estimate that in all, the number of refugees in the city may be between 80,000 and 100,000, given the large number of long-term Somali residents who have never registered. This number seems likely to grow in the future, given the continued influx from Somalia and the potential for instability in Southern Sudan, following the January 2011 referendum on the region's independence from Khartoum.

27. While some of these new arrivals may choose to enter and remain in the Dadaab and Kakuma camps, where they have access to basic assistance and services, there are also disincentives to do so, especially for refugees who originate from urban backgrounds. Dadaab, for example, has become increasingly overcrowded and overstretched as a result of the mounting Somali influx, and has very little to offer its residents in terms of future prospects, other than the hope of eventual resettlement to another country. And even this solution is available to just a very small proportion of the camp's residents.

28. Nairobi, on the other hand, offers the promise of a much more dynamic socio-economic and cultural environment, as well as opportunity of onward movement, not only by means of resettlement, but also through irregular migration to Southern Africa and then to more distant locations.

29. The urbanization of Kenya's refugee population would now appear to be unstoppable. Whether they originate from Ethiopia, Somalia, Sudan or one of the Great Lakes countries, refugees who arrive in Kenya know that if they make their way to Nairobi, they will be able to benefit from the established presence of family members, friends and compatriots who will facilitate their entry to the urban environment.

30. Moreover, with inner-city areas of the Kenyan capital becoming increasingly expensive in terms of living costs and increasingly competitive in relation to livelihoods opportunities, Somalis and other refugees are already beginning to move

to outlying parts of the city and to other urban areas, including Eldoret, Kisumu, Mombasa and Nakuru. One of the challenges now confronting UNHCR and its partners will be to monitor and map the incipient dispersal of the refugee population and to determine its implications for the organization's activities in Kenya.

A changing approach

31. From the beginning of the 1990s to the early 2000s, UNHCR generally acceded to the Kenyan government's encampment policy. While the organization was able to negotiate some exceptions to that rule, UNHCR generally advised refugees approaching the Branch Office in Nairobi that they should report to and reside in Dadaab or Kakuma. Few refugees were provided with the documentation that they required to remain in Nairobi legally and assistance was limited to a small number of the most vulnerable cases, almost invariably on a short-term basis.

32. Like the authorities, UNHCR tended to work on the assumption that the establishment of an urban refugee programme would act as an unwelcome 'pull factor', placing unsustainable pressure on its limited capacity and resources. Refugees who chose to move to Nairobi consequently did so at their own expense and risk. For the majority, gaining access to legal aid, education, healthcare, livelihoods support and psycho-social counseling was difficult, while little help was at hand in dealing with the common problems of arbitrary arrest, detention, police harassment and extortion.

33. As a result of its tacit agreement with the encampment policy, UNHCR knew relatively little about the situation of refugees in Nairobi and was not well placed to devise protection and solutions strategies for them. UNHCR did not enjoy a constructive relationship with the urban refugee community, a situation that was both revealed and reinforced in 2000-2001, when a highly publicized resettlement scandal erupted, involving, amongst others, the corruption of UNHCR staff in the Kenyan capital.

34. One reason for UNHCR's relative neglect of the urban refugee issue at this time was to be found in the priority and resources accorded to the Kenya operation as a whole, which were not commensurate with the scale of the challenges that it faced. As the IGO report has acknowledged, "for many years, the operation was hampered by chronic under-funding as well as under-staffing... The need to keep pace with evolving emergencies on several fronts tended to absorb management focus and energy."

35. This situation began to change in the wake of the resettlement scandal, when a strengthened UNHCR team launched the Nairobi Initiative, a concerted attempt to examine, understand and respond to the needs of refugees living in the Kenyan capital. As a first step in the reorientation of its approach, UNHCR identified those NGOs, community-based organizations and self-help groups that were working with refugees in the city and completed an informal (and yet highly informative) study of the refugee population.

36. This was followed up with an inter-agency urban refugee workshop, convened in association with the Refugee Consortium of Kenya, and three participatory assessments with the urban refugee community: one on AGDM, another on refugees

with specific needs, and a third on urban refugee community structures. The reports of these initiatives are examples of effective practice and should be posted on the UNHCR intranet so that they are available to other offices that are formulating urban refugee programmes.

37. As a result of the Nairobi Initiative, UNHCR adopted a much more proactive approach, reaching out to the urban refugee community and other relevant stakeholders. Thus the 2005 participatory assessment on AGDM, for example, had a direct impact on the UNHCR programme, leading in 2006 to:

- the publication of an information booklet for refugees and asylum seekers;
- cooperation with the City Council Clinic on refugee access to healthcare;
- strengthened advocacy on the issue of free primary education for refugee children;
- the establishment of a micro-grant programme for refugees;
- the provision of refugee rights training to the police, and,
- increased partnership with refugee self-help groups.

38. It is interesting to note that these and other outcomes of the Nairobi Project anticipated many elements of the new urban refugee policy that UNHCR was to introduce four years later in 2009, including a recognition of the right of refugees to live and be protected in urban areas, the need for UNHCR to reach out and engage with urban refugee populations; and the importance of working with new partners, such as city authorities, service providers and security services.

39. Thus when the new policy was introduced in September 2009, UNHCR personnel in Nairobi were gratified to see that it validated the approach that they were pursuing and did not require them to make major changes to their urban refugee programme. In the words of one senior staff member, “our first reaction to the policy was one of relief. We finally had some official justification for what we were doing and we were strengthened in our ability to advocate on behalf of urban refugees with other stakeholders.”

40. At the same time, and in the words of one internal Branch Office document, the introduction of the new policy “yielded great hope and expectations for enhanced political and financial support to the urban programme, and even more so when Nairobi was designated as a pilot for the implementation of the policy.”

41. While these hopes and expectations have not been fully met, the introduction of the new urban refugee policy has had some positive consequences. First, the Nairobi programme has received greater attention from UNHCR Headquarters, including three recent missions: one to examine healthcare provisions for refugees in the city; one to review UNHCR’s urban mapping activities; and the evaluation mission on which this report is based. The Nairobi office also participated in a Headquarters workshop where field-based staff members came together to share their experience in the implementation of the new policy.

42. Second, the new urban policy has provided a basis for enhanced communication and cooperation with other agencies. The policy has, for example, been strongly welcomed by the NGO community in Nairobi, a number of whom have previously been critical of UNHCR’s reluctance to embrace the urban refugee issue. It has also been the subject of discussions with UN agencies such as HABITAT,

OCHA and UNICEF, which have hitherto played a very limited role in relation to Kenya's refugee population.

43. Finally, UNHCR has been able to engage a number of official actors in the introduction of the new policy, including DRA, the Ministry of Local Government and the Mayor of Nairobi, who participated in the Mayors' Forum that preceded the High Commissioner's Dialogue in 2009.

44. While the government of Kenya and the city authorities of Nairobi have not endorsed or agreed to the implementation of the new policy, a number of steps that they are currently taking in relation to urban refugees (and which are examined elsewhere in this report) are consistent with the principles on which that policy is based. According to the internal document cited above, "a slow change of mindset is being observed, towards some form of acceptance of a growing urban refugee population as the phenomenon has become a reality."

Prioritization and policy implementation

45. In contrast with the situation less than a decade ago, there is now an established UNHCR programme for refugees in Nairobi, firmly based on the organization's global policy objective of expanding the protection space, services and opportunities available to urban refugees. At the same time, the 350,000 refugees living in Dadaab and Kakuma continue to be the priority for UNHCR's Kenya operation.

46. Some staff members whose work is focused on life-saving activities in the camps reportedly regard the urban programme as something of a luxury, while at UNHCR Headquarters there has been a reluctance to provide the urban programme with additional resources, especially as the government has expressed its willingness to assume progressive responsibility for functions currently undertaken by the Branch Office. Thus in 2010, UNHCR's urban refugee programme was undertaken with very limited regular staffing and with a budget of less than \$3 million, compared to a total of \$90 million for the country as a whole.

47. With this modest investment, however, UNHCR and its partners have been able to secure and extend the protection space available to refugees in Nairobi. At the same time, the programme has demonstrated the broader relevance of UNHCR's new urban refugee policy, providing examples of effective practice that could usefully inform the organization's work in other cities. The Nairobi programme provides an important and very visible test case with respect to UNHCR's commitment to its new urban refugee policy, and should consequently be supported in an appropriate manner and in accordance with the recommendations below.

Recommendations

- a) UNHCR should formulate a comprehensive urban refugee strategy paper for Nairobi and for Kenya as whole, based on the principles and provisions of the organization's new urban refugee policy.

- b) UNHCR should ensure that the urban refugee situation is adequately reflected in the next Comprehensive Needs Assessment undertaken in Kenya and in the country's prioritized plan.
- c) UNHCR should consider the establishment of an appropriately located and managed Sub-Office for Nairobi, which would both develop the urban programme and facilitate the progressive transfer of responsibilities such as registration and RSD to DRA and other national entities.
- d) UNHCR should review the way in which its urban refugee programme in Nairobi is staffed, paying particular attention to the strengthening of the community services function and the potential establishment of additional senior national positions in registration and RSD.
- e) Relevant papers relating to the formulation of UNHCR's urban refugee programme should be posted on the UNHCR website so that they can be accessed by other operations.

Processing and protection

48. UNHCR's new urban refugee policy uses the notions of 'protection' and 'protection space' in a very inclusive manner, covering every stage of the refugee cycle from admission to durable solution, and encompassing a wide range of issues including community outreach, access to public services, the promotion of livelihoods and self-reliance. This chapter employs a narrower definition of the protection concept, focusing primarily on matters such as reception, registration, RSD, documentation, detention and physical security.

Reception

49. UNHCR maintains a single reception area on Rhapta Road in Westlands, an upmarket neighbourhood just outside of Nairobi's central business district. Between 450 and 500 people are received there on average each day, four days a week. These include new arrivals who are making contact with UNHCR in Nairobi for the first time, as well as refugees and asylum seekers who have appointments for interviews relating to registration, documentation, RSD, resettlement and other protection issues.

50. The number of people making use of the reception facility suggests that UNHCR has in some respects become a victim of its own success. In the past, many of Nairobi's refugees remained unregistered with the organization as it had little to offer them and made few efforts to engage with the refugee community. Now that UNHCR has a well-established urban refugee programme and a number of different outreach activities, the incentive and opportunity to make contact with the organization is considerably greater.

51. The Rhapta Road facility was visited several times in the course of this review and it appeared to be running in a smooth and orderly manner. It is certainly a major improvement on the situation just a few years ago, when the former UNHCR compound in Nairobi was constantly thronged by crowds of refugees, struggling to get access to the organization's premises and staff. Even so, and despite the efforts that have been made to meet the reception standards required by the new urban refugee policy, the facility is evidently too small for the growing number of people making use of it. The safety and security arrangements in place there are also inadequate, both for refugees and for UNHCR personnel.

52. As the IGO observes in its recent report, "while the team has made commendable efforts to provide for the best possible processing of cases within the compound, the reception, waiting and processing facilities are not suitable for such large numbers of persons... These challenges need to be addressed with greater urgency, not only through the identification of alternative, more suitable premises, but also in immediate further investment in additional security measures." This review fully endorses the IGO recommendation.

53. Another concern relates to the distance that refugees and asylum seekers have to travel to get to Rhapta Road. Many live in the suburbs, and refugees are increasingly moving to more distant locations in order to benefit from cheaper accommodation and new livelihoods opportunities. Traveling to Westlands from such parts of Nairobi can be a complex, time-consuming and expensive undertaking, and poses a particular challenge for refugees with specific needs, such as those who are destitute, ill, young, elderly or who have disabilities. UNHCR and DRA should examine whether any of the reception and processing functions currently carried out at Rhapta Road could be undertaken by mobile teams, traveling to outlying parts of the city on a periodic basis.

Appointments

54. By far the most common grievance expressed by refugees in Nairobi in relation to UNHCR's services concerns the appointments system. UNHCR registration staff record basic information about asylum seekers when they first present themselves, verify their fingerprints to avoid double registration and issue them with an appointment slip for registration purposes. Due to the large number of new arrivals and applicants, however, the current waiting period for a registration appointment is up to two years (for *prima facie* Somali refugees) whereas the period for an RSD appointment is four months, with another 10 months before the decision is issued.

55. A related difficulty concerns the repeated postponement of appointments. According to a recent report by an independent researcher, "in Nairobi it is not uncommon for RSD interviews to be postponed 20 times. Among a group of 19 Oromo who met with me in Githurai, there were three Borana men who claimed that their interviews had been postponed four times in one year, five times in one year and ten times in 18 months respectively."² Many similar stories were heard in the course of this review.

56. Even allowing for the possibility of some exaggeration, this situation is evidently not acceptable. As well as the inconvenience and expense that it causes for refugees, the system promotes the production of forged appointment slips, encourages refugees to acquire Kenyan identity documents from unscrupulous agents and also acts as an incentive for irregular onward movements. It is recommended that immediate action be taken to address the situation, with the aim of ensuring that refugees are able to secure and attend an appointment within a reasonable period.

Registration and documentation

57. Despite the official policy of encampment, UNHCR has registered refugees in Nairobi for many years. The introduction of the ProGres software has greatly improved UNHCR's capacity and efficiency in this respect. The software has also facilitated the sharing of information amongst different units of the Branch Office and helped to reduce fraud and corruption. Standard Operating Procedures have also been developed for all aspects of the reception, registration, documentation and RSD process.

² 'Ethiopia exports more than coffee: Oromo refugees, fear and destitution in Nairobi', unpublished paper, 2010.

58. The Branch Office keeps photographs and fingerprints of all refugees who are registered in Nairobi, and has recently been able to share this data electronically with Dadaab and Kakuma. Thus if a refugee approaches UNHCR in the capital city, staff members can readily determine whether that person has already been registered in one of the camps and can require the refugee to be deregistered before being recorded as a resident of Nairobi.

59. Interestingly, the UNHCR database indicates that very few refugees – less than 10 per cent of the total – currently approach the Branch Office in Nairobi after being registered in one of the camps. This figure contradicts the long and widely held assumption that most Somalis make use of Dadaab as a ‘staging post’ while on their way to the capital city. It also challenges the myth that by providing greater protection and access to services in Nairobi, refugees will flood from the camps to the city.

60. Documentation is often the foundation of protection for refugees residing in urban areas, and Nairobi is no exception in that respect. Refugees in the city who are able to demonstrate their identity and legal status are generally best placed to avoid arrest, detention, abuse and exploitation, and to gain access to schools, clinics and livelihoods opportunities.

61. Historically, refugees were given an MRC on which it was written that “X is a refugee recognized by UNHCR and should report to Kakuma or Dadaab within X days.” This language was changed in 2003-2004, reflecting the organization’s gradually changing attitude towards the right of refugees to live in urban areas. The new MRC stated that “X is a refugee recognized by UNHCR and is not entitled to any assistance in Nairobi.”

62. This wording was not appreciated by many refugees, however, who found that the “no assistance” clause made it difficult for them to gain access to essential services. A further change was made to the certificate in 2008, which now simply stated that “X is a recognized refugee in Kenya under the 1951 Refugee Convention and the 1969 OAU Convention,” without any reference to a place of residence or the receipt of assistance. Some refugees have not renewed their MRCs and consequently hold expired certificates that contain the old wording.

63. While large numbers of refugees have registered with UNHCR in recent years, continued efforts are needed to ensure that persons of concern to UNHCR are properly documented and therefore more effectively protected. According to a March 2010 report on Nairobi, refugees fail to register because they (a) lack information on the process; (b) cannot afford repeated visits to the UNHCR office; (c) are deterred by the length of time that registration and RSD takes; and (d) fear deportation if their asylum claim is rejected. In fact, despite a formal requirement for rejected asylum seekers to leave the country within 90 days, few if any appear to do so.³

³ ‘Hidden and exposed: urban refugees in Nairobi, Kenya’, Humanitarian Policy Group, Overseas Development Institute, March 2010.

Government registration

64. In August 2010, DRA announced the introduction of a 'Rapid Results Initiative', the goal of which was, within a 90-day period, to register and provide an official document to 85 per cent of the refugees in Nairobi who were already registered with UNHCR. By the end of October, approximately 7,000 had been registered by the government, just 35 per cent of the total.

65. On the basis of interviews undertaken with refugees, it seems many refugees were sceptical of the government's capacity and motivations in launching this initiative and consequently chose not to register. Some said that they did not see the value in having a government-issued identity card, given the ease with which such documents can be bought or counterfeited.

66. According to these refugees, the police and other officials have more respect for a UNHCR document than one issued by the authorities. Some refugees stated that they were unwilling to wait in long queues and waste time when they could be working, while others feared that the exercise might be linked to relocation or repatriation.

Status determination

67. In the days when refugees were accommodated in the Thika Reception Centre, RSD was undertaken by an official Eligibility Committee. The committee was dissolved when Kenya began to experience mass refugee influxes, and RSD is currently the sole responsibility of UNHCR.

68. Somalis from Mogadishu and south-central parts of the country are recognized on a *prima facie* basis and only need to demonstrate that they come from those areas in order to qualify for refugee status, with the exception of those whose profile may trigger exclusion concerns. However, because the whole processing system is overwhelmed and under-resourced, it can take two years before a Somali receives an MRC, which has to be renewed every two years (a function that places additional pressure on the Branch Office). Well over 10,000 Somalis find themselves in the position, and will be at heightened risk of arrest, detention and removal to the Somali border while waiting for their MRC, given the limited amount of protection provided by an appointment slip.

Refugees and asylum seekers of all nationalities express serious dissatisfaction with the current state of affairs. In addition to the length of the process, some state that they presented themselves to the UNHCR office to collect their RSD decision, based on the appointment that was issued to them, only to find that it was not ready when they arrived. Others, especially the Banyamulenge Congolese, express a lack of trust in the interpreters who are designated by UNHCR.

The role of government

69. State responsibility is one of the basic principles on which UNHCR's new urban refugee policy is based. In the words of that document, "in urban as in other contexts, national and local authorities have a primary role to play in providing refugees with protection, solutions and assistance. UNHCR will encourage all states

to exercise this responsibility through its advocacy efforts.” This principle is of particular importance in a country such as Kenya, where, for the past 20 years, refugee-related issues have often been regarded as the responsibility of UNHCR and the international community.

70. But that situation has been changing since the introduction of the Refugee Act, the establishment of DRA and the appointment of a Refugee Commissioner. DRA is currently in the process of drafting a national refugee policy. It is recruiting additional staff, opening new offices and has a three-year plan to assume progressive responsibility for the functions examined in the preceding sections of this paper: refugee reception, registration and RSD.

71. This has placed UNHCR in a dilemma, first because the organization has doubts with regard to DRA’s capacity and competence to assume such responsibilities, even if the handover is a phased one, and second, because UNHCR may well be expected to fund the DRA’s expansion. Indeed, there is already a considerable level of dissatisfaction within DRA in relation to the resources that UNHCR is committing to it, as well as the allegedly unilateral manner in which the organization makes its funding decisions.

72. The reservations that UNHCR has expressed with regard to DRA’s capacity and competence have also been interpreted as an indication of UNHCR’s unwillingness to relinquish any of its current responsibilities. And while the refugees themselves are often very critical of UNHCR and the services it provides, many would seem to have even less confidence in the state. The precipitous handover of key protection functions to the government could thus potentially have a very negative impact on UNHCR’s efforts to engage more constructively with the refugee population in addition to yielding a flawed and unsustainable system. A measured approach is consequently called for, in which the gradual transfer of responsibilities to the state is underpinned by cost-effective capacity-building and quality control activities on the part of UNHCR.

The police and judiciary

73. A persistent protection problem for refugees living in Nairobi has been the threat of arbitrary arrest and detention by the police (as well as imposters pretending to be police officers) for the purpose of extracting a bribe. Indeed, the police and other officials are known to refer to refugees as ‘ATMs’, given the ease with which money can be extracted from them. Indeed, some Kenyan officials claim that the problem has been exacerbated by the readiness of Somalis and other refugees to pay bribes to the police, even if they are properly documented. The supportive nature of the Somali community is also of particular relevance in this respect, as police officers are fully aware that detainees are usually able to raise money from their compatriots in order to secure their early release.

74. While this protection problem is unlikely to be eradicated in the immediate future, some positive developments can be reported. With the introduction of its new Constitution, Kenya is making vigorous efforts to tackle the issues of pervasive corruption, official impunity and the use of public powers for private gain, as demonstrated by the number of public servants who have been forced to relinquish their office in recent months.

75. A process of police reform has been introduced, in an attempt to transform the service from one which is preoccupied with public order (a relic of its colonial origins) to one that places greater emphasis on civilian protection. The police presence has been strengthened in the neighbourhood of Eastleigh, where the largest concentration of refugees is to be found, and by all accounts (from refugees, human rights and civil society organizations, as well as UNHCR staff) the level of police harassment has declined in recent months.

76. UNHCR can itself take some credit for this positive development, given the efforts that the organization has made in recent years to engage with the police and prison services. As a result, the Branch Office usually has speedy knowledge of any refugee arrests and detentions and is able to make appropriate interventions for the release of the people concerned. Even so, there is a recognition within the police service that its members are not sufficiently well informed about the rights of refugees and that regular training sessions are required in view of the frequency with which officers are moved from one assignment to another.

77. Another way in which UNHCR has been able to expand the protection space available to refugees in Nairobi is by training lawyers and members of the Judges and Magistrates Association in international refugee law, as well as the provisions of the Refugee Act and the specific needs of refugees such as SGBV survivors and unaccompanied minors.

One magistrate who has become a trainer in such issues herself suggests such training is taken more seriously when it is led by a colleague and a compatriot than when it is provided by UNHCR or an NGO. In a potential example of effective practice, the same magistrate has helped to organize a 'court users committee' in the busy Kibera Law Courts, involving appropriate representatives of the judiciary, police, prison service, the Criminal Investigation Department, the anti-terrorism and anti-narcotics units, as well as the Children's Department.

Refugee security

78. Despite the advances described above, the question of physical security remains an important concern to many refugees, as it does to all residents of Kenya's capital, where crime and gang -based violence are a feature of daily life. Refugees, however, have some particular causes for concern.

79. First, while the day-to-day policing of refugee-populated areas of Nairobi has improved, such areas continue to be subject to occasional night-time raids and apparently random arrests. Thus in November 2010, around 350 Somalis and Ethiopians, including those with identity papers, were detained in Eastleigh, following the death of three policemen after an attack by unknown assailants in that neighbourhood. According to one of UNHCR's local partners, the refugees were held in conditions that violated the new constitution and were denied their right to a court hearing within 24 hours of arrest.

80. A second security issue affecting refugees in Nairobi concerns the claim that they are liable to be targeted, abducted or killed by people working on behalf of their country of origin. Up to 100 refugees submit claims of this type to UNHCR each week, a very substantial burden on the small Protection Delivery Unit, especially in

view of the fact that many appear to lack a valid basis.⁴ As an unpublished study of the Oromo community in the city has suggested, “some reported threats are due to fear and paranoia,” while there is also “an understandable tendency to exaggerate and sometimes invent a narrative of persecution in order to accelerate refugee status determination and increase the chances of resettlement.” Even so, the author concludes, such threats are “significant and serious... and affect large numbers of refugees.”⁵

81. Third, there would appear to be some potential for xenophobic incidents in Nairobi, although fortunately this problem did not arise during the post-election events of 2008. As explained elsewhere in this report, Kenyan citizens have historically been suspicious of the Somali community, a situation exacerbated by their current commercial success in Nairobi as well as their association with the issues of piracy, fundamentalism and terrorism. If a major security incident were to take place in the Kenyan capital, such as the Kampala bombings of July 2010, the consequences could be alarming, especially if refugees or other non-nationals were thought to be responsible.

82. As these examples indicate, UNHCR should have realistic ambitions in its efforts to secure and expand the protection space available to urban refugees. UNHCR evidently has a responsibility to ensure that the protection needs of refugees are dealt with promptly, fairly, politely and efficiently when they come into contact with the organization. UNHCR and its partners also have an important role to play in encouraging and capacitating other actors to contribute to the task of refugee protection, as they have been doing in relation to the Kenyan government, police service and judiciary. In situations where the authorities are unable or unwilling to maintain the rule of law, however (and that is the situation in all countries to some extent or another), UNHCR cannot perform the role of a surrogate state.

Recommendations

- a) The reception arrangements for refugees in Nairobi should be expanded and upgraded, ideally by moving them to a more appropriate location.
- b) UNHCR and DRA should examine whether any of the reception and processing functions currently carried out at the Branch Office could be undertaken by mobile teams.
- c) Immediate action should be taken to reduce the backlog of people seeking appointments with UNHCR, with the aim of ensuring that refugees can secure and attend an appointment within a reasonable time.
- d) All refugees who are registered in Nairobi should be provided with the latest version of the Mandate Refugee Certificate (MRC) that is issued by UNHCR.

⁴ Less than 10 per cent are deemed to have credible protection concerns and only two per cent are referred to the Resettlement Unit.

⁵ ‘Ethiopia exports more than coffee’, *ibid.*

- e) UNHCR should accelerate the provision of MRCs to recognized and *prima facie* refugees, and ensure that adequate interpretation facilities are provided for RSD interviews.
- f) UNHCR should facilitate the progressive transfer of the registration and RSD functions to the government by means of cost-effective capacity-building activities.
- g) UNHCR should continue with and if possible expand its efforts to provide training in refugee protection to the police, prison service and judiciary.

Community outreach

83. UNHCR's relationship with refugees in Nairobi and their civil society advocates was once characterized by a degree of mutual distrust. In the late 1990s and early 2000s, the Branch Office was struggling to provide adequate protection and assistance to the growing number of refugees in Dadaab and Kakuma, and did not have the capacity to address the situation of those who made their way to Nairobi. The low priority given to urban refugees at this time was reinforced by the government's clear preference for encampment and by UNHCR's own 1997 urban refugee policy, which emphasized the difficulties and dangers associated with the presence of refugees in urban areas.

84. Unsurprisingly in this context, UNHCR's approach to the urban refugee issue in Nairobi was a somewhat minimalist one. Those refugees who approached the Branch Office were allowed to present their needs and concerns, but little effort was made to reach out to and engage with the urban refugee population, who tended to view UNHCR as an unsympathetic gatekeeper, rather than as a partner and protector.

Reorienting UNHCR's approach

85. The past decade has witnessed a major reorientation of UNHCR's approach to its engagement with Nairobi's refugee population, a development prompted by a number of different factors. These include:

- the resettlement scandal of 2001-2, which both revealed and reinforced the need for urgent action to restore the refugees' confidence in UNHCR;
- the increased number of refugees taking up residence in Nairobi, and the Kenyan government's growing awareness that it would not be able to impose a strict policy of encampment on refugees in the country;
- the introduction of UNHCR's AGDM strategy, which placed substantial emphasis on the need for participatory assessments and community-based approaches;
- UNHCR's recognition that the 1997 policy was no longer fit for purpose, and the need for it to be replaced by one that emphasized the importance of reaching out to the urban refugee community; and,
- the growing experience gained by UNHCR in engaging with urban refugee populations in other contexts.

86. Prompted by these considerations, the Branch Office in Nairobi has in recent years developed a portfolio of different community outreach activities, many of them anticipating the provisions of UNHCR's new urban refugee policy, issued in September 2009. As a result of these initiatives, there is now a much better awareness

and greater appreciation of UNHCR's work within Nairobi's refugee community (a loose concept used in this context to encompass areas beyond the city limits and to include registered and non-registered refugees, people with pending and rejected asylum applications, as well as irregular migrants from refugee-producing countries).

National staff and outreach workers

87. UNHCR has appointed a number of national officers to its evolving urban refugee programme, university graduates whose local origins, knowledge of Nairobi and interpersonal skills provide the organization with an invaluable means of communication with refugees and other stakeholders. They deserve significant credit for the increased visibility and credibility that the organization has been able to establish in the city.

88. At the same time, UNHCR has worked with an implementing partner, GTZ, to establish a group of 15 community outreach workers, men and women who are drawn from the different national and ethnic groups to be found amongst Nairobi's refugee population and who are responsible for outreach activities in different parts of the city. This initiative was an outcome of the 2006 Participatory Assessment, when refugees complained that they had to travel to the Branch Office in order to access the information they needed.

89. The outreach workers normally have a degree or diploma, are recruited on a competitive basis and in accordance with AGDM principles. They are paid a modest incentive (around 8,000 shillings a month) which does not require them to have a work permit. GTZ convenes monthly meetings to train the outreach workers on a variety of issues, including how to respond to refugee arrests, how to refer survivors of SGBV to appropriate services, and how to identify vulnerable individuals who need special support. They are well known to local police stations and play an important role in negotiating the release of refugees from detention.

90. In the course of this review, it became clear that the community outreach workers provide an important link between UNHCR, partner agencies, civil society and local officials. According to the outreach workers themselves, however, the number is inadequate to meet the needs of Nairobi's growing and increasingly dispersed refugee population, meaning that they are obliged to work longer than their agreed hours and that some parts of the city are inadequately covered.

91. A more general issue associated with this approach to community outreach is that of accountability and integrity. In Nairobi, as in other cities where similar schemes have been implemented, community outreach workers enjoy a potentially powerful position which has the potential to be abused for individual or factional gain. This is of special concern in a city such as Nairobi, where there is relatively little solidarity within the refugee community as a whole, and where rivalries and jealousies exist between different national and ethnic groups.

92. To gain a better appreciation of these and other issues, UNHCR should identify those cities where community outreach worker programmes have been established and organize an information-sharing exercise in relation to the way they are administered and the safeguards that are built into them.

NGOs and civil society

93. Local partnerships form another important component of UNHCR's protection and outreach strategy in Nairobi.⁶ One NGO, Kituo Cha Sheria, provides training to local officials on refugee and human rights law, works with community mobilizers to enhance the refugees' awareness of their rights and obligations, including how to respond to police harassment. It also advocates for work permits that would allow refugees to work in the formal economy.

94. Kituo Cha Sheria has been a UNHCR partner for three years, was a key player in promoting the passage of the Refugee Act, and is now working with the government on the formulation of implementing regulations. Located in the heart of Eastleigh and with 13 staff members, the reduction in the level of police harassment has been attributed by some observers to Kituo Cha Sheria's increased presence and visibility in the neighbourhood.

95. A second NGO, the Refugee Consortium of Kenya (RCK) has been working on behalf of refugees in Nairobi since 1998 and had a somewhat adversarial relationship with UNHCR in the days when the Branch Office treated the urban refugee issue as a low priority. It was thus an important gesture for the first (2006) inter-agency workshop on urban refugees in Kenya to be convened jointly by UNHCR and RCK and that the latter has since then entered a partnership agreement with UNHCR.

96. The Consortium currently represents refugees in status determination procedures, and refers SGBV survivors to appropriate services. It has well established relationships with officials in DRA and other ministries, and, like Kituo Cha Sheria, has contributed to the passage of the Refugee Act and its implementing regulations. Both organizations provide good examples of the important role that civil society has to play in relation to community outreach and refugee protection, especially in a country such as Kenya, which has a strong tradition of human rights advocacy and a body of young professionals who are eager to work in this area.

Local government

97. The notion of community outreach as used in UNHCR's new urban refugee policy relates primarily to the organization's ability to forge effective linkages with refugees, local residents, NGOs and civil society. The organization's recent experience in Nairobi provides a valuable reminder of the fact that outreach and partnership is equally important in relation to those local and municipal government officials who have primary responsibility for the administration of urban areas.

98. In the case of Nairobi, UNHCR's expanded involvement with the urban refugee population has been facilitated by the establishment of a good working relationship with the city's Mayor, who attended the High Commissioner's Dialogue in 2009. At a lower but equally important level of the administrative structure, UNHCR has also had some success in forging links with District Commissioners (DCs) of refugee-populated parts of the city.

⁶ See Elizabeth Campbell, 'Local organizations key to increased protection for refugees in Nairobi', Refugees International, www.refugeesinternational.org, 28 October 2010.

99. One DC, for example, has invited UNHCR to participate in the District Board and is supporting the organization's efforts to ensure that refugee children are enrolled in local schools. Significantly, a principal motivation for this support has been the fear that refugee (especially Somali) children who are out of school or attending unregulated schools will become a disruptive social element, engaging in a range of negative activities such as early marriage, prostitution, drug abuse, clan-based violence, small arms proliferation, militia recruitment and political extremism. While UNHCR should evidently be very cautious in associating refugees with such problems, the concerns expressed by such an influential local administrator must be taken seriously.

Urban mapping

100. Community outreach is primarily about people but can also make use of technology. One innovation employed by UNHCR to enhance its knowledge of the urban refugee population and their protection needs in Nairobi is the use of Geographic Information Systems (GIS).

101. Based on data entered in ProGres, from interviews with individuals and from 20 visits to the Eastleigh area, UNHCR has prepared digital maps of areas and neighbourhoods where concentrations of refugees are to be found, providing valuable information on issues such as their place of residence, nationality, ethnicity, religion, gender, family size and any security incidents that have affected them. The database used to create these maps also records the mobile phone number of refugees, so that home visits and protection assessments can be arranged.

102. It is recommended that a 2007 paper prepared by the Branch Office, 'GIS as a tool for community-based refugee protection in an urban setting' be made available to other operations by means of the UNHCR intranet. As well as describing the methodology of the GIS project, the paper identifies some of its key findings, some of which have important implications for refugee protection in Nairobi. For example:

- self-identified refugee leaders who were relied upon to transmit information to their communities have not done so in an effective manner;
- significant numbers of people who consider themselves to be refugees had not registered with UNHCR and some were not aware of the services it provides, despite the organization's long-term presence in Nairobi; and,
- amongst refugees from the Horn of Africa, women are the main breadwinners while men are more reliant on remittances.

103. While GIS has proven to be a useful tool in terms of understanding the urban refugee population, it is heavily reliant on regular and accurate data input, especially if it is to provide a useful picture of the changing dynamics of that population. Unfortunately, since the initial mapping exercise was undertaken, a shortage of resources has prevented the existing data from being updated - a significant drawback in a context where new refugees are arriving and existing populations are known to be mobile. A partnership with UN-HABITAT, which has particular expertise in relation to the mapping of urban and slum areas, should be explored in this respect.

Prioritization

104. Now that UNHCR has developed a range of different community outreach mechanisms in Nairobi and has thereby developed a better understanding of the refugee population as a whole, the organization should focus its efforts on identifying those groups and individuals who have a specific need for protection and support.

105. According to one local agency and UNHCR partner, Heshima Kenya, a growing number of unaccompanied minors are arriving in the city, many of them coming directly from their place of origin (formerly from Somalia but now increasingly from the Great Lakes countries). They often travel with long-distance truck drivers (a mode of transport that evidently entails a high risk of SGBV) and survive on arrival in Nairobi by working in private houses or in hotels and restaurants, two other environments where the children concerned are vulnerable to abuse and exploitation.

106. Heshima Kenya maintains a safe house for such children, finds suitable foster families for them and also runs a girls empowerment programme with almost 100 participants. But the organization has limited capacity and does not extend its services to boys. More generally, there is a need for UNHCR and its partners to develop a better knowledge of the extent to which refugee children and adults are engaged in survival sex.

107. UNHCR should also adopt a more specific focus on the situation of older refugees in Nairobi. At the moment, there are few outreach or support activities targeted at this group, a growing number of whom are experiencing age-related illnesses such as diabetes, kidney failure and hypertension. In addressing such needs, the Branch Office could usefully draw upon the experience that UNHCR has gained with Iraqi refugees in urban areas of the Middle East, many of whom are suffering from similar medical conditions.

108. Another gap that is emerging in relation to UNHCR's community outreach activities concerns those refugees who are taking up residence in urban centres outside of Nairobi, such as Eldoret, Kisumu, Mombasa, Nakuru and Naivasha. Although the expense of maintaining an ongoing UNHCR presence in such locations could not be justified, the Branch Office and its partners should seek to map and monitor the refugee situation in these locations, ensuring that persons of concern to the organization are able to be registered and documented, especially in light of the recent detention of Somalis in Mombasa.

109. Finally, the outreach activities undertaken and supported by UNHCR should not be focused solely on refugees and asylum seekers, but should strive to promote interaction with local Kenyans whether by means of dialogue, cultural exchanges, community-based activities and, perhaps most important of all, joint advocacy. While UNHCR has a mandate for a specific group of people, the organization's efforts to improve the lives of refugees in Nairobi must be linked to broader efforts to improve the inadequate housing, infrastructure and services available to much of the city's population.

Recommendations

- a) UNHCR should undertake an information-sharing exercise and comparative review of community outreach worker programmes in urban areas, focusing on the way they are administered and the safeguards that are built into them.
- b) UNHCR should develop a closer relationship with the District Commissioners in urban areas that are populated by refugees.
- c) UNHCR should explore the potential for partnership with UN-HABITAT in relation to the ongoing mapping of urban refugee populations.
- d) UNHCR's outreach activities should focus on groups with specific needs, including unaccompanied children, older refugees and people engaged in survival sex.
- e) UNHCR and its partners should monitor and map the movement of refugees within Nairobi and in other urban centres of Kenya.
- f) UNHCR's outreach activities should combat xenophobia, promote positive interactions between refugees and Kenyan citizens and be based on a recognition of the need to improve the infrastructure and services available to all of Nairobi's residents.

Shelter and services

110. As UNHCR's new urban refugee policy points out, the task of protecting and supporting refugees who are living in cities and towns is very different to that of meeting their needs in camps. In the latter context, where refugees are concentrated in (and sometimes confined to) designated areas, there is a certain logic in providing them with dedicated services.

111. In the former context, however, where refugees are in a minority, it generally makes more economic and social sense to ensure that they can access existing resources, strengthened as necessary to cope with the additional pressures created by the refugee presence. This chapter examines the way in which these issues are being addressed in Nairobi, focusing particularly on the issues of shelter and public services.

Urban accommodation

112. With the exception of a single UNHCR protection centre that hosts a modest number of the most vulnerable people, usually pending resettlement, refugees in Nairobi must find and pay for their own accommodation. The large Somali and Oromo Ethiopian communities have historically settled in the area of Eastleigh, but as the area has become more densely populated and as more shops and other private businesses have been built, housing has become increasingly expensive.⁷ The monthly rental for two small rooms is now in the region of US \$250 per month, and it is common for 10 or more people to share such accommodation in order to reduce the cost to each individual.

113. The housing conditions experienced by Eastleigh's refugees are generally very poor. Apartment buildings often lack running water, requiring residents to buy it in jerry cans for their daily drinking, cooking and washing needs. Sanitation and other facilities are also inadequate. There is often only one toilet on each floor of an apartment block, and because they do not have proper kitchens, refugees have to cook in courtyards and hallways. Needless to say, there is little or no safe space in which children can play.

114. When refugees are unable to pay their rent, landlords are quick to evict them. They are then obliged to rely on the generosity of neighbours or wealthy shopkeepers for housing until they can earn enough money to pay for the rent again. The threat of constant eviction is of great concern to many refugee families.

115. Despite the high costs of rent in Eastleigh, many families choose to stay in the area because it offers many trading and other livelihood opportunities, and because other and wealthier members of the diaspora provide a safety net for them. While it does not appear to be a common phenomenon, there are reports of large refugee families sleeping temporarily at mosques and at shopping centres owned by

⁷ For a concise account of Eastleigh's rich history, see 'The making of a Somali capital at the heart of Nairobi', *Saturday Nation*, 25 September 2010.

wealthier members of the diaspora, sometimes while they are waiting to be relocated to a camp.

116. Other Somali and Ethiopian families, as well as those from the Sudanese and Great Lakes communities, are now moving to cheaper areas on the outskirts of the city, where accommodation that is more spacious is available outside of Nairobi. In areas such as Dagoretti, Githurai, Kitengela, Umoja and Ruiru, for example, accommodation with a kitchen and toilet costs in the region of \$50 per month. Even so, such locations are quite far from Nairobi's city centre, while transport to the central business district is relatively expensive. Out of town accommodation is consequently not an easy solution for refugees and asylum seekers who need to access services and follow up their cases with UNHCR and other agencies in the city centre.

117. UNHCR's urban refugee policy says little about the issue of shelter, possibly because the organization's options in this area are relatively limited. This is particularly the case in Kenya, a country where refugees have the option of moving to a camp if they cannot survive in the city, where the housing market is highly commercialized ("the free market gone mad," according to one urban planner) and where, according to UN-HABITAT, no less than 60 per of the population lives in slums.

118. In this context, and given the resentment that some Kenyans feel with respect to the influx of Somalis, their dominant economic and social presence in Eastleigh and the conspicuous wealth exhibited by a small but visible proportion of the diaspora, the incipient movement of refugees to urban areas outside Nairobi may well represent a positive development. It is also a trend that is likely to take place irrespective of government or UNHCR policy, given the mobility and commercial acumen of the refugee community.⁸

Healthcare

119. The ambiguity of Kenyan refugee policy is to be seen in the fact that refugees are in principle still required to live in camps, but in practice have been granted increasingly better and more affordable access to city services such as healthcare and education. UNHCR's advocacy efforts on this matter, initiated prior to the introduction of the organization's new urban refugee policy, have played an important role in this respect.

120. Until the Nairobi Initiative was launched, UNHCR ran a parallel health care system for refugees in the city. The organization employed a nurse at its Branch Office who would examine refugees with medical conditions and if necessary refer them to an implementing partner that ran a clinic for the dedicated use of refugees.

121. That situation changed in 2007, when UNHCR established a partnership with the City Council's Health Department and GTZ, providing refugees with access to public primary healthcare. By showing their MRC and paying a 20 shilling fee (which is also charged to Kenyan nationals) refugees are able to access the city's

⁸ For a fascinating account of 'refugees as spatial actors' in Kenya, see Manuel Herz, 'Somali refugees in Eastleigh, Nairobi', 2007, <http://roundtable.kein.org/files/roundtable/Somali%20Refugees%20in%20Eastleigh.pdf>

clinics and maternity wards. No charge is made for children. While some refugees allege that they are asked to pay more than the regular fee and are “pushed to the back of the queue” this does not appear to be a pervasive phenomenon.

122. In six areas of the city where there is a large concentration of refugees, UNHCR and GTZ provides support to clinics in the form of staff, translators and medication, which is often in very limited supply. Without continued support from UNHCR and GTZ, it is unrealistic to expect that clinics located in refugee-populated areas will be able to sustain, let alone improve, the services they currently offer.

123. When refugees are in need of secondary treatment, they can seek a referral from a GTZ nurse, who will send them to a public hospital and ensure that their expenses are covered. The number of referrals is limited, however, and usually involve refugees who are in need of a one-time treatment. Refugees with chronic illnesses such as cancer and diabetes are generally not treated – a situation that many Kenyan nationals are also obliged to endure.

124. Those refugees who have their own resources can go directly to a hospital for treatment, but they are commonly charged the rate for foreigners, which is some four times higher than the amount paid by Kenyan nationals. UNHCR should continue to work with DRA and the City Council’s Health Department to end this discrepancy. At the same time, by supporting livelihoods and self-reliance, UNHCR should make it possible for refugees to improve their health and nutritional status, limiting their need for healthcare and enabling them to pay for that which is not available by other means.

Education

125. In 2003, primary education was made free for all children in Kenya. Since the establishment of the Nairobi Initiative, UNHCR and GTZ have been able to capitalize on this development, working closely with the city’s Education Department to ensure that primary schools are both encouraged and enabled to open their doors to refugee children. Special efforts have been made to inform head teachers about the rights of refugee children, with the expectation that they will pass on the message to teachers, parents and pupils. GTZ currently has formal partnerships with 15 schools, 11 of them in Nairobi, and provides a modest level of assistance to them in the form of teacher training, language support, desks, chairs and school uniforms.

126. A remarkable example of the potential of this strategy was witnessed at Mwiki Primary School in Githurai, a neighbourhood on the outskirts of Nairobi. Of the 2,000 pupils enrolled there, no fewer than 328 are refugees, primarily from Sudan, Ethiopia, Somalia, Rwanda and DRC. According to the head teacher, a charismatic woman who has made it her personal mission to ensure that refugee children enjoy access to education, this was not an easy achievement.

127. Initially, she acknowledges, Kenyan parents and teachers were both wary of admitting foreign nationals, fearing that it would have a negative impact on the quality of education available at the school. At another school in the city, Pangani Primary, the head teacher acknowledged that some Kenyan parents had withdrawn their children because of the number and age of the refugee children enrolling there,

as well as the overcrowding of schools that has followed the introduction of free primary education in Kenya.

128. Such concerns are understandable. Many of the refugee children have spent long periods of time out of school, and tend to be much older than the average Kenyan student. Having teenagers attend classes alongside young children poses some evident problems, as does the presence of refugee children who find it difficult to communicate in English or Kiswahili.

129. Despite such challenges, Mwiki Primary School has been able to enroll and integrate a significant number of refugee children, an achievement underpinned by the head teacher's zero-tolerance policy towards discrimination, as well as her efforts to promote the cultures and achievements of the various nationalities represented in the school. Thus a Sudanese group of pupils attained fourth place in a national music festival competition, while an Ethiopian group reached the regional finals. One of the best performing students in the school is now a Sudanese boy. Such successes have played an important part in gaining acceptance for the children within the school and local community.

130. Even so, refugee education continues to be a major cause for concern in Nairobi. First, Mwiki Primary is not necessarily representative of the city as a whole, and the head teacher acknowledges that the school's recent achievements could quickly be undone if she were to be transferred to another position and succeeded by a person without the same personal commitment to the issue.

131. Second, refugee children who enrolled in Nairobi's schools tend to have relatively high absentee rates, either because they have younger siblings to care for, or because they are required to work. Some miss weeks or even months of school when they return to the refugee camps in order to renew their ration cards or move to other locations while their parents look for new economic opportunities. When they are in school, some refugee children exhibit behavioural problems associated with the violence they have witnessed, while Somali boys find it difficult to accept the authority of female teachers

132. Third, while primary school is free, parents are expected to provide the cost of a desk, a school uniform, other supplies and their children's lunch, a cost which is prohibitive for many refugees. As a result, some Somali refugees are sending their children to *madrasas* which have a religious rather than an academic curriculum and which are not regulated by the Kenyan authorities. They are, however, cheaper than regular school and sometimes provide a free or subsidized hot meal in the course of the day.

133. Fourth, access to education for refugee children threatens to become more difficult in the months to come. At the moment, such children can currently enroll for school by presenting either a birth certificate or an MRC. In 2011, however, the Kenyan authorities will require a birth certificate for all children wishing to receive their Certificate of Primary Education, a provision that will pose particular problems for children who do not have birth certificates and who are unable to acquire one if they were born outside Kenya. Even if that issue can be resolved, the current arrangements do not meet the needs of children whose parents are unregistered, who are waiting to receive an MRC or whose asylum applications have been rejected.

134. Fifth, and like many Kenyans, refugees face many difficulties in accessing and affording higher levels of education, even if their performance at primary level is exceptional. Secondary school fees are between \$150 and \$750 a year, and no scholarships are currently available for refugee children. UNHCR does provide around 70 university and polytechnic scholarships for refugees through the German DAFI fund, but it is fully subscribed, and as the number of refugees in Nairobi increases, the gap between demand and supply will inevitably increase.

135. Finally, even if they are able to enroll in and attend school, the physical and emotional well-being of refugee children in Nairobi is put at risk by the continued threat of arbitrary arrest and detention. In Githurai, for example, the evaluation team encountered a group of refugee girls from the Horn of Africa who had been seized by the police and who feared that they were about to be subjected to sexual and gender-based violence. Only the rapid mobilization of their school and local community, with the support of UNHCR, was able to prevent the crime from taking place.

Recommendations

- a) UNHCR should persist with its efforts to ensure that refugees have adequate and affordable access to services such as healthcare and education.
- b) UNHCR should seek to end the discrepancy whereby refugees are charged more than nationals for hospital services.
- c) UNHCR should work with DRA and the Immigration Department to ensure that refugees are not disadvantaged by a forthcoming requirement for primary school children to hold a birth certificate.
- d) UNHCR and its partners should provide additional training on refugee issues to head teachers, their staff and school management committees.
- e) UNHCR should review the possibility of providing psycho-social counseling and additional secondary school scholarships to refugee children.
- f) UNHCR should review the situation of unregistered refugees and those who are waiting to be documented in terms of their access to public services.

Assistance, livelihoods and self-reliance

136. Nairobi has a population of some 3.5 million and is growing rapidly as a result of high birth rates and large-scale rural-to-urban migration. Around 40 per cent of the population are unemployed, 50 per cent live below the poverty line and 60 per cent live in slums. Many of these people are obliged to eke out a living in the informal sector of the economy.

137. In recent years, Nairobi has also become a magnet for people originating from the Horn of Africa and Great Lakes region, some of whom intend to remain there while others plan to earn the money required to finance their onward movement to South Africa. The labour and livelihoods market in the city is consequently a highly competitive one for nationals and foreigners alike, making it difficult for UNHCR to realize its urban policy objective of promoting refugee self-reliance.

Assistance

138. UNHCR does not generally provide direct assistance to refugees in Nairobi. Cash payments are made on a short-term basis to a small number of highly vulnerable individuals, while a limited number of refugees benefit from cash and food assistance provided by members of the NGO community.

139. Refugees are known to 'shop around' for material support, approaching one agency after another in the hope of being provided with assistance, but there is currently no way of tracking who is in receipt of such assistance, what they are receiving and who is providing it to them. UNHCR should consider whether it would be worthwhile to systematize such data, using a model such as the Beneficiary Information System that has been developed for Iraqi refugees in Amman, Jordan.

140. Interestingly, relatively few of the refugees consulted in the course of this review cited assistance as one of their main priorities. For the most part, they appeared to recognize that UNHCR was not able to support them in this way, acknowledged that assistance was available in the camps (even if they had no intention of choosing that option) and expressed much stronger concerns about a range of other issues: the registration and documentation process, police abuse and detention, access to livelihoods, education and health care, as well as resettlement and migration opportunities.

141. According to a UNHCR doctor, there is little evidence of malnutrition amongst refugees in Nairobi, although large numbers are "living at minimal standards." Some are sustaining themselves by survival sex and other negative coping mechanisms, while others are dependent on the generosity of their compatriots. In this respect, it should be recalled that UNHCR's new urban refugee policy states that unassisted refugees cannot be regarded as self-reliant if they are living in abject poverty, or if they are obliged to survive by means of illicit or degrading activities."

Self-reliance

142. Within Nairobi society, there is a common but unfounded perception that refugees (especially Somalis) are generally prosperous, a notion based on the intensity of the commercial activity that has erupted in Eastleigh and the ability of a small but highly visible sector of the Somali diaspora to buy up land and property for the purpose of redevelopment, pushing up prices in the process. Unlike the much larger number of refugees who approach UNHCR for protection, such Somalis enjoy a high quality of life, live in some of the wealthiest neighbourhoods, have strong connections with the police and politicians, and are able to use Kenyans (often those who are ethnic Somalis) to garner the permits they need to operate and expand their businesses.

143. While there seems to be little evidence on the matter, many Kenyans (including senior officials interviewed in the course of this review) are convinced that the Somali business community in Nairobi acts as a conduit for the transfer, investment and laundering of money extorted by pirates in the Indian Ocean. More generally, there is an assumption amongst some city residents that refugees receive assistance from the UN and NGOs, a notion reinforced by the images that are employed to publicize the work of humanitarian agencies in the camps.

144. The vast majority of refugees in Nairobi are, of course, not in receipt of assistance and are certainly not wealthy entrepreneurs. For the most part, they are self-reliant, providing for themselves and their families without direct support from the humanitarian community or the government. But their incomes are very low, making it difficult for them to meet essential costs such as traveling to the UNHCR office, meeting their school and medical expenses and paying bribes to the police.

145. Many refugees gain their livelihoods by means of domestic labour (washing, cooking and cleaning, for example) or by trading in the informal economy. For 20 Kenyan shillings a day they can secure a permit from the City Council, allowing them to sell tea, snacks and other items on the street. The returns from such activities are modest, however (usually between 100 and 200 shillings a day), and some refugees claim that they are harassed by local officials. Those refugees who work in Kenyan or refugee households are also vulnerable to abuse and exploitation by their employers.

146. Refugees who seek to make a living by means of casual labour have to contend with the fact that so many Kenyans are also looking for such work and are usually able to benefit from better connections with prospective employers. Refugees do, however, have their own social and economic networks, not only within Kenya and in other African countries but also, as result of resettlement programmes and migration, in Europe, the Middle East and North America.

147. Due to the sensitive nature of the information, it is difficult to ascertain exactly how many refugees receive remittances from the diaspora. Previous studies on this matter suggest that it is in the order of 35 to 45 per cent, and that the typical monthly payment received ranges from \$50 to \$200. The transnational networks in which many of Nairobi's refugees are embedded clearly act as important resource, providing them with cash and capital, as well as information on livelihoods and migration opportunities.

148. Some of the city's refugees are also remittance senders, supporting family members who are living in camps or who are still in their country of origin. Further research on these financial flows and the economic activities on which they are based would be of considerable value as a means of understanding and supporting the refugees' own self-reliance strategies. The data derived from such research might also be used for advocacy and public information purposes, demonstrating that urban refugees are not dependent on assistance but make a contribution both to the Kenyan economy and to the welfare of their compatriots.

Work permits and travel documents

149. Some of the refugees who have taken up residence in Nairobi have academic or vocational qualifications that were gained in their country of origin, while others have been able to attain diplomas and degrees since arriving in Kenya. Finding employment in the formal sector is very difficult, however, and is an option that is only open to those refugees who are able to obtain a Class M work permit, which, if it can be attained at all, comes at a cost of some \$750. UNHCR should continue to advocate on this issue, making the case for work permits to be granted more easily and cheaply under the Refugee Act regulations.

150. Refugee self-reliance could also be boosted by facilitating freedom of movement. This is an especially important consideration for the Somalis, "transnational nomads" who, both historically and even more so since the collapse of their state in the early 1990s, have used mobility, migration and cross-border trade as a means of survival in difficult circumstances.⁹

151. Interestingly, when the embryonic international refugee protection regime was established in the inter-war years, significant emphasis was placed on the provision of travel documents ('Nansen Passports') to refugees, which enabled them to move from one country to another to access jobs and other opportunities. But few refugees in contemporary Kenya are issued with Convention Travel Documents, and it is not yet clear whether the country's refugees will benefit from the freedom of movement arrangements that are currently being established by the East Africa Community, a regional bloc that also includes Burundi, Rwanda, Tanzania and Uganda.

152. In the absence of opportunities for safe and legal movement out of Kenya, there is little doubt that some refugees will take matters into their own hands and move in an irregular manner, often putting their lives in the hands of unscrupulous smuggling networks.

Livelihoods gaps

153. The ability of Nairobi's refugee community to survive without direct assistance is impressive, as is the minimal number of refugees who ask to be relocated from the city to a camp. That achievement is even greater when considered in the context of the global economic downturn and the disruptive effects of the post-

⁹ Cindy Horst, *Transnational Nomads: How Somalis Cope With Refugee Life in the Dadaab Camps of Kenya*, Berghahn Books, 2006.

election violence in 2008. At the same time, there are some particular gaps in terms of refugee access to what the ILO describes as “decent work.”

154. Refugee youth in Nairobi are confronted with particular livelihoods challenges. Even if they are able to complete their primary education, few refugees are able to attend secondary school, given the costs involved and the very limited number of scholarships available. Lacking skills and unable to find regular work, young refugees (like many young Kenyans) are obliged to eke out a living in the informal sector and may be obliged to make a living through hazardous and exploitative types of work.

155. Young refugee girls who find employment as domestic workers are particularly vulnerable in this respect, at risk of being sexually and physically abused and denied payment for their work. Escaping from such situations is, of course, particularly difficult for those who have arrived in Kenya as unaccompanied or separated children, who are dependent on their employers for accommodation, whose knowledge of Nairobi and its languages is limited and who have nowhere else to go. In a *de facto* if not a *de jure* sense, they have the status of indentured servants.

156. A positive response to this problem can be seen in the partnership that UNHCR has established with the Centre for Domestic Training and Development (CDTD), a longstanding Kenyan social service provider. CDTD offers a course to young refugees and Kenyans (75 per cent the former and 25 per cent the latter) that provides training in home care management, housekeeping, cooking, child care, first aid, and home nursing. Literacy and reproductive health classes are also offered, along with opportunities to learn tailoring, dressmaking and computer skills.

157. Admission to the course is based on vulnerability, enrollment is free and open to refugees of all nationalities from local neighbourhood. While CDTD has hitherto focused its efforts on girls, boys are also now being admitted to the four-month course. Each student receives a certificate on completing the course, as well as support in finding a job placement with selected employers who have been made aware of refugee and children’s rights and who are able to provide fair wages and a healthy work environment. Students also receive training and information on the rights of domestic workers, the services provided by UNHCR and its other partners, the RSD process, SGBV, human trafficking, arrest and detention, rape and corruption.

158. While this programme is a model of its type, and worthy of replication in other urban contexts, it also has some evident constraints. Only a limited number of refugees can attend the course, and despite the emphasis on vulnerability, it seems likely that some of the most vulnerable (those who are not allowed to leave the family house or place of domestic employment, for example, as well as those with disabilities) are unable to enroll.

159. Those who look for domestic work after the completion of the course have to compete against large numbers of other young people who, though less well trained, are also willing to accept inferior wages and conditions. And those who wish to establish a small business usually find it difficult to access the loans required for their initial investment in materials, tools, equipment or trading goods.

Microfinance

160. UNHCR has hitherto provided microfinance (described locally as micro-grants) to Nairobi's refugees on a very limited basis, working with refugee groups who have a particular project which they wish to take forward and who for the most part are already engaged in a related activity. In 2007, for example, 23 groups received support, with grants ranging from \$1,000 to \$3,000.

161. While some of these projects (a Congolese tailoring centre, for example) were clearly related to livelihoods and income-generation, others (such as the provision of sporting equipment for a Somali youth football league) are more accurately seen as community services or community development initiatives. Little information is available on the outcome or impact of these projects, reinforcing the impression that they were not primarily oriented towards the establishment of and sustainable businesses and livelihoods.

162. To the extent that UNHCR has implemented a microfinance programme in Nairobi, it would appear to suffer from the same weaknesses that have characterized the organization's efforts in other urban contexts. First, it has been largely ad hoc and reactive in nature, lacking a clear structure and strategy. Second, it has not resolved the issue as to whether microfinance should be targeted at people who have the skills required to succeed in their business objectives, or at vulnerable people who require support to meet their personal and social needs. Third, by employing the notion of 'micro-grants' rather than microfinance or micro-loans, UNHCR may have reinforced the impression that refugees participating in the programme are freed from the usual repayment obligations and penalties that they would assume when taking out a loan with a bank or financial institution.

163. There is a good case to be made for the introduction of a more ambitious and systematic microfinance programme in Nairobi: many refugees in the city have already demonstrated their entrepreneurial skills; Kenya's market economy and improving growth rate provide a relatively conducive environment in which to support refugee businesses; and the city's strong financial infrastructure should allow UNHCR to find appropriate partners and to limit its involvement in a programme area for which it is not particularly well equipped. It is recommended that UNHCR Nairobi, with the support of the Operational Solutions and Transition Section at Headquarters, undertake a more detailed review of the options that could be pursued to improve refugee access to microfinance in Nairobi.

Recommendations

- a) UNHCR should consider the establishment of a system that tracks the provision of assistance to refugees by different agencies in Nairobi.
- b) UNHCR should strengthen its advocacy efforts in relation to the provision of work permits and Convention Travel Documents for refugees.
- c) UNHCR should strengthen its support for youth vocational training programmes and ensure that these are linked to Kenyan certification procedures.

- d) UNHCR and its partners should extend its refugee protection training activities to City Council officials responsible for issuing daily work permits.
- e) UNHCR should undertake a review of the options that exist in relation to the establishment of a robust microfinance programme for refugees in Nairobi.

Durable solutions

164. The refugee situation in Nairobi is both a protracted and a dynamic one. It is protracted in the sense that the city has had a substantial refugee population for some 15 to 20 years, when conflicts in the Horn of Africa and Great Lakes region prompted growing numbers of people to take refuge in the city. It is dynamic in the sense that the refugee population has steadily expanded and changed in composition as refugees have arrived, been born in and to a lesser extent left the city.

165. While Nairobi's refugee population is now a very diverse one in terms of nationality, ethnicity, gender, age, social and economic background, these people have a common need to enjoy the protection of a state and to exercise the rights associated with citizenship there. As this chapter explains, however, most of the city's refugees have no immediate prospect of finding a durable solution to their plight, and UNHCR is seriously constrained in the extent to which it can improve their chances of doing so.

Voluntary repatriation

166. For the largest group of refugees in Nairobi, namely the Somalis, voluntary repatriation seems highly unlikely in the short or medium term, given the ongoing conflict in their country of origin and the high level of destruction and displacement it has generated. Kenya continues to witness large-scale arrivals from its northern neighbour and has not facilitated any returns since 2006, when just two people requested assistance to repatriate. Similarly, there is no evidence to suggest that the Ethiopians (most of them Oromos), the second largest refugee group in Nairobi, are planning to return to their country of origin, which continues to be characterized by ethnic tensions and localized conflicts. Indeed, over 5,000 additional Ethiopian refugees were registered in 2010.

167. The situation of refugees from the Great Lakes region is a more complex one, in the sense that many originate from Burundi and Rwanda where the political situation has stabilized over the past decade, and where the cessation clause may be applied in the foreseeable future. Even so, there is a distinct lack of enthusiasm for repatriation amongst these groups, and an even more determined refusal to contemplate return by the highly organized Banyamulenge refugee community from DRC.

Local integration

168. The prospects for Nairobi's refugees to be locally and formally integrated in Kenya are currently no better. Many have lived in the city for 10 or 15 years and have raised families there. Most of them are self-reliant, have access to public education and health services, speak at least some English and Kiswahili and live alongside the rest of the city's population in a generally harmonious manner.

169. But Kenya has never entertained the possibility of offering citizenship to the country's refugee population, in part because of its significant size, but also because the majority originate from Somalia, a state (and for the past two decades a failed state) which has always been perceived as a threat to Kenya's security and territorial integrity. The events of the past decade, including the growing influence of fundamentalist elements in Somalia, as well as terrorist attacks in the East African capitals of Nairobi, Dar es Salaam and Kampala, have only served to reinforce such perceptions.

Resettlement

170. In the circumstances described above, it is perfectly understandable that many of Nairobi's refugees, a proportion of whom also have genuine concerns for their safety in Kenya, should regard resettlement (and failing that, irregular onward movement) as their best and only hope for the future. The opportunities for them to benefit from this solution are very limited however. In 2009, for example, some 7,500 refugees were resettled from Kenya (most of them to the US) and only 500 of that number came from Nairobi.

171. The Somali resettlement programme is now under considerable pressure. If current trends continue, the number of refugees who are able to depart from Kenya in the whole of 2011 will be roughly equal to the number entering the country each month. Some of the refugees who have been living in Dadaab camp ever since it was first opened in 1991-1992 are still waiting to be resettled, but hopes of arranging their early departure on a group basis have been obstructed by the Department of Homeland Security's insistence on a time-consuming individual determination procedure.

172. As a result of such considerations, the number of refugees being resettled from Nairobi seems certain to decrease in relation to the number of refugees in the city who regard this as their best and only opportunity of finding a durable solution. At least three negative consequences are likely to ensue from this situation.

173. First, growing numbers of refugees in Nairobi will present themselves as 'protection cases', arguing that they are at risk of intimidation, abduction or assassination and should therefore be prioritized in the resettlement programme. While some of these claims will be genuine, obliging UNHCR to take them seriously, they will undoubtedly place additional pressures on the organization's limited capacity in the Kenyan capital.

174. Second, as resettlement becomes an even more highly prized goal than it is already, increased suspicions, tensions and even conflicts may evolve within the urban refugee population with respect to who is and who is not able to benefit from this durable solution. The Banyamulenge refugees, for example, already allege that they are being impersonated by other and less deserving DRC citizens in order to improve their chances of resettlement, while the Oromo refugees make similar claims with respect to other Ethiopians.

175. Third, if resettlement opportunities appear blocked, growing numbers of refugees may decide to leave the country and in an irregular manner to look for opportunities in Southern Africa, using the human smuggling networks that are

known to operate in Nairobi. In doing so, moreover, those refugees will be embarking on a very long, expensive and hazardous journey that places their lives and liberty at serious risk.¹⁰

176. While UNHCR will be limited in its ability to avert or address such developments, the Branch Office and its partners should give consideration to the formulation of an intensive community communications campaign, designed to correct any misperceptions that exist within the refugee community with respect to these issues.¹¹ More specifically, the campaign should (a) advise refugees against the submission of false protection claims; (b) explain the criteria and procedures for resettlement in a transparent manner; and (c) warn refugees of the dangers involved in irregular migration from Kenya.

Secure settlement

177. Given that none of the three classical durable solutions are available to the vast majority of refugees in Nairobi, UNHCR's primary aim must be to pursue the key objective outlined in its new urban refugee policy, namely to expand the protection space available to the persons of concern to the organization.

178. As indicated elsewhere in this report, significant efforts have already been made in this respect, many of them preceding the introduction of the new policy. Thus the Branch Office has embraced the notion that refugees have a right to exercise freedom of movement, to take up residence in a city, to be properly registered and documented there and to be protected from harassment and exploitation. At the same time, it has sought to ensure that refugees are able to establish livelihoods, attain self reliance and have affordable access to services such as healthcare and education.

179. While such efforts have evidently not provided Nairobi's refugees with a durable solution, the action taken by UNHCR and its partners has provided refugees with a greater degree of legal, physical, material and psychological security. Of course those gains could be reversed, a development that is not to be entirely discounted in view of Kenya's volatile political history. But with its new Constitution in place and the country's economy reviving, there is also an opportunity for those advances to be consolidated and further expanded. While it seems highly unlikely that politicians or the public would agree to the local integration of refugees in Nairobi (or in any other part of the country) a progressively secure form of local settlement would appear to be a more viable objective.

Recommendations

- a) Given the limited extent to which refugees can benefit from the solutions of voluntary repatriation, resettlement or local integration, UNHCR should endeavour to ensure that they can enjoy increasingly secure residence and

¹⁰ Katy Long and Jeff Crisp, 'In harms way: the irregular movement of migrants to Southern Africa from the Horn and Great Lakes region', *New Issues in Refugee Research*, No. 200, forthcoming, 2011.

¹¹ The new urban refugee policy recommends that the notion of 'community communications' be used in place of the former UNHCR concept of 'mass information'.

settlement Nairobi, particularly through the promotion of education and self-reliance.

- b) UNHCR should establish an intensive community communications campaign, advising refugees against the submission of false protection claims, explaining the criteria and procedures for resettlement and warning refugees of the dangers of irregular migration. A weekly open day should be considered as a means of disseminating information on these issues.

Inter-agency cooperation

180. According to UNHCR's new urban refugee policy, "a key component of UNHCR's work in urban areas is that of partnership, requiring the Office to establish effective working partnerships with a wide range of different stakeholders... UNHCR will make particular efforts to engage UN Country teams in the task of expanding the protection space available to refugees." This chapter examines the extent to which the organization has been able to meet these objectives and identifies some of the challenges that stand in the way of effective inter-agency cooperation in Nairobi.

Protection network

181. UNHCR's relationship with its NGO partners and other humanitarian organizations in Nairobi has been considerably strengthened by the Branch Office's introduction of a more positive and proactive approach to the urban refugee issue, and by the long-awaited release of the new urban refugee policy by UNHCR Headquarters.

182. These advances have been consolidated and broadened by the establishment of the Urban Refugee Protection Network, a bi-monthly forum which is chaired jointly by UNHCR and DRA and which currently involves some 16 agencies in total but no community-based organizations. It has four principal functions: the general discussion of urban refugee issues; the coordination of activities and service provision; information-sharing; and the identification of advocacy issues. The network has also established theme groups that deal with specific concerns in a more detailed manner. These groups have established a system of collecting data on assistance which helps partner agencies to reduce incidents of duplication.

183. Another role that the network might usefully play is to identify, monitor and support the many different civil society and community-based organizations that are now becoming involved in refugee-related issues. Such organizations might also be encouraged to commit to a Code of Practice that regulates their activities and ensure that they act in accordance with humanitarian principles.

United Nations

184. Nairobi is a key location for UN activities in eastern and central Africa. The organization's palatial compound in the suburb of Gigiri is home to the global headquarters of two UN agencies (UN-HABITAT and the United Nations Environment Programme) and to the regional and/or national offices of many others. UNHCR is the odd-one-out in this respect, maintaining a Branch Office and a Regional Hub in different parts of the city, primary because of the need for refugees and asylum seekers to have direct access to the organization but also because of the security concerns of other agencies.

185. The physical distance that separates UNHCR from its UN partners is replicated to a considerable extent in programmatic terms. While WFP plays an important role in providing food to Dadaab and Kakuma, other agencies have had relatively little engagement with the large number of refugees in the two camps and Nairobi.

186. UNICEF, for example, has barely had a presence in Dadaab and Kakuma and has not expanded its programmes in Nairobi to include the growing number of refugee children in the capital city. This should not be construed as a criticism. UNHCR's 'surrogate state' in Kenya is a particularly strong and well developed one, and the organization has historically depended less on cooperation with other members of the UN system and more on the NGOs that implement programmes on its behalf and with their own resources.

187. In recent years, UNHCR's relative isolation from other UN agencies in Kenya has diminished to some extent, partly because of the general emphasis that has been placed on the notion of "one UN" and "delivering as one," and partly because of the process of humanitarian reform and the introduction of the Cluster Approach, which required UNHCR and other agencies to work together during the post-election violence and displacements of 2008.

188. This trend has also been reinforced by the growth of the urban refugee population in Nairobi, as well as the new and more proactive approach that UNHCR had pursued in relation to that issue over the past five years. Recognizing the need to ensure that refugees in the city are protected and assisted by means of regular public services rather than by parallel systems, UNHCR has started to broaden its range of partnerships, not only with the UN, but also with government and civil society.

189. One manifestation of this new approach, the Urban Refugee Protection Network, has already been referred to. Another is UNHCR's involvement in the Urban Vulnerability Forum, a recent inter-agency initiative led by OCHA and UN-HABITAT, and which brings together development and humanitarian organizations as well as local government.

190. The partnership between UNHCR and UN-HABITAT is a potentially important one, both in Kenya and at the global level. While UNHCR is increasing the attention that it gives refugees and other persons of concern in urban areas, it lacks expertise in the issues of urban data collection, mapping, poverty, planning and slum upgrading. And while UN-HABITAT is currently placing greater emphasis on the issue of humanitarian action in urban areas, it lacks specific knowledge of refugee, returnee and internally displaced populations.¹² Such synergies should be exploited more effectively.

191. While there is a broader need to ensure that UNHCR's concerns are placed on the broader development agenda, this promises to be a difficult task. The 2009-2013 UN Development Assistance Framework for Kenya, for example, has as one of its objectives "forced migration and internal displacement are addressed in line with international standards and humanitarian principles," but includes only a passing reference to refugees in general and none to urban refugees. More worryingly,

¹² At the Geneva level, the two organizations have been cooperating in an Inter-Agency Standing Committee Task Force on Humanitarian Action in Urban Areas.

perhaps, no mention is made of refugees in a September 2009 report by Oxfam on 'urban poverty and vulnerability in Kenya', despite that organization's close familiarity with UNHCR.

Recommendations

- a) The Urban Refugee Protection Network should be opened to community-based organizations and should consider the establishment of a Code of Practice for such organizations that are working with refugees.
- b) UNHCR should explore the potential for closer partnership with UN-HABITAT, both in Kenya and at a global level.
- c) UNHCR should strengthen its efforts to secure the engagement of the UN Country team and development actors in refugee issues in Kenya.