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Urban Refugees: Introduction

ANITA FÁBOS AND GAIM KIBREAB

Introduction

Interest in refugees who live in urban settings, especially those of the global south, has developed fairly recently, although refugees themselves have always been part of urban society. In 2002, the Forced Migration and Refugee Studies program at the American University in Cairo held a workshop to explore some of the methodological and ethical issues implicit in doing research among urban refugee populations in developing societies. Many of the papers in this issue developed from this initial endeavour. However, it was evident that the contributing authors had concerns with the systemic context for urban refugees that went beyond the epistemological aspects of the research process. In particular, the experiences of refugees in the cities described by contributors—Kampala, Cairo, Johannesburg, Khartoum—are characterized by a high level of vulnerability stemming from arbitrary and schizophrenic international protection policies deriving from anxieties embodied by the nation-state system.

This special issue is devoted to the analyses of political, social, economic, and legal barriers for refugees in urban settings, particularly as these shape the opportunities, strategies, vulnerabilities, and livelihoods of refugees in African cities. We are interested in framing the central thrusts of the contributions through considering regional urbanization, shifts in global patterns of refugee movements, and transnationalism. State policies concerning immigration, naturalization, and citizenship produce some of the structural factors shaping these complex developments, although to a large degree they are the inevitable result of globalization processes. The scholars whose work is represented here provide research-based evidence that policies designed to manage the symptoms of refugees “out of place” are unable to accommodate the fundamental challenge refugees pose to the nation-state system.

Clearly, state policies that tighten up borders, reduce immigration, and limit access to citizenship are at odds with

regional processes of urbanization, increased population movements globally, and the development of transnational spaces, and urban refugees are caught in the middle. These policies that attempt to make the presence of refugees in urban—and national—settings illegitimate are counterproductive inasmuch as they try to counteract irresistible demographic trends.

In what follows we show that urbanization is an irreversible process in the African context, and that the movement of refugees to urban areas can only make sense in this context. Furthermore, state policies of segregation, securitization, and criminalization of urban refugees are inextricably linked to the objectives of states to create and perpetuate differences between insiders and outsiders—of which citizenship is a key determinant. Generally, refugee law is the exception to domestic immigration law because it allows certain people to enter the territories of other states without a visa or other requirements. In Africa, however, refugee law is used as an instrument of exclusion and separation— but only to hold up exclusive nationality law (Kagan in this issue). As Kibreab points out in this issue, in nearly all developing countries, refugees are received as temporary guests until the conditions that prompted their displacement are eliminated. Once the political conditions that caused displacement cease, refugees are expected to return home regardless of the duration of exile. Spatial segregation of refugees is seen as an important instrument of preventing refugees’ integration into host societies by prolonging their refugee status. This strategy is defeated if refugees are settled in urban area, and helps explain why host countries in the South regulate the presence of refugees in urban areas.

Finally, the authors in this issue describe the ways in which refugees carve out a space under adverse conditions not simply by reacting to unfavourable state policies and practices but also through creative engagement and mobilization of social networks in search of viable livelihoods, often with a transnational dimension, against all odds.

The urban spaces where the human consequences of these ongoing developments are most starkly apparent are the cities of the global South. The authors of these papers have chosen to emphasize the African context for the dramatic contrast between global and regional developments that support increased migration and population control policies that stem from the rationale of the nation-state. The rapid expansion of Cairo, for example, from a city of half a million people in the 1940s to the eighteen million plus of today is largely due to rural-urban migration. The Egyptian state has sought to control and counteract this process through denying permission for house-building, slum-clearing, relocation of wholesale markets where rural migrants make a living to the desert beyond city limits, and other mechanisms of urban planning. The population of Khartoum, on the other hand, has swelled due to famine and war in other parts of the country; the Sudanese government has reacted by criminalizing begging, bulldozing settlements of displaced Sudanese and moving their people to more distant sites, among other things. In both cases, moving to the capital city represents access to security, services, and opportunities for citizens whose governments seek to keep them in the provinces without any regard to their physical safety and well-being.

Refugees who join the steady advance of people moving to African and other Southern cities go for particular reasons related to their search for safety, access to international links (to receive remittances, for example), and options for resettlement. However, the explorations of refugee experiences and livelihoods offered by contributors to this issue additionally illustrate that refugees choose urban areas for the same reasons as citizens do. Even in the most poor countries in Africa, the relationship between urban and rural areas is marked by uneven development and skewed distribution of opportunities for income-generation, education, health care, housing, clean water supply, and sanitation, as well as transportation. Evidence abounds that the level of income earned by urban dwellers, including those who live in slum areas, is higher than in rural areas. As might be expected, refugees—like other people—are strategic decision makers and may “vote with their feet” *en route* for cities where chances of staying on the right side of the razor’s edge of survival are better.

Another attraction of the city is the opportunity for anonymity. In comparison to national urban dwellers, the number of refugees in African cities is insignificant and, as a result, they may be able to melt into the urban throng by assuming fictive identities,¹ especially if they share common language, ethnicity, and way of life. The benefit of anonymity, besides providing physical security, enables refugees to engage in different forms of income-generating

activities by hiding their true identity. In Sudan, for example, according to the Sudanese Asylum Act 1974 refugees are prohibited from leaving the officially designated places of residence. They are also not allowed to own property or to leave government-designated sites without permission. There are tens of thousands of Eritrean refugees, especially those who share common traits of ethnicity, religion, language, and way of life with some members of the local community in Eastern Sudan who own property, who live in the cities, move freely and engage in diverse income-generating activities in defiance of the formal government policies. Most of this would have been unachievable in a rural setting, where people generally know each other and associate with one another on the basis of common residence or descent.

This does not, however, suggest that all African refugees can escape the tyranny of being “othered” by simply relocating themselves to cities. Whilst in some African contexts, such as Kassala, Kigoma, and even Dar es Salaam,² refugees are able to hide among urban populations, passing for nationals, in others they make up a visible minority. Sudanese, Eritrean, and Congolese refugees in Cairo are routinely singled out for harassment by security forces as well as ordinary Egyptians. In either case, however, refugees are unambiguously distinguished from citizens by their legal status, rendering them ineligible for services and dependent on the beneficence of the state for residency rights. As non-citizens, they are not perceived as part of the national interest—they are seen as foreign objects in the body politic—and most policies are designed to control, contain, and segregate them from the rest of the population. The acquiescence of their fellow urbanites to these policies is achieved through state discourses and practices presenting refugees as a threat in terms of state and societal security, competition for limited resources, and the personal safety of citizens. We turn now to a discussion of state practices of spatial segregation, securitization, and criminalization of refugees in Africa with reference to international legal mechanisms designed to inhibit refugees moving to cities.

The Tyranny of Spatial Segregation

The presence of refugees in urban areas is invariably opposed by governments in nearly all African receiving countries, with few exceptions.³ On the rest of the continent, governments place refugees in spatially segregated sites wherever possible. From the narrow perspective of state interest, there are ostensibly well-thought-out policy objectives underlying the decisions of governments concerning spatial segregation of refugees. Kibreab and to some extent Kagan (both in this issue) identify a number of factors underpinning such policies—namely, minimization of per-

ceived risks to national security, prevention of refugee competition for employment, self-employment, social services (healthcare, education, sanitation), housing, and transportation; shifting of responsibilities for catering to the needs of refugees to the refugee assistance system; creation of opportunities to develop previously neglected sites for lack of resources; and prevention or minimization of societal insecurity—e.g. the alleged cultural, racial, and religious homogeneity of national populations (Kibreab in this issue). In contrast to Northern state immigration policies, these measures actively prevent refugee integration into receiving societies.⁴

Notwithstanding the fact that these policies are formulated and implemented in order to provide “solutions” to the refugee problem in first countries of asylum, in reality, they represent an obstacle to a solution by perpetuating refugee status indefinitely. Worse still, spatial segregation prevents refugees from contributing to the social and economic progress of their receiving societies. If the presence of refugees within the urban settings were to be regularized, both refugees and their hosts could derive mutual benefits stemming from the social, economic, cultural, and political interactions that take place within an urban environment.

Displacement in the context of urban settings tends to telescope processes of social change through which refugees, under pressure, acquire new skills and occupations, enter into new social relationships, and engage in economic activities that they would have never contemplated.⁵ Governments, by failing to realize the potential benefits of regularizing the presence of refugees in the urban areas, are forgoing resources that could partially address the malaise and economic decay that permeate African cities. The following example may shed some light on this. Successive Sudanese governments restricted the possibility for Eritrean refugees outside refugee camps and settlements to obtain business licences. In the 1980s, one of the major bottlenecks faced by the country’s economy was transportation. In the mid-1980s, the government allowed Eritrean refugees to obtain licences in order to engage in the trucking business. Within a short period, there were fleets of trucks and trailers belonging to many Eritrean refugees who had returned from the Gulf States, Europe, and North America to invest their savings. Not only did this enable the refugees concerned to earn incomes, but they also enabled the host country to benefit from capital investment earned outside of the country. However, this liberal policy did not last long. One of the main reasons why subsequent government policies restricted the rights of refugees to engage in commercial activities within the urban setting is due to the strongly embedded but nevertheless unsubstantiated fear of threat to national security that might be posed by the refugees. In

what follows we argue that one of the main arguments African states use to try to keep their cities clear of refugees is to place the refugee question on the security agenda.

Securitization of the Presence of Refugees in Urban Areas

There is an unmistakable tendency among governments in developing countries, especially Africa, to characterize urban refugees as constituting an imminent threat to national and societal security. When an issue is securitized, argue Buzan *et al.*, “it is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure.”⁶ The securitization of the presence of refugees in urban areas enables governments to treat refugees in urban settings contrary to the principles underlying the international instruments to which they are parties, as well as national legislation relating to refugee status and other domestic laws pertaining to human and individual rights. This is because on the one hand, security is represented as being a universal good that all members of society should strive to achieve⁷ and on the other, draconian measures used against refugees are justified by the alleged need to avoid dangerous scenarios of insecurity from unfolding. Not only does securitization threaten the well-being of refugees due to arbitrary state action, but it also creates a hostile environment for them by fostering paranoia and xenophobia among nationals in urban areas.

Although the securitization of the presence of refugees in urban areas is not a new phenomenon, it has intensified as a result of a number of changes that have been occurring on the continent. As outlined above, deteriorating living conditions in most rural areas have been forcing Africans to emigrate to cities in search of income-generating opportunities. These mass immigrations to urban areas have been taking place in the absence of structural transformations of urban economies (Kibreab this issue). As a result, a large majority of rural immigrants end up in urban slums, placing enormous pressure on fragile or non-existent social and physical infrastructures. The presence of refugees in urban areas that are already under enormous pressure is seen by governments and nationals as presenting a threat to economic, social, and political security. Given the enormity of economic, social, and infrastructural problems facing African cities, and given the negligible number of urban refugees, any sensible and informed debate would conclude by recognizing that the problems facing African cities have little or nothing to do with the presence of refugees.

When Africa was gripped by the “democratization process” following the end of the Cold War, many expected that the factors that produced forced migrations would come to an end—and that the victimization of refugees in urban

areas would also cease—due to commitment of governments and citizens to the sanctity of the rule of law and human rights. This did not happen, as the example of Sudan makes very clear. Multi-party elections and freedom of the press and of expression that accompanied democratization have had unexpected but nevertheless detrimental consequences for the well-being of urban refugees. Parliamentary candidates blamed the acute shortages in employment, housing, transportation, hospital beds, medicines, school places, and strategic commodities such as sugar, oil, etc. on refugees. Journalists and some vocal citizens unleashed an assault against urban refugees—and social scientists on the front lines⁸—during the infamous 1987 *kesha* campaign unleashed by the democratically elected al-Mahdi government against refugees.⁹ Refugees were subjected to round-ups, arbitrary detention, extortion, imposition of heavy penalties, etc. for allegedly imposing an “unbearable burden” on the social, economic, and physical infrastructures of the capital city and for “polluting” the “purity” of the Islamic way of life of Sudanese society.¹⁰ It is not only in Sudan that the surge of democracy brought about systematic anti-refugee attitudes; this was equally true in Tanzania and elsewhere in sub-Saharan Africa.¹¹

It is often assumed that refugees face racism and discrimination only in the North. This belief rests upon the assumption, often reflected in international refugee policies for managing refugee flows in the South, that refugees and their hosts in Africa, Latin America, and Asia share common ethnic and socio-cultural characteristics and that refugees are therefore unlikely to face racial discrimination or prejudice. Nothing could be further from the truth. When a particular group, e.g. refugees, is labelled as “pollutants” and a “burden,” its members are singled out for harassment and prejudicial treatment in the same way as are members of a particular ethnic or racial category. While the racialization of immigrants and refugees—and thus the rationale for exclusion—has been a recognized development in Europe,¹² there is ample evidence to show that refugees in the South face discrimination and unfair treatment by virtue of being “outsiders” or non-citizens.¹³ As we suggest in the following section, one mechanism for pursuing exclusionary policies at the state level is to link refugee populations with criminality.

Criminalization of Refugees in Urban Areas

Throughout Africa, refugee policies and assistance programs are almost exclusively focused on providing protection and assistance to refugees residing in rural camps and settlements.¹⁴ To access these resources refugees are required to settle in government-designated places. These places are more often than not located in remote rural areas.

When designating a particular site for a refugee camp or settlement, host governments rarely take the needs of particular refugees into account. Those refugees who have previously never lived in rural areas, many of them urban professionals, may well consider settlement in such unfamiliar places unacceptable; such refugees spare no effort to subvert the policies and practices of host governments that are formulated and implemented without any regard to their skills and needs.

Many governments allege that refugees in urban areas are inclined to engage more often in “corrupt practices” than their counterparts in rural areas, and are thus criminalized. However, for those refugees who seek to escape from rural refugee camps and settlements, no legal avenues exist to relocate in urban areas. The only way to avoid being confined to these, in their view, inhospitable places is either through illegal departures or through payment of bribes to obtain travel permits. Once they relocate themselves to urban centres, refugees are forced to resort to “illegal” means of obtaining residence permits by bribing government officials directly or through middlemen. Many refugees in urban areas also pay exorbitant fees to obtain forged residence permits.

As is clear from the empirical research presented in this special issue—and recognized by the UNHCR—one of the reasons refugees prefer urban areas to rural camps and settlements is to try to realise their aspiration of being resettled in one of the prosperous countries of the North. Since most avenues for legal immigration or resettlement¹⁵ are closed, refugees—as well as nationals in search of a better life—resort to a myriad of illegal means of obtaining forged visas, passports, and travel and other documents. Not only are most of these illegal activities undertaken in collusion with host countries’ officials and security forces, more importantly, it is the lack of consideration of the needs of refugees and the inappropriateness of host government policies and practices that compel refugees to disregard and disrespect such policies in the first place. Florencia Belvedere (in this issue) hits the nail on the head when she states:

Despite the Department’s engagement in a protracted status determination process that enables both the presence of “abusers” in the asylum system and often drives desperate asylum seekers and refugees to engage in corrupt practices to secure access or documentation in the face of perpetual delays, it has become more politically expedient for the Department to portray asylum seekers as fraudsters and abusers of the system who are responsible for the failure of the asylum procedure than to admit that its own practices are working to undermine the asylum procedure...

In the following we examine the reasons that underlie African refugees' decisions to move to cities in spite of the restrictions, harassment, extortion, and threats of arbitrary detention and deportation they face at the hands of host governments' officials.

The Appeal of Cities for Refugees

Marfleet (in this issue)¹⁶ points out that refugees have been part of the urban landscape throughout history for a variety of reasons. Some of these reasons have undoubtedly to do with generic processes of urbanization and the concentration of resources in one place. The contributions here also suggest a number of motives that refugees have for choosing—often in the face of bureaucratic, legal, and political obstacles—to move to cities (Lammers in this issue). As mentioned earlier, urban space provides anonymity and therefore greater personal security for refugees, a point made effectively by Sommers in his ethnography of fearful young refugees in Dar al-Salaam. The encampment policies of states and international agencies mean that refugees originating from a given country are placed in the same site. Some of these groups may be former enemies and can easily target each other. The urban space, by providing an opportunity for anonymity, provides some degree of physical security.

There is evidence to show that camps are insecure places in other ways. They can be targeted by countries of origin or by opposition groups or liberation armies, *e.g.* the refugee camps in northern Uganda. Sudan People's Liberation Army (SPLA) cadres also targeted southern Sudanese former combatants who escaped from the frontlines and settled in refugee camps. Before the demise of apartheid, the African National Congress (ANC) and the other liberation fronts in southern Africa had free access to the refugee camps in the neighbouring countries. They routinely victimized dissidents and alleged enemy informants. Those who feared retribution, invariably voted with their feet towards cities where they could lead anonymous lives. When host countries are allies of liberation movements, *e.g.* Uganda and SPLA, the former may indirectly or directly facilitate the latter's access to refugee camps for recruitment or other purposes. In this issue, Bernstein and Okello point to the vulnerability refugees face in refugee settlements in Uganda as one of their main motivations to locate in urban areas.

There is also the important—and regularly overlooked—issue of what refugees, as human beings with histories, desires, and aspirations, want for themselves. The view of most scholars and practitioners who have analyzed encampment policies, as summed up by Richard Black,¹⁷ is that the majority of benefits of the practice accrue to agencies, states, and other bodies whose objectives are to manage

refugees. Limitations to autonomy, freedom of movement, and the institutionalization of refugee livelihoods are widely believed to have detrimental effects on well-being, although naturally camp settings also provide advantages for some refugees or in some circumstances. Specifically, settlements with land available for cultivation by refugees whose former livelihoods depended on agriculture may provide economic opportunity and reassuring stability for a person with a disrupted life. For refugees with particular social, professional, and/or educational backgrounds, who may have no previous experience making a living by cultivating, camps can be quite cruel and demoralizing places. They are marked by complete absence of opportunities for employment, post-primary school education, good quality health care, etc. Refugees who previously worked in the modern sector, including professionals, see no future for themselves or their children in these places. The urban setting holds a natural attraction.

For many such refugees in Africa, cities are places where people can search out services, employment, and safety. Despite the persecution faced by refugees in urban areas at the hands of national and local authorities, there are still greater opportunities for eking out a living than in rural areas. It is also clear from the contributions to this issue that refugees see the presence of international agencies, embassies, and NGOs with an advocacy brief as a means of negotiating other possibilities, such as relocation to a resettlement country. Several of the case studies in this issue¹⁸ illustrate the preoccupation with obtaining the necessary legal status to enable refugees to travel to Europe, North America, or Australia—even if the possibilities are remote. Currie, for example, describes the strategies of Sudanese refugees in Cairo to acquire resettlement status through marriage and the significance of this status as a source of power in the marriage market. Al-Sharmani shows, furthermore, that refugees with resettlement ambitions move to cities in order to prepare themselves for life in the North—by taking English and computer classes, for example. The employment opportunities for young Somalis in her study also bear out the prospect of earning sums of money unimaginable in a camp setting—such as babysitting for American families in Cairo, who pay refugee domestic workers in foreign currency. These young people aspire to follow the footsteps of others in the Somali diaspora to cities—and citizenship possibilities—in the North. Some of Lammers's subjects of study are artists who run a successful art centre in Kampala (this issue). Without relocating themselves to a city, they would have been unable to develop their skills and knowledge—and a market for their art in Europe. A final example of the opportunities found almost exclusively in cities is the availability of transna-

tional banking.¹⁹ Since the incomes of most of the refugees in the areas covered in this issue are supplemented by members of their diasporic communities in the North, living within the urban space facilitates easier, faster, and more effective transnational communications and interactions.

Globalization, Transnationalism, and Urban Refugees

The marginalized position of urban refugees, particularly in the South, cannot be separated from the mounting pace of globalization and increasing levels of disparity between the North and South. This issue's contributions show how cities in the South serve as "staging grounds" for refugees in transit from one state to another, either through agency-sponsored resettlement programs or via smugglers. In addition to negotiating movement into and between cities, urban refugees also become participants in global flows of information, finance (through remittances), and cultural practices. Despite the interconnectedness promised by the relative ease of communication and travel, refugees living in the African cities described in this issue are severely disadvantaged by their location on the global hierarchy of legal status, which places citizens of Northern states in a considerably superior position in terms of ease of travel and access to resources, among other things. While citizenship is not the only means of calculating the advantages of belonging,²⁰ there is a global "market" for privileged nationalities that, when acquired, provide urban refugees with direct or indirect benefits. States in which it is possible to gain full membership are, with few exceptions, those of North America, Europe, and Australia. In contrast, the African and Middle Eastern countries in which the urban refugees in this issue are based do not allow naturalization of non-citizens despite the recent provenance and artificiality of their national borders. Expectations of "local integration" for refugees living in London, Vancouver, Amsterdam, Sydney, and New York are only possible because immigrants are able—at least theoretically—to acquire the legal rights of citizens and the possibility of full citizenship. Refugees residing in Cairo, Johannesburg, Khartoum, and Kampala have no chance of becoming Egyptians, South Africans, Sudanese, or Ugandans, with the national rights and access to resources, though fewer than those of the North, that this implies.

Seen in terms of state policy towards urban refugees in the South, such global inequality provides at least a partial explanation of not only why they are excluded from most services but also why they pose such a perceived threat to Northern states. Kagan's analysis of refugee status determination processes (RSD) notes that Northern states have an interest in keeping the definition of what constitutes refu-

gee status narrow to maintain control of immigration, whereas African states have preferred a broader definition (as enshrined in the 1969 OAU Convention relating to the Specific Aspects of the African Refugee Problem, for example), because it serves the purpose of shifting the responsibility for refugees onto international agencies. Kagan also argues that this has the additional effect of depoliticizing the movement of large numbers of people. As both Kagan and Kibreab point out, this state-led strategy leads directly to policies of spatial segregation whereby encamped refugees are "manageable" by international agencies and host governments.

If there are important structural differences between the North and the South which shape global patterns of movement and differential access to citizenship between nations, cities at the same time comprise nodes in transnational refugee networks. In the absence of access to state sponsored resources, including the formal job market, transnational networks make it possible for refugee individuals—and families—to create local livelihoods through remittances, for example, and develop strategies for the long-term improvement of their circumstances. Al-Sharmani's ethnographic research with diasporic Somali families clearly shows the importance of citizenship in a Northern country for the survival—thousands of miles away in Cairo—of urban Somali refugee families. Significantly, the benefits accruing to family members through the support of their relatives in London, Toronto, Amsterdam, and elsewhere do not come without tension as individuals are required to put their own desires—for emigration to the North, for example—aside for "the good of the family." Given that Somalis and other refugees cannot be granted Egyptian citizenship, with the political, economic, and social integration this implies, Somalis in Cairo instead pursue their goal of citizenship in other places by seeking Somali marriage partners with beneficial passports, studying English, and negotiating with their transnational family members for funding to pay a person smuggler.

Transnational networks benefit newly arrived refugees by connecting them with people who can help them survive in hostile urban environments. Kin, village, neighbourhood, and ethnic links between cities and countries—and connecting cities with refugee camps and home regions, provide refugees with information, food, and shelter. This "bridging social capital" is discussed by D'Addario *et al.*, who point out that a percentage of refugees do not or cannot avail themselves of the housing resources that the Greater Vancouver city district provides refugee newcomers, sheltering instead with contacts from their pre-existing transnational networks. Bernstein and Okello show that cities play an important role regionally as nodes of trans-

portation and information for fleeing refugees, who often bypass camps on their way to urban areas.

Conclusion

The issue of urban refugees has received well-deserved attention in recent years as an analytical category as well as a policy concern. The oft-cited re-evaluation by the UNHCR of its 1997 Policy on Urban Refugees is a welcome indication of the growing concern with the discriminatory treatment of refugees in urban areas of the South, both in terms of protection and aid. As Kagan points out in this issue, the UNHCR's mandate is not location-specific. Yet Belvedere's observations of a hostile refugee bureaucracy in South Africa describing a UNHCR beholden to state policies of exclusion reveals a complex double standard whereby refugee status accorded to people living in urban areas does not provide adequate protection. By portraying refugees who move to urban areas as opportunistic, violent, maladjusted, and cultivating a culture of expectation, the UNHCR, like the state interests it represents, legitimates such policies

The recent focus on refugee livelihoods in urban areas directs policy consideration towards the economic and other benefits that urban refugees provide is a welcome refugee-centred approach.²¹ However, policies which define urban refugees in terms of a challenge to existing responses and requiring a different sort of management nevertheless frame refugees as a "problem." If, as the articles in this issue illustrate, even internationally recognized refugees live in insecurity on the margins of urban societies, the difficulty in establishing sustainable livelihoods becomes brutally apparent. D'Addario *et al.* show that even in a Northern city like Vancouver, refugees rely upon their transnational connections to local networks; refugees in Kampala, in contrast, face the real danger of destitution due to the insecurity of their situation, as shown by Bernstein and Okello, as well as Lammers. Livelihoods are only as sustainable as a person's security and access to resources. Were it not for state-sanctioned controls and restrictions in Africa and other regions of the global South stemming from the definition of refugees as ineligible for citizenship, refugees would be able to establish sustainable livelihoods by developing "bridging social networks" with local hosts²² and tapping onto their own transnational connections, in turn helping to develop host societies. The concept of urban refugees as a "burden" despite their tiny numbers is a result of inappropriate policies, including UNCHR status determination which reinforces state-sanctioned exclusion. Social capital, which can be developed only in conditions of inclusion, is therefore crucial for the development of sustainable livelihoods.

The contributions to this special issue take a historical and global perspective that critically analyze the processes and constraints shaping the urban environments within which they pursue livelihoods in terms of the political framework of borders, citizenship, and urbanization. Failing to recognize the complex realities which have generated the current context for urban refugees in the South constrains policy makers within the paradigm of the refugee-as-problem. The tendency of governments, noted early on by Kibreab, to deny the existence of refugees as "what the eye refuses to see"²³ has been increasingly challenged by urban refugees themselves, who have demanded that their claim to protection be noticed. Marfleet (this issue) has catalogued a number of protests in cities around the world whereby refugees have demanded an end to their invisibility. The transnational networks of which urban refugees in the South are part also link them to the cities and states of the North, connecting North and South through urban nodes of a global system of flows. As Lammers points out, the repercussions of the global actions and discourses whose centres of power lie historically in the nation-states of the North render all of us the products of violent histories. Urban refugees in the South must be contemplated in this light.

Notes

1. L. Malkki, "Refugees and Exile: From 'Refugee Studies' to the National Order of Things," *Annual Review Anthropology* (1995), 495–522; G. Kibreab, "Revisiting the Debate on People, Place, Identity and Displacement," *Journal of Refugee Studies* 12, no. 4 (1995): 384–410
2. M. Sommers, *Fear in Bongoland: Burundi Refugees in Urban Tanzania* (New York and Oxford: Berghahn, 2001).
3. South Africa and Egypt have not instituted spatially segregated sites designated for refugees. See Al-Sharmani and Belvedere, this issue.
4. However, it could be argued that, in northern states as well, the rapid expansion of segregated emergency accommodation, the use of detention and deportation of "failed asylum seekers," and enforced periods of legal limbo which prevent refugees from working and studying are similarly designed to prevent integration.
5. G. Kibreab, "Refugeehood, Loss and Social Change: Eritrean Refugees and Returnees," in *Refugees and Transformations of Societies: Agency, Policies, Ethics and Politics*, ed. P. Essed, G. Frerks, and J. Schrijvers (Oxford: Berghahn Books, 2004), 19–30.
6. B. Buzan, O. Waever, and J. De Wilde, *Security: A New Framework for Analysis* (London, Boulder: Lynne Rienner, 1998), 23.
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14. Kagan suggests that the process of determining whether a person has a legitimate refugee claim depends on whether a refugee resides in a rural camp or settlement or an urban location (this issue).
15. It is because of the inability of African states to offer avenues to real integration that they are considered by the international refugee regime to be first countries of asylum. "Resettlement" refers to the admission of refugees from countries where integration is not a legal option to countries in Western Europe, North America, and Australia which provide the possibility of citizenship.
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Legal Refugee Recognition in the Urban South: Formal v. *de Facto* Refugee Status

MICHAEL KAGAN

Abstract

The legal relevance of the “urban refugee” concept in the Middle East and Africa stems from the practice of practicing different forms of refugee status determination (RSD) in rural as opposed to urban areas. Urban refugees are usually subject to rigorous individual adjudication, while rural refugees are typically recognized on a *prima facie* basis. This difference in procedure has no basis in the substance of refugee law, and it marginalizes urban refugees in two key ways. First, in Africa and the Middle East, refugee status recognition is used by host governments to prevent refugee integration, to force refugees to live far from population centres, and to transfer responsibility for their welfare to international agencies. Second, individualized RSD procedures in wide use by the United Nations generally lack key fairness safeguards, increasing the risk that genuine refugees will be wrongfully rejected. This phenomenon means that urban refugee populations will often be systematically undercounted, and will include a significant number of *de facto* refugees who are in fact refugees in danger of refoulement, but whose applications were rejected and who thus have no access to the protection and resources otherwise targeted at refugees.

Résumé

La pertinence juridique du concept de « réfugié urbain » au Moyen-Orient et en Afrique provient de la pratique d'appliquer différentes approches à la détermination du statut de réfugié (DSR) pour ceux vivant en milieu rural par opposition à ceux vivant en milieu urbain. Les réfugiés en milieu urbain sont généralement sujets à un régime juridique individuel sévère, tandis que ceux en milieu rural sont typiquement admis sur une base *prima facie*. Cette différence de procédure n'a aucun fondement juridique dans la loi sur le statut des réfugiés, et mène à

l'exclusion des réfugiés urbains de deux manières fondamentales. D'abord, en Afrique et au Moyen-Orient, la procédure de détermination du statut de réfugié est utilisée par les gouvernements hôtes pour empêcher l'intégration des réfugiés, pour les forcer à vivre loin des agglomérations, et pour transférer la responsabilité de leur prise en charge sociale aux organismes internationaux. En second lieu, les procédures individualisées de DSR largement utilisées par les Nations Unies ne contiennent généralement pas toutes les sauvegardes essentielles aux principes d'équité, augmentant ainsi le risque que de vrais réfugiés soient rejetés à tort. Ce phénomène signifie que les populations de réfugiés en milieu urbain seront le plus souvent systématiquement sous dénombrées, et incluront un nombre important de réfugiés de fait qui sont en réalité des réfugiés en danger de refoulement dont les applications ont été rejetées, et qui n'ont ainsi aucun accès à la protection et aux ressources autrement destinées aux réfugiés.

Introduction

International refugee law guarantees refugee rights regardless of geography. Yet the law of refugee status is implemented differently in different places, particularly in terms of how a person obtains official recognition of refugee status. In Europe and North America, refugees usually obtain formal recognition of their legal status by making individual asylum applications to systems of administrative adjudication. In the geopolitical South, the presumed norm – at least in rural areas – has been for refugees to gain formal recognition on a group basis, without individual assessments.

Urban refugees in the South are subject to something more anomalous and problematic. They generally must make individual refugee claims, like their counterparts in the North, but these claims are decided through procedures that gener-

ally lack critical safeguards of fairness developed in administrative law and United Nations High Commissioner for Refugees (UNHCR) advice to governments. Whereas Northern states normally have unitary national systems that determine refugee status for anyone inside the country, African states often maintain dual systems of status determination within the same country, with different mechanisms in rural and urban areas. It is this *procedural* difference which makes the urban refugee category legally meaningful in the South, even as the substance of the law takes no notice of whether someone lives in a rural or urban area.

In this chapter I explore the background and impact of this anomaly, primarily through examples in Africa and the Middle East. The rural-urban dichotomy in refugee status determination (RSD) has no clear basis in international law, cannot be explained by common assumptions about international and regional refugee definitions, and likely violates the 1951 *Convention relating to the Status of Refugees* (*Refugee Convention*). Rather than in law, the rural-urban dichotomy has its origins in the different political uses of the formal label “refugee” in the North and the South. Whereas in Europe and North America, refugee recognition has been a means of granting asylum, in Africa it has often been a means of separating refugees from their host societies and transferring responsibility for their care onto the international community.

The determination of refugee status tends to marginalize urban refugees in the South in two related ways. First, it subjects them to an arduous individual application process in which many are refused protection, unlike their rural counterparts. Second, it subjects them to a high-stakes adjudication procedure that frequently lacks established safeguards and is hence prone to error. Although many urban refugees enjoy protection through formal status recognition, the risk of errant rejection of people in danger creates a class of *de facto* refugees, who should be of concern to refugee law and refugee policy, but in practice have no legal recognition or protection.

The *de facto* urban refugee poses a number of problems for refugee studies. It leads, first of all, to a systematic undercounting of the urban refugee population. It also points to a need for refugee studies to concern itself not just with the substance of refugee definitions,¹ but with policy choices about how to implement these definitions. Often, the mechanisms of implementation have done as much or more to exclude people than the definitions themselves.

For policy makers, and for anyone concerned with refugee protection, the *de facto* urban refugee raises immediate concerns. A *de facto* refugee is at risk of *de facto* *refoulement*, in which someone who should have been protected from deportation instead may be forcibly returned to a country

where his or her life or freedom is in danger. Beyond this, a *de facto* refugee will be denied the subsistence, integration, and resettlement assistance that policy makers direct toward recognized refugees. There is a need for governments and UNHCR to reduce the rural-urban RSD dichotomy and ensure that individual RSD is only conducted where sufficient procedural safeguards are in place.

The Rural-Urban Dichotomy in Refugee Status Determination

One Country, Two Procedures

In the substance of international refugee law, the category “urban refugees” does not exist. In law, refugees are protected no matter where they live within a country; in terms of a government’s obligations to respect refugee rights, refugees in a city are no different than refugees in any other area. The *Refugee Convention* actually prohibits any legal distinction between refugees depending on where they happen to live. Article 26 provides: “Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.” Recognition of refugee status should have effect even beyond a country’s borders.² UNHCR’s Policy on Refugees in Urban Areas states that “UNHCR’s obligations in respect of international protection are not affected by either the location of the refugees or the nature of the movement to that location.”³

That is the theory. In practice, in much of the geopolitical South, it makes a great deal of difference for someone’s legal situation whether a refugee lives in a rural or urban area. The difference is not so much in the legal status *per se*, but in the procedure by which a refugee gains recognition for his or her status.

There are two main types of RSD procedures, individual RSD and *prima facie* recognition. Individual RSD is where each asylum seeker has his or her refugee claim adjudicated through an intensive case-by-case process that usually includes interviewing, documentation, research, and decision making based on application of the refugee definition. It is through the individual adjudication of asylum claims, in administrative tribunals and courts, that the law of refugee status has developed in Western countries. Controversies about the boundaries of refugee law – Are people who flee genital mutilation refugees? Are people who flee militant groups or criminal gangs refugees? Are people who flee domestic violence refugees? – have been adjudicated through this process. It is also through this process that governments attempt to weed out asylum seekers they believe to be inventing refugee claims, through the process of credibility assessment. Individual RSD, at least when con-

ducted in keeping with international standards, is time consuming and resource demanding.

Prima facie protection is usually undertaken when lack of resources coupled with large numbers of asylum seekers from countries with known human rights problems makes it impractical and to a large extent redundant to undertake an intensive case-by-case process. UNHCR has explained that what would be a manageable number of applications in one country can be overwhelming in another:

[W]hat amounts to ‘large-scale’ or ‘mass influx’ will necessarily differ from country to country and/or region to region, and must be decided on a case-by-case basis. The analysis needs to take into account the size and speed of the influx balanced against the size and capacity of the receiving country to process the cases in individual status determination systems.⁴

Where individuals within a group of asylum seekers are likely to be refugees but the number of refugee applicants makes it impractical to perform individual status determination, governments or UNHCR can opt to use *prima facie* recognition to formally label a group of people refugees.⁵ In such systems, all asylum seekers from particular countries or territories are considered automatically to be refugees, and receive legal protection in the country of asylum without individual status determination.⁶

In much of Africa and in other regions as well, rural refugees generally have their legal status recognized through *prima facie* refugee status determination. Urban refugees, on the other hand, generally have their status recognized through individualized refugee status determination. Often, two refugees of the same nationality, living in the same host country, will find themselves subject to two very different procedures. Both procedures are normal means of determining refugee status under international law. But there is little on paper in international law that would anticipate two parallel systems in different geographic regions within the same country for the same nationality of asylum seekers.

Although established standards for *prima facie* recognition focus on numbers and capacity, these factors do not explain the rural-urban dichotomy. For instance, Sudanese and Somali refugees in Kenyan camps have received *prima facie* recognition by UNHCR, which is responsible for RSD in the country. If *prima facie* recognition in Kenya is justified by lack of capacity to process individual claims, it is peculiar that UNHCR and the Kenyan government at the same time undertook the burden of individual RSD by UNHCR for Sudanese and Somali refugees in Nairobi while they avoided this burden elsewhere in the country.

Similarly, numbers fail to explain differences in UNHCR’s RSD systems in different countries. In 2000, UNHCR reported that “some 4,500 Sudanese refugees arrived in Kenya during the first part of the year.”⁷ These Sudanese in Kenya were recognized on a *prima facie* basis in Kakuma camp. But in the same year, Sudanese asylum seekers arrived in Egypt (where they lived in a primarily urban environment) at more than twice the Kenyan rate.⁸ If numbers and capacity were decisive, one would have expected UNHCR to use *prima facie* recognition in Egypt as well. Since UNHCR is responsible for RSD in both Egypt and Kenya, it would be difficult to conclude that Egypt has greater processing capacity than Kenya, where UNHCR is also responsible for RSD.

Do Different Refugee Definitions Require Different Procedures?

The prevalence of group-based status determination among rural refugees is often associated with the broader refugee definition established by the 1969 *Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (African Convention)*.⁹ By this convention, African states extended refugee protection to people fleeing generalized violence, a category not protected by the *Refugee Convention*. The *African Convention* incorporates the 1951 refugee definition, but extends it to more fully include victims of violence, war, and civil strife.

1951 Refugee Convention definition

[A refugee is a person who] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country.

African Convention “extended” definition

A refugee is a person who] owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

Any person who falls under the 1951 definition also falls within the *African Convention* since the *African Convention* incorporates both definitions.

The fact that Africans adopted a broader refugee definition than the one crafted by the United Nations in 1951 and used in Western asylum systems is sometimes cited as an example of southern states opening their doors wider to refugees than their northern counterparts. After all, many African countries host far more refugees per capita than Europeans or North Americans, and under much more dire economic circumstances. It is often assumed that the extended definition in Africa was intended to compensate for the *Refugee Convention's* exclusion of refugees from civil wars, which have been the main cause of refugee crises in Africa.¹⁰ This assumption is correct, but it is in some ways simplistic and not a convincing explanation for the differences in status determination procedure.

It is sometimes assumed that the *Refugee Convention* definition is meant to be applied individually, while the *African Convention* is intended for group situations.¹¹ If true, this would explain the widespread use of *prima facie* recognition, rather than individual RSD, in rural Africa. A related assumption is that urban refugees arrive individually, not in large groups, and hence are more like asylum seekers in Europe or North America, necessitating an individualized RSD process. Yet as an empirical matter, it is far from clear that urban refugees have claims more likely to fall under the *Refugee Convention* than the *African Convention*. Even if rural refugees tend to arrive in larger groups than urban refugees (an assumption that I will not seek to assess in this chapter), this would not necessarily mean that one group is more likely to flee “persecution” as defined in the *Refugee Convention*, while the other group is more likely to flee disturbances to public order. Certainly, people fleeing the Rwandan genocide fled persecution of the gravest kind, and they fled in very large numbers.

There is no basis in the texts of the *Refugee* and *African Conventions* from which to conclude that the *African Convention* is meant to be applied in group situations, while the *Refugee Convention* is not. Neither convention specifies a procedure by which its refugee definition should be applied. The *African Convention's* definition is written in the singular tense, without any reference to groups, just like the *Refugee Convention*. Today, the *African Convention* is applied in individual status determination in some countries, for instance in South Africa and Egypt. UNHCR assisted refugees in Africa on a group basis before the *African Convention* existed, and continues to use *prima facie* recognition outside Africa.¹² For instance, in Yemen Somali refugees are recognized on a *prima facie* basis, although Yemen is party only to the *Refugee Convention*.¹³

Providing better protection specifically for civil war refugees was not the only motivation for the extended African definition. Civil war refugees are protected by the phrase “events seriously disturbing public order in either part or the whole of his country of origin.” Though this certainly includes civil wars, it is much less specific terminology than the other categories in the extended definition, namely “external aggression, occupation, [and] foreign domination.” Given that African states drafted the definition in the late 1960s, African states were likely at least as concerned with anti-colonial struggles (“foreign domination”) than with the civil wars that predominate today. The original draft for the extended definition was submitted by Egypt,¹⁴ which at the time was coping with the Israeli occupation of the Sinai in the wake of the 1967 Middle East War (“external aggression, occupation”).

Moreover, the *Refugee Convention* contains no exclusion for civil wars. The definition requires that a person fear “being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.” The harms people fear in war – namely death or bodily injury – are serious enough to be considered persecution. Fleeing from civil war alone is not enough to meet the *Refugee Convention* definition, but war-related violence that is linked to one of the its five reasons can give rise to a valid claim to refugee status.¹⁵ Since much violence in civil wars is motivated by an intention to harm particular ethnic, religious, or political groups, many war refugees can find protection under the *Refugee Convention*.

It is true that some governments (for instance, the United Kingdom¹⁶) have often resisted applying the *Refugee Convention* in civil war cases, but others have not (for instance, Canada¹⁷). Most importantly, UNHCR – which determines refugee status in much of Africa – has stated:

there is nothing in the definition itself which would exclude its application to persons caught up in civil war. . . . Many conflicts take place against a political background which may involve serious violations of human rights, including the targeting of particular ethnic or religious groups.¹⁸

The UNHCR Executive Committee has expressed “deep concern about the increasing use of war and violence as a means to carry out persecutory policies against groups targeted on account of their race, religion, nationality, membership of a particular social group, or political opinion.”¹⁹

The *African Convention* is important because it protects random victims of war, while the *Refugee Convention* leaves out people who flee generalized violence and are merely in the wrong place at the wrong time. The *African Convention*, by being broad and inclusive, also removes the ambiguity

in the *Refugee Convention's* more specific terminology about persecution. But it is not correct to assume that the *Refugee Convention* could not protect many of the refugees in Africa, nor that the *African Convention* is necessarily more appropriate in group situations.

What, then, explains the differences in refugee status determination in Africa? The answer lies not in the legal refugee definitions, but in the political and policy objectives which have motivated governments in crafting and applying these definitions.

Why Recognize Refugee Status?

James Hathaway has argued that modern refugee law, as embodied by the *Refugee Convention*, grew more from state self-interest than from devotion to human rights or humanitarianism. He writes:

Current refugee law can be thought of as a compromise between the sovereign prerogative of states to control immigration and the reality of coerced movements of persons at risk. Its purpose is not specifically to meet the needs of the refugees themselves (as both the humanitarian and human rights paradigms would suggest), but rather is to govern disruptions of regulated international migration in accordance with the interests of states.²⁰

Hathaway argues that the resulting refugee policy in the West under the *Refugee Convention* is a fragile system in which only a minority of those in need of protection get it. State self-interest is also critical to understanding how refugee status has been defined and used in Africa.

It is often assumed that formal refugee recognition is a means of granting someone asylum. In Europe and North America, refugee status recognition has generally been a doorway to inclusion in the host society, leading to permanent residence and often citizenship. But what if refugee recognition were not connected to granting long-term asylum? Neither the *Refugee Convention* nor the *African Convention* requires a state to grant permanent residence to refugees. What if the purpose of refugee recognition were to designate international responsibility for a person's protection and care, while minimizing the demands on the host country?

A brief examination of the history of RSD in Africa indicates that African states have used refugee status for different purposes than Northern states. In Africa, refugee status has often been used to depoliticize protection, prevent refugees' integration, and defer responsibility for their care to the international community. Whereas Northern state self-interest leads governments to want to keep the refugee definition narrow, so as to not lose control over immigration, African states may actually prefer a broad

refugee definition because it allows them to shift more burdens onto international agencies, and because it depoliticizes the movements of large numbers of people.

Narrow window to inclusion: Refugee status in the North

In international law, refugee status is an exception to the general rule that migrants can be forced to go back to their own countries. International law since the mid-nineteenth century has allowed states nearly unregulated authority to exclude foreigners from their territories. Although in a colloquial sense the term "refugee" has existed since ancient times, the need for a strict definition is a by-product of modern immigration law. Modern refugee law came to be after World War I as an exception to the general state power to exclude aliens,²¹ developing around the same time that countries like the U.S. were enacting their first comprehensive restrictions on immigration. The principle of *non-refoulement* – the operative core of refugee law – states that the authority to deport foreigners must be waived when it would put someone's life or freedom at risk. If governments were not so intent on restricting migration in general, it would not be nearly so important to strictly define refugee status.

This system in which refugee law is an exception to general migration law makes it quite advantageous (from a legal point of view) to be formally labelled a refugee. Having a recognized refugee status allows migrants who would otherwise be deported to stay where they are, work, enjoy social security, and send their children to school. More than this, Western governments have traditionally granted asylum to refugees, entitling them to long-term residence and often eventual citizenship.

During the Cold War, Western states saw political advantage in recognizing refugee status through the *Refugee Convention's* definition.²² The definition gave special weight to protecting people motivated by pro-Western political ideology to flee the Eastern Bloc. At this time, the West preferred to emphasize civil and political rights (which the East often violated), while the pro-Soviet states emphasized social and economic rights (on which it was easier to fault the West). The *Refugee Convention's* concept of persecution facilitated the West's condemnation of the Soviet system because it had been accepted in the past by the Soviet Union, and because the *Refugee Convention* for the most part does not include protection from social and economic violations.²³

Nevertheless, refugee law's existence as an exception to general restrictions on migration puts refugee protection under stress, and creates the need for refugee status determination. As the Cold War drew to a close, Western governments restricted access to asylum.²⁴ Refugee status determination became a particularly contested arena as focus

shifted to asylum claims from the geopolitical South. Governments began to grow concerned that migrants have a built-in incentive to exploit the refugee system, since they may not be able to avoid deportation any other way. Hence, much of individual refugee status determination is devoted to credibility assessment.²⁵ Moreover, even where fraud is not an issue, governments want to keep the refugee definition narrowly defined so that it remains an exceptional measure.²⁶ For this reason, a wide and rich jurisprudence has developed around the law of refugee status, settling disputes about who can enjoy refugee protection. Many categories of refugee claims that are now generally accepted as within the international refugee definition were initially resisted by Northern governments – gender-based persecution and persecution by rebel groups, for instance. Hence, in the North refugee status has traditionally been a ticket to inclusion and integration, while governments have used the status determination process to keep limits on these rewards.

An open door to marginalization: Refugee status in Africa

In Africa, formal refugee status has often not carried the advantages for governments that it offers in the North. Indeed, for a time African governments and UNHCR concluded that the formal label could actually be detrimental. The *Refugee Convention's* stress on “persecution,” which was appealing in the West during the Cold War, caused apprehension in Africa. Authorities instead favored vague humanitarian doctrines over the 1951 refugee definition.

In Africa in the 1960s, governments allowed forced migrants to remain in their territories and UNHCR provided them assistance without anyone ever formally recognizing most of them as refugees. Ivor Jackson has shown that in eleven large-scale African forced migrations in the 1960s, UNHCR avoided using the label “refugee,” even though each group met the criteria of the legal definition and hence qualified for protection under the UNHCR mandate.²⁷ Instead, UNHCR opted to protect refugees through the doctrine of its “good offices,” and host governments allowed the refugees to stay. Labelling the African migrants “refugees” would have required acknowledging that persecution was occurring in neighbouring states, a politically sensitive matter given that many of these refugees were fleeing European colonial regimes. Rather than confront this political minefield, UNHCR and host governments preferred to offer refugee assistance through a more vague form of humanitarian aid.²⁸ Although they lacked the formal label, these forced migrants received assistance in rural settlements in an analogous manner to rural African refugees today who are formally recognized.

Why did African governments and UNHCR abandon this approach and begin formally labelling people refugees?

First, UNHCR in the late 1960s became dissatisfied with providing assistance without legal protection. As Guy Loescher explains in his history of UNHCR:

In the best circumstances, protection in Africa meant obtaining access for refugees to local health care and education. The [UNHCR] Legal Protection Division did not agree with this viewpoint and was disappointed by the failure of some African governments receiving UNHCR assistance to observe the legal obligations they had incurred by ratifying the *Refugee Convention*. The Legal Division argued that legal status for refugees was as important for the integration in host societies as material assistance.²⁹

Prior to this time, most refugees had legal protection only through the UNHCR mandate because it was the only universal refugee definition in effect. Because the *Refugee Convention* initially included only refugees who fled before 1951, states themselves had not formally committed themselves to protect new refugees. Legal protection of refugees was substantially strengthened by the 1967 Protocol to the *Refugee Convention*, which removed this temporal restriction and established that states had legal obligations to all refugees. Hence, assisting refugees in Africa without formally recognizing their refugee status became less legally justifiable.

Second, the political apprehension in Africa about the 1951 *Refugee Convention's* focus on persecution was resolved by the 1969 *African Convention*. Its extended refugee definition did not just broaden the refugee definition; it depoliticized it. Under the extended definition, a government can acknowledge that a foreigner is a refugee without implicitly accusing another government of being persecutory. A host government need only acknowledge that significant disorder is occurring, without specifying who is to blame. The *African Convention* includes several other depoliticizing provisions absent from the *Refugee Convention*. Article 2 provides that “The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.” Article 3 prohibits refugees from engaging in “subversive activities against any Member State of the OAU.”

Because of its depoliticized approach, some studies observe that African states often prefer the broader extended definition, although in law African states apply the narrower *Refugee Convention's* definition as well. For instance, a recent study of individual status determination in South Africa found that South African authorities prefer to apply the *African Convention's* extended definition, and resist individual refugee claims based solely on the *Refugee Convention* definition.³⁰ With these developments, African governments were encouraged to embrace the formal label

“refugee” for the same reasons they had originally shunned it: to depoliticize refugee situations and shift responsibility to a UN agency. Both definitions can be applied by UNHCR as part of its mandate in Africa.³¹

In his examination of refugee policy in Sudan, Gaim Kibreab demonstrates that the Sudanese government began using the formal label “refugee” because it wanted to marginalize their existence within the country and shift responsibility for their care onto UNHCR.³² The term “refugee” first appeared in the Sudanese legal system in the late 1960s, used in reference to a large group of Eritreans.³³ Kibreab argues that Sudan adopted this label to avoid the Eritreans becoming integrated into Sudanese society by shifting responsibility for their care to international organizations, especially UNHCR.³⁴

Had UNHCR and the Sudanese government applied the refugee label to all Eritreans in the country, no matter where they were found, the intended marginalization would not have occurred. Refugees could have moved out of the assigned settlements to other rural or urban areas, perhaps finding employment among Sudanese people, while keeping their legal status.³⁵ To both shift responsibility to the UN and prevent local integration, refugee legal status and UNHCR assistance were limited to Eritreans who stayed in rural settlements, away from Sudanese population centers.

As Kibreab describes, urban refugees in Sudan remained in limbo for two more decades, until the late 1980s.³⁶ Sudan then established an “Individual Cases Unit” to determine whether urban refugees could retain the right to live in Khartoum, and in effect prohibited most from doing so.³⁷ Refugees could obtain a permit to stay only if they had enrolled in a university, had a formal job offer, had family in Khartoum, were referred to the city for medical reasons, or were awaiting resettlement to a third country.³⁸ Meeting the legal refugee definition was not the determining factor. The Sudan example hence illustrates that the shift to individual status determination in urban settings often has little to do with international refugee law, and a great deal to do with a motivation to limit refugee integration. It should be noted that the Sudanese policy of marginalizing refugees in confined rural settlements largely failed to keep refugees out of the city, but it continued nonetheless, managing at least to ensure that most refugees in the city had no legal protection.³⁹

In the present day, preference for rural refugee settlement is reinforced by UNHCR policy. UNHCR’s Policy on Refugees in Urban Areas makes clear that international assistance to refugees will often be confined to rural settlements:

UNHCR may limit the location where UNHCR assistance is provided. Where refugees are assisted in settlements or camps

outside urban areas, UNHCR should provide assistance in urban areas to refugees from the same country of origin only with the agreement of the government and if there are compelling reasons to do to.⁴⁰

Rural settlements provide a basis for lucrative assistance operations, while urban refugees often raise more politically sensitive questions of legal protection, since urban refugees are (at least in terms of physical space and proximity to job markets) more integrated into host societies. Hence, as Zachary Lomo observed in a study of refugee policy in Uganda, UNHCR and humanitarian NGOs often share the dual objectives of transferring responsibility away from host governments, and marginalizing refugees from their host societies:

Generally, the UNHCR and international and local NGOs condition their intervention on governments agreeing to settle refugees in camps and settlements. Likewise, assistance to refugees is contingent upon refugees agreeing to live in the settlements. For example, in Kenya it was not initially the policy of the Kenyan Government to restrict refugees to camps. Although some refugees, for example, those from Uganda, were settled in camps, this was not the general policy. But when the refugee crisis increased and Kenya sought the intervention of the international community, the UNHCR conditioned its involvement on the Kenyan Government’s allocation of land for refugees. This signaled the opening of infamous camps like Kakuma and Dada. Now, only refugees described as “vulnerable” are allowed to remain in Kenya’s urban centers.⁴¹

Resettlement: The exception that proves the rule

Although refugee policy has in most respects marginalized urban refugees, there is one area in which urban refugees have a substantial advantage: resettlement. Throughout Africa and the Middle East, individual RSD, especially the procedures operated by UNHCR, is often tied directly or indirectly into processing for resettlement to third countries. Especially in the Middle East, resettlement is often the main durable solution promoted by UNHCR, since local integration is blocked by government policy. Since nearly all resettlement is to economically wealthy states (mainly the U.S., Canada, and Australia, and an assortment of European countries), this offers a major reward for the refugees able to make their way through the individual RSD system, and it offers an incentive for others to try.

The pros and cons of resettlement are beyond the scope of this article. From personal experience providing legal aid to refugees in two Middle Eastern countries, it is safe to say that many refugees want to be resettled, and often see it as their only hope for basic security and a viable future for

their families. Resettlement is not a legal right, and the few countries that offer resettlement do so by rigid quotas. The number of annual resettlement spaces (numbering in the tens of thousands) pales in comparison to the number of refugees in the world (numbering well over ten million). The U.S. resettlement program, the largest in the world, has an annual worldwide quota of seventy thousand, which in 2002 could have been more than filled by the Sudanese refugees in Uganda's Adjumani district alone. In this respect, refugees who found themselves in places like Cairo or Nairobi where there were realistic chances of being resettled can consider themselves relatively lucky.

As with refugee law in general, there is nothing in UNHCR or government resettlement policy that differentiates between rural and urban refugees. UNHCR's Resettlement Handbook prioritizes resettlement cases based on need, for instance in terms of personal security, medical needs, special vulnerabilities (*i.e.* women at risk), and local integration prospects. Rural refugees are in some cases resettled; some efforts have been made to open doors to rural refugees, for instance through group submissions to the U.S. resettlement program.

Yet much of resettlement processing is determined by bureaucratic convenience rather than objective criteria. Resettlement cases are resource intensive, normally requiring individual assessment by UNHCR, followed by individual assessment by the resettlement government, followed by security and medical checks. Refugees sometimes find themselves in a state of limbo between these stages, not knowing when, if ever, an initial approval will turn into an actual visa and airplane ticket.⁴² Since it requires so much administrative attention, resettlement processing tends to take place in capital cities because that is where relevant embassies and offices are located, regardless of where the intended beneficiaries actually reside. A report on refugee resettlement from Uganda illustrated the urban advantage in resettlement processing:

The procedure for identifying refugees who are eligible for resettlement relies heavily upon the involvement of UNHCR Protection Officers and the Resettlement Officer. The country office for UNHCR, located in Kampala, has one Senior Protection Officer, one Protection Officer, and one Resettlement Officer assigned to it, and an urban caseload of registered refugees numbered in the hundreds. The north-western district of Arua, for example, has one Protection Officer assigned to look over the protection needs of 37,000 refugees located in two settlements. Similarly, the UNHCR Field Offices located in the districts of Adjumani in the north and Mbarara to the west, which respectively serve 104,000 and 37,000 individuals, each have one Protection Officer assigned to them. . . . [T]he distribution

of these officials vis-à-vis the location of refugees in Uganda creates a *de facto* bias for refugees in Kampala.⁴³

In a similar vein, a 1999 study by the U.S. Committee for Refugees found that refugees eligible for resettlement in former Soviet central Asian states suffered substantial hardship accessing the U.S. resettlement program because the U.S. processed cases only from Moscow.⁴⁴

Even if many refugees seek it out, resettlement of urban refugees can be a form of marginalization. Heavy reliance on resettlement with urban refugees is consistent with government objectives of preventing integration and shifting responsibility onto the international community. Resettlement is in a sense the ultimate means of shifting responsibility. In the Middle East, where non-Palestinian refugee populations are primarily urban, using resettlement in lieu of local integration has long been the hallmark of refugee policy.

In Egypt, the most populous country in the Middle East, non-Palestinian refugees have received protection and assistance through a 1954 Memorandum of Understanding between the government and UNHCR. Egypt agreed to grant residence permits to "bona fide refugees, residing in Egypt, who fall within the High Commissioner's mandate,"⁴⁵ but only in exchange for UNHCR's agreement to determine their status and to seek resettlement in other countries "in every possible measure, in the countries of immigration, for the refugees residing in Egypt."⁴⁶ (This arrangement was put into doubt after 2004 when UNHCR began giving Sudanese refugees "temporary protection" on a group basis rather than using individual RSD, a shift in procedure that was linked to a tightening of standards for resettlement referrals.) UNHCR has agreements with the governments of Jordan, Syria, and Lebanon that require refugees to be resettled within a matter of months after their arrival (which in practice is nearly impossible to achieve in most cases). Refugee policy in these countries is a self-justifying cycle of shifting responsibility to the international community by preventing local integration. Governments refuse to allow refugees to work or obtain long-term residence, and often deny access to education or health care. Since these restrictions prevent self-sufficiency, refugees need to be resettled, and UNHCR promotes resettlement. Host governments hence achieve their objective of shifting responsibility for refugee protection to UNHCR and foreign governments, and have little incentive to improve conditions for refugees on their territory. Hence, transit countries in the geopolitical South become dependent on what Gervase Coles calls the "exile bias" in the refugee policy, in which refugee protection depends on Northern states granting long-term asylum to refugees.⁴⁷ There is

certainly no objection to making resettlement available for refugees who want or need it. But in the Middle East and in much of urban Africa, refugee policy is constructed so that resettlement is in practice the only available solution for most refugees.

In the long run, the urban bias in resettlement is likely counterproductive both for governments and for refugees' welfare. For governments trying to shift responsibility for refugees onto the international community, resettlement is a short-term measure because the promise of resettlement may actually attract more asylum seekers. It could be speculated that resettlement's power as a pull factor may produce a net increase in the size of urban refugee populations, especially as resettlement opportunities have shrunk since the September 11, 2001, attacks in the U.S. Although many urban refugees benefit from resettlement, it fails to compensate for their overall marginalization. Those who are successfully resettled will usually remain in the city, often destitute, for several years before travelling. Many if not most asylum seekers will never be resettled. UNHCR only considers resettlement for refugees whose claims it recognizes. In many countries, it rejects most of the refugee claims made.

Refugees recognized by UNHCR are sometimes deemed ineligible for resettlement by UNHCR or cannot be accepted by resettlement governments. In particular, UNHCR as a policy avoids promoting resettlement for most "irregular movers" who passed through third countries before registering refugee claims.⁴⁸ Western governments refuse to accept polygamous refugee families. Refugees recognized under the *African Convention* can have difficulty resettling to Western countries which only apply the *Refugee Convention's* definition. Government policies against local integration hit these refugees, as well as rejected asylum seekers, especially hard.

The Ways and Means of Status Determination

Importance of Fair Procedures

Whatever the reasons for conducting individual RSD, the process can be fair and reliable so as to ensure that people in danger of violence and human rights violations get protection. But the process is inherently difficult and high risk, and it can be problematic if not conducted correctly. UNHCR has advised: "The importance of [refugee status determination] procedures cannot be overemphasized. . . A wrong decision might cost the person's life or liberty."⁴⁹

RSD is rarely a simple exercise of applying a legal standard to a set of facts. Complete evidence is rarely available. Finding the facts often requires applying the "benefit of the doubt" to the testimony of the applicant. Assessing the

credibility of this testimony is shaded by language and cultural barriers, variable levels of education, trauma, the interviewing techniques used, the quality or lack of legal advice, and fear of authority.⁵⁰ Moreover, refugee status is one of the few areas of legal adjudication in which the decision maker must make an assessment of risks in the future rather than of events in the past. Even after the facts are determined, RSD often touches on areas of high political sensitivity – immigration and political opposition to asylum, gender relations, ethnicity, race, and religion, and the politics of foreign governments.

In individual RSD, the only remedy for these challenges is to apply standards of fair adjudication. UNHCR has called fair and efficient asylum procedures "essential" for full application of the *Refugee Convention*.⁵¹ Through UNHCR guidance and developments in international and administrative law, the applicable standards of fairness in RSD have been progressively developed over the past several decades. The main procedural rights promoted by UNHCR⁵² for asylum seekers include:

- Access to the RSD procedure
- Information about the RSD procedure
- An oral hearing with a qualified official (including an adequate interview environment and competent interviewing techniques)
- Access to qualified interpreters
- Access to legal counsel and advice
- Access to evidence considered (*i.e.* limited use of "secret" evidence)
- Fair credibility assessment (which involves its own set of standards)
- Fair and impartial decision making
- Written reasons for rejection
- Access to an independent appeal
- Special attention to the needs of especially vulnerable refugees (*i.e.* trauma victims, vulnerable women, and unaccompanied minors).

Such safeguards require substantial monetary, human, and physical resources. In 2001, UNHCR advised government legislatures: "Parliamentarians can promote effectiveness [of RSD] by allocating sufficient resources for refugee status determination."⁵³

Risks of RSD Errors and the Creation of de Facto Refugees

When forced migrants in Europe or North America have fallen outside the *Refugee Convention's* refugee definition but nevertheless cannot return home, scholars have called them *de facto* refugees.⁵⁴ Especially in Europe, these refugees have often fled generalized violence. Despite being considered outside the criteria of the refugee definition, they have

often been allowed to remain in countries of asylum in various temporary or limbo statuses. These people are made *de facto* refugees by the substance of refugee law. But, as already established, the procedures of refugee law are just as important as legal substance in understanding urban refugee policy in the urban South. Just as the *substantive* limits of the refugee definition can create *de facto* refugees, inadequate *procedures* in applying the definition can have the same effect by errantly rejecting people who actually meet the legal criteria.

In international law, a person with a fear of persecution is a refugee as soon as he or she crosses an international border. Refugee status determination recognizes refugees as such, but it does not make people refugees.⁵⁵ A state's obligation to not forcibly return a refugee applies to any asylum seeker until his or her claim has been refused in a fair determination process.⁵⁶ If a RSD system lacks basic fairness and hence fails to positively recognize an asylum seeker with a genuine claim, he or she is nevertheless a refugee. In theory, a *de facto* procedural refugee should have rights under international refugee law. In practice, of course, a wrongly rejected refugee will be denied refugee protection. This is a concern wherever an asylum-seeker is in danger of suffering an errant RSD rejection.

When an RSD system operates without procedural safeguards, it increases the risk of errant rejections, defined here as any refusal of protection to a person who is in fact a refugee within the legal definition. Errant rejection is a greater concern to refugee policy than errant acceptance.⁵⁷ A single errant rejection has immediate severe costs for the individual concerned. Although widespread errant acceptance can erode public confidence in an asylum system, the costs in an individual case are diffuse. The law of refugee status hence provides applicants the benefit of the doubt in order to compensate for the difficulty obtaining definitive evidence.

There are no known studies systematically quantifying the risks of wrong decisions inherent in various types of RSD procedures, so the risk of errant rejections remains to some extent conceptual.⁵⁸ Different types of RSD error risks can nevertheless be identified. RSD errors fall into two broad categories: those resulting from decision-maker errors, and those resulting from applicant errors.⁵⁹ Decision-maker errors are those in which all evidence that should come to light has come to light, but the adjudicator nevertheless misinterprets the evidence (for instance, incorrectly issuing a negative credibility assessment) or misapplies the refugee definition (for instance, denying protection to someone fearing persecution for reason of sexual orientation).

Applicant errors are those in which the applicant is unable or unwilling to coherently produce all available facts and evidence in order to allow the decision maker to make the correct decision. This may occur because asylum seekers misunderstand the process, fear authority, or make costly decisions based on false advice. It may also occur when trauma, language, educational, or other difficulties prevent an asylum seeker from coherently explaining all of his or her experiences.

Both types of error result in the same basic harm: a person in danger of persecution is denied protection. One of the important aspects of a fair RSD procedure is that it seeks to combat applicant errors as well as decision-maker errors. Take as an example a woman genuinely in danger of domestic violence or genital mutilation in her country of origin who submits instead a false claim of having been targeted for political activities out of shame or because members of her community give her misleading advice about the RSD process. A decision maker would in a narrow sense be correct to reject her on credibility grounds. Yet, had she had access to legal counsel, she might have submitted her genuine reasons for fear and have obtained protection from the very same decision maker.

At a policy level, applicant errors are as much a failure of the system as decision-maker errors in that they are often preventable by adequate procedural safeguards. This is why the most recent UNHCR advice on RSD procedures places significant emphasis on providing advice and information to asylum seekers early in the process, with special attention to vulnerable groups, and requires the provision of competent interpreters.⁶⁰

Different procedural safeguards in RSD operate to prevent these different types of RSD errors. The charts on the opposite page illustrate.

Individual RSD in the Urban South

In dozens of countries, individual refugee status determination procedures lack complete implementation of established procedural rights, generating a corresponding risk of RSD error. This is true to some extent in the North, but it is a particularly acute problem for urban refugees in the South.

The predominant systems for RSD for urban refugees in the South are those operated by UNHCR. UNHCR performed RSD in at least sixty countries in 2001, receiving approximately 66,000 individual refugee claims.⁶¹ Until recently, UNHCR RSD was generally ignored as refugee law developed primarily through jurisprudence and scholarship in Western countries. But UNHCR RSD has grown, and in turn attracted more attention. The number of individual RSD applications received by UNHCR offices worldwide nearly doubled from 1997 to 2001.⁶² Studies

Decision-maker errors	
Error type	Related safeguards
Incorrect understanding or interpretation of the evidence	• Oral hearing
	• Impartial and competent decision maker
	• Right to applicant to review and respond to evidence
	• Allowing applicants to explain/rebut negative credibility factors
	• Providing reasons for rejection
	• Independent appeal
Incorrect application of the refugee definition	• Impartial and competent decision maker
	• Independent appeal
	• Providing reasons for rejection
	• Legal representation

Applicant errors	
Error type	Related safeguards
Failure to provide all information in the application process (<i>i.e.</i> for fear of authority, misunderstanding of the process, inarticulateness)	Competent interviewers and appropriate interviewing environment
	Access to information and advice about the process and legal assistance
	Sufficient interview and hearing time (<i>i.e.</i> opportunity for more than one interview/hearing)
Applicant providing false information despite a valid refugee claim (<i>i.e.</i> resulting from fear or misinformation spread in migrant communities).	Access to information and advice about the process and legal counsel

conducted in Southeast Asia, the Middle East, and East Africa, both in academic fora and by human rights organizations, have raised concerns about gaps between UNHCR's RSD procedures and established international standards of fairness.⁶³ From the beginning of the RSD

process, asylum seekers generally lack legal counsel and information about the process. In some offices, for instance in Beirut, UNHCR officials have challenged applicants' rights to seek professional counselling in the preparation of their refugee claims. UNHCR withholds from applicants most of the evidence considered in their cases, including transcripts of their interviews, medical reports based on examinations of their bodies, testimony of other witnesses, and country of origin information. Specific reasons for rejection are usually not provided, and although there is an opportunity to appeal, appeals are not decided by an institutionally independent body. Instead, appeals are considered by the same UNHCR offices that make first instance rejections.

A number of other countries use mixed RSD systems in which responsibility for interviewing, decision making, and appeals is split between UNHCR and the government. Concerns have been raised about procedures used in these countries as well.⁶⁴

It would be difficult on a systematic scale to actually quantify the error rate that results from gaps in UNHCR's RSD procedures. But the gaps themselves, combined with certain statistical anomalies, certainly provide reason for concern and further inquiry. In terms of statistics, cause for concern comes from the fact that some UNHCR field offices sometimes post variable recognition rates, while others post noticeably low recognition rates. In Cairo, the annual UNHCR recognition rate fluctuated between 30 and 40 per cent from 1998 through 2000, then jumped to 42 per cent in 2001, then fell to 24 per cent in the first half of 2002. There was no apparent change in the demographics of the asylum-seeker population to account for this, nor major changes in the human rights conditions in Sudan and Somalia, Egypt's main refugee producing countries.⁶⁵ A more worrying trend appears in statistics from UNHCR's Beirut office, which mainly handled refugee claims from Iraq and Sudan. From 1998 through 2002, the Beirut recognition rate dropped from 42 per cent to less than 8 per cent.⁶⁶ This was quite striking given the notorious human rights records in Iraq and Sudan at this time. In 2001, UNHCR-Beirut recognized 24 per cent of Iraqi asylum seekers, while the U.S. recognized 78 per cent and Australia 81 per cent.⁶⁷ In the same year, UNHCR-Beirut recognized 9 per cent of Sudanese asylum seekers, while the U.S. recognized 68 per cent.⁶⁸

Without questioning UNHCR's commitment to correctly apply the refugee definition, UNHCR's RSD procedures must be considered high risk for errors. UNHCR RSD decision makers are likely to make decisions from unnecessarily incomplete facts in a procedure in which mistakes are more likely to go uncaught. Without legal aid and information, the

risk increases that asylum seekers with valid refugee claims will conceal key facts, fail to compile and explain all relevant evidence, or be persuaded by ill-informed or disreputable members of the community to submit false claims. Such risks are likely to be highest for the least educated and most traumatized refugees. Without access to the evidence considered in their cases, applicants cannot correct misunderstandings, rebut negative inferences about the facts, or cross-examine adverse evidence. Without reasons for rejection and without an independent appeal, factual and legal mistakes are more difficult to correct. Gaps in UNHCR RSD systems hence heighten the risks of both decision-maker errors and applicant errors, with the end result that some rejected asylum seekers are likely to in fact be *bona fide* refugees. In general, UNHCR RSD procedures are likely to create via errant rejections an unknown but significant number of *de facto* refugees. This risk falls disproportionately on urban refugees because (owing to the rural-urban dichotomy in RSD) they are more likely than rural refugees to be put through the individual RSD process.

The Implications of de Facto Refugee Status

In this paper I have argued that choices about how to conduct refugee status determination in the geopolitical South have produced a rural-urban dichotomy that has no basis in international law and which generally marginalizes and disadvantages urban refugees. In order to obtain legal recognition, urban refugees face a more arduous individualized application process in which lack of procedural safeguards creates an unnecessary risk that they will be errantly denied legal protection, even if they in fact meet the legal criteria. As a result, urban refugee populations include formally recognized refugees as well as *de facto* refugees.

These conclusions have important implications for both scholars and policy makers.

Directions for Refugee Studies

If urban refugees are marginalized through status determination, what are the implications for refugee studies?

First, the mechanisms by which refugee definitions are applied should be a topic for study and analysis as much as the substance of the definitions. Any refugee definition will only be as good as the procedures by which it is applied.

Second, refugee studies should include examination of the lives of *de facto* refugees. A high RSD error rate will create a class of *de facto* refugees, predominantly urban rejected asylum seekers, who should be of concern to refugee studies. These people are not counted in official statistics, and in many cities no data is available about how many rejected asylum seekers remain after failing to obtain legal protection. This lack of data will lead to an undercounting

of the actual urban refugee population, and it will hinder development of policies and programs to assist them. There is hence a need for social science research to determine the composition and nature of rejected asylum-seeker populations in the urban South. How many of these people may actually be *bona fide* refugees? How do rejected urban asylum seekers respond to their failure to obtain legal recognition? Where do they go, how do they survive, and what role do they play in host societies?

Third, refugee studies should examine the impact of refugee status recognition as a social distinction, not just as a legal label. Formal refugee status ideally should be a recognition of pre-existing facts, but it also creates new social realities. The social impact of refugee status recognition/refusal might be different where the RSD system is fair and reliable than in cases where the RSD system has a high rate of error. In the first case, the status recognition will result from a pre-existing state of fearing persecution at home. But if the RSD system is not reliable, refugee status recognition may appear arbitrary and its social impact on the refugee community may appear more pernicious. Two asylum seekers who enter a host country in similar situations may suddenly find themselves in very different circumstances once their refugee claims are decided. A recognized refugee becomes a relatively privileged person, often eligible for UN assistance, residence permits, and resettlement. These advantages will likely affect their position in their own community, and may affect the social structure of the community itself.

Fourth, the rural-urban dichotomy should be studied more closely. Do urban asylum seekers fear different types of persecution or violence than rural asylum seekers? Do the differences in RSD and resettlement processing attract more refugees to cities, or deter them? How do refugees understand and make choices about these different procedures and relative risks and opportunities?

Refugee Policy and the de Facto Refugee

The concept of a *de facto* refugee who was errantly refused refugee status recognition owing to inadequate RSD procedures poses a serious challenge to international refugee protection policy. From legal protection to material assistance to durable solutions, refugee policy depends on correctly identifying those people who fit the refugee definition. To raise questions about the reliability of refugee status determination procedures is to question the mechanical foundation of the refugee protection regime. Yet, these are critical questions if refugee policy is to respond to the real challenges facing real refugees.

At worst, a *de facto* refugee can become subject to *de facto* refoulement. When a *de facto* refugee, denied formal refugee

status through a legal process, is deported, it will not appear on paper to be a violation of international law. But the human effect is the same: a person will be forced to go somewhere where his or her life or freedom is in danger.

There are a number of possible strategies to avoid this predicament.

Implementing procedural safeguards in all individual RSD procedures would reduce the risk of RSD error. UNHCR can take the lead in this by improving its own RSD procedures, which are widespread throughout Africa, the Middle East, and Asia.

More attention should be paid to using *prima facie* recognition systems in order to avoid reliance on high-risk individual procedures. International refugee conventions do not require refugees be recognized on an individual basis. International law requires only that no asylum seeker be deported without access to an individualized procedure. Individual RSD has been the presumed norm in Europe and North America mainly because these countries have been intent on excluding most migrants. Governments in fact have a wider range of options to avoid individual procedures by protecting groups of refugees without individual RSD. UNHCR guidelines allow for a country-by-country assessment of whether there is adequate capacity to process individual claims fairly. Individual RSD should never be conducted when procedural safeguards cannot be implemented. When this capacity is lacking, *prima facie* recognition is a better solution.

Eliminating the rural-urban dichotomy in status determination is essential to ensure that individual RSD is used only where truly necessary. Since refugee law applies to whole states, refugee status determination should be a nationwide affair. Conditions in the country of origin should be the primary factor in determining whether *prima facie* recognition is called for.⁶⁹ Decisions to engage in *prima facie* recognition for certain nationalities of asylum seekers should apply throughout a country. This does not preclude adjusting social and economic services to different social and economic needs in different regions. But dual systems to recognize a refugee's basic legal status have no basis in international law, and operate to advantage or disadvantage categories of people who should be treated equally. Eliminating the rural-urban dichotomy also requires that resettlement processing capacity expand in rural areas, so that resettlement candidates are chosen by objective criteria, rather than by access to administrative procedures. The rural-urban dichotomy can also be reduced by conducting individual RSD (where needed) in rural areas; just as there is no barrier to *prima facie* in cities, there is no bar against individual decision making in camps.

Could UNHCR avoid status determination dilemmas by minimizing the importance of formal refugee status? This

could be accomplished by extending protection to people in what UNHCR has referred to as "refugee-like situations." After the 2003 Iraq war, UNHCR issued a preliminary repatriation plan for Iraqis which included assistance to Iraqis in Middle Eastern countries who had been refused refugee protection (often by UNHCR offices) or who had never applied for formal refugee status.⁷⁰ By this plan, UNHCR would prevent *de facto* refugees from falling through the cracks. As of writing, the plan had yet to be implemented because of continuing violence in Iraq. One could ask, if people in "refugee-like situations" could be considered within UNHCR's mandate during a repatriation, why should they have ever been left out in the first place? Had UNHCR applied *prima facie* recognition to Iraqis in neighbouring countries, then most of these people would not be considered to have a "refugee-like" status; they would be recognized as refugees.

By casting a net wider than formal refugee status, the preliminary Iraq plan had much in common with the "good offices" doctrine used in Africa in the 1960s, and with the effective expansion of UNHCR's mandate in decades since. Indeed, for UNHCR, rigid individual RSD has long been an anomaly, since in many ways UNHCR's mandate and operation have expanded into humanitarian operations beyond the narrow legal criteria set in 1950s. As James Hathaway puts it: "The essential criterion of refugee status under UNHCR auspices has come to be simply the existence of human suffering consequent to forced migration."⁷¹ UNHCR's individual RSD work has been exceptional because the agency which elsewhere acts beyond its legal mandate refuses status recognition when it is not convinced that a person fits the narrow legal criteria.

Nevertheless, a certain amount of caution is required before rigid legal categories are abandoned. As governments increase migration restrictions and exclusion, legal rigidity may be refugees' only defense against forced return. It is not surprising that UNHCR could plan to expand its mandate in a repatriation program – which is consistent with government objectives of turning away asylum seekers and refugees – but in earlier years applied strict individual status determination when it was trying to protect Iraqis who could not return home.

None of these strategies addresses one of the core root causes of the rural-urban dichotomy: the understandable objective of governments in the developing world to share the burdens of refugee protection and assistance. As has been demonstrated, African governments began using refugee status determination in order to solicit international aid for refugee protection. Satisfying this government objective is essential, as well as a subject far beyond the scope of this article. But for the question of refugee status determination

for urban refugees, there is an answer. Only recognized refugees attract outside assistance. Unrecognized, uncounted refugees are a burden that cannot be shared with the international community. Host governments therefore have an incentive to reduce the rural-urban dichotomy, reducing the risk that an urban refugee will be a *de facto* refugee. Refugees are already living in cities; formally recognizing their status would be a first step to discussing who should take responsibility for them.

Notes

1. Vaughan Robinson, "Into the Next Millennium: An Agenda for Refugee Studies," (1990) 3 *J. Refugee Stud.* 3 at 6 (noting debates about whether common definitions of refugees or forced migrants are necessary).
2. See *Extraterritorial Effect on the Determination of Refugee Status*, UNHCR Executive Committee, Conclusion No. 12 (1978) ("Recognized ... that refugee status as determined in one Contracting State should only be called into question by another Contracting State in exceptional cases.").
3. *Policy on Refugees in Urban Areas*, UNHCR (12 December 1997) para. 2.
4. *Protection of Refugees in Mass Influx Situations: Overall Protection Framework*, UNHCR, EC/GC/01/4 (19 February 2001) para. 14 (emphasis added).
5. *Ibid.*; *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, para. 44 (reedited 1992); Ivor Jackson, *The Refugee Concept in Group Situations* (Berlin: Springer, 1999).
6. *Prima facie* recognition still allows UNHCR to individually reject people who are excluded from refugee status, such as war criminals and other people who have committed a serious non-political crime.
7. UNHCR, *Mid-Year Report 2000*, 68, online: <<http://www.unhcr.org/home/PUBL/3e6f1b7115.pdf>>.
8. 12,206 applications were submitted by Sudanese to UNHCR's Cairo office. See *2000 Statistical Overview*, UNHCR (June 2002).
9. See Rainer Hofmann, "Refugee Law in Africa" (1989) 39 *Law and State* 79 at 87.
10. See, e.g., *ibid.* at 83.
11. See, e.g., Anthony Ayok Chol, "The Legal Dimensions of the Refugee Problem in Africa" (1992) 14 *Migration* 5; Arne Piel Christensen, "Comparative Aspects of the Refugee Situation in Europe," (July 1995) *Int'l J. Refugee L.*, Special Issue, 102; Todd Howland, "Refolement of Rwandan Refugees: The UNHCR's Lost Opportunity to Ground Temporary Refuge in Human Rights Law," (1998) 4 *U.C. Davis J. Int'l L. & Pol'y* 73 at 82.
12. See Bonaventure Rutinwa, *Prima Facie Status and Refugee Protection*, Working Paper No. 69, New Issues in Refugee Research (October 2002) at 2; online <<http://www.unhcr.ch>>.
13. See UNHCR, *Mid-Year Progress Report 2001* at 138.
14. See Jackson, *supra* note 5 at 188–191.
15. See generally Michael Kagan & William P. Johnson, "Persecution in the Fog of War: The House of Lords' Decision in *Adan*," (2002) 23 *Mich. J. Int'l L.* 247.
16. See *Adan v. Sec'y of State for the Home Dep't*, [1999] 1 A.C. 293, [1998] 2 W.L.R. 702, [1998] 2 All E.R. 453 (H.L. 1998).
17. See "Civilian Non-Combatants Fearing Persecution in Civil War Situations," Immigration and Refugee Board of Canada (March 7, 1996), online: <<http://www.ird.cn>>.
18. "Information Note on Article 1 of the *Refugee Convention*," UNHCR, para. 5.
19. *Conclusion on International Protection*, UNHCR Executive Committee, Conclusion No. 85 (XLIX), (1998), para. C.
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21. See James C. Hathaway, *The Law of Refugee Status* (Toronto: Butterworths, 1991) at 231.
22. *Ibid.* at 6–8.
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24. Guy S. Goodwin-Gill, *The Refugee in International Law*, 2nd ed. (Oxford: Clarendon Press, 1996) at 191–193.
25. See Michael Kagan, "Is Truth in the Eye of the Beholder? Objective Credibility Assessment in Refugee Status Determination" (2003) 17, no. 3 *Georg. Immigr. L. J.* 367, at 368–371.
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27. Jackson, *supra* note 5 at 143–176.
28. See Gil Loescher, *The UNHCR and World Politics: A Perilous Path* (Oxford: Oxford University Press, 2001) at 105.
29. *Ibid.* at 118.
30. Anais Tuepker, "On the Threshold of Africa: OAU and UN Definitions in South African Asylum Practice" (2002) 15 *J. Refugee Stud.* 409.
31. See G.A. Res. 34/61 (29 November 1979) (fully endorsing the recommendations of the 1979 Arusha Conference on the Situation of Refugees in Africa, which called on all UN organs operating in Organization of African Unity states to apply the OAU refugee convention). See generally Jackson, *supra* note 5 at 193–1944 (arguing for UNHCR to apply the OAU Convention when the agency works in Africa).
32. Gaim Kibreab, "Eritrean and Ethiopian Urban Refugees in Khartoum: What the Eye Refuses to See" (1996) 39 *African Studies Review* 131 at 138–139.
33. *Ibid.*
34. *Ibid.*
35. *Ibid.* at 139.
36. *Ibid.* at 142.
37. *Ibid.* at 143.
38. *Ibid.* at 143–144.

39. Tom Kuhlman has shown that the majority of Eritran and Ethiopian refugees in Sudan lived outside the assigned settlements, often without any legal registration or protection. As a result, the policy of rural marginalization effectively hurt both refugees (who were left vulnerable to arrest, deportation, and exploitation) and Sudanese nationals (who had to compete for wages and housing with undocumented refugees). Tom Kuhlman, *Asylum or Aid? The Economic Integration of Ethiopian and Eritrean Refugees in the Sudan* (1994) at 288–289; Tom Kuhlman, *Burden or Boon? A Study of Eritrean Refugees in the Sudan* (1990) at 51, 71, 84, 131, 180 (1990).
40. *Policy on Refugees in Urban Areas*, UNHCR (12 December 1997) at para. 3.
41. Zachary Lomo, “The Struggle for Protection of the Rights of Refugees and IDPs in Africa: Making the Existing International Legal Regime Work” (2000) 18 *Berkeley J. Int’l L.* 268 at 282. See also Human Rights Watch, *Hidden in Plain View: Refugees Living without Protection in Nairobi and Kampala* (New York: Human Rights Watch, 2002) (noting UNHCR acquiescence to the Kenyan government’s insistence that refugees in Kenya should be in camps).
42. See, e.g., Bashir Osmat, Michael Kagan, & Samira Trad, “Promises without Solutions: Iraqi Refugees Left in the Lurch in Lebanon” (September 2003) 18 *Forced Migration Review* 42.
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48. UNHCR, *supra* note 3 at para. 12.
49. *Determination of Refugee Status*, UNHCR RLD 2 (1989) chapter 2.
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51. *Asylum-Processes: Fair and Efficient Asylum Procedures*, UNHCR (May 2001), para. 5.
52. See UNHCR Executive Committee Conclusions No. 8 (1977); *Guidelines for National Refugee Legislation and Commentary*, OAU-UNHCR (1980); Note, *Fair and Expeditious Asylum Procedures*, UNHCR (1994); *Asylum-Processes: Fair and Efficient Asylum Procedures*, UNHCR (May 2001); *Comments to the Council of Europe*, UNHCR (2003).
53. *Refugee Protection: A Guide to International Refugee Law*, UNHCR (2001) 50; see also *Fair and Expeditious Asylum Procedures*, UNHCR (November 1994) § 4 (“UNHCR encourages states to allocate appropriate human and financial resources to process asylum claims in an expeditious way and within a reasonable time, both in the interest of the asylum-seeker and of the state.”).
54. See Christensen, *supra* note 11 at 106–107.
55. See UNHCR, *Handbook*, *supra* note 5 at para. 28 (“Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee.”); Goodwin-Gill, *supra* note 24 at 32.
56. See James C. Hathaway, “Refugee Law s Not Immigration Law” in United States Committee for Refugees, *World Refugee Survey* (2002) at 38.
57. See T. Alexander Aleinikoff, “Aliens, Due Process and “Community Ties”: A Response to Martin” (1983) 44 *U. Pitt. L. Rev.* 237 at 251 (“[I]t seems to me that the appropriate standard of accuracy [in RSD] should be the percentage of good claims denied, not the percentage of all claims properly decided.”).
58. There are, however, studies showing inconsistency in decision making. See, e.g., Susan Kneebone, “The Refugee Review Tribunal and the Assessment of Credibility: An Inquisitorial Role?” (1998) 5 *Austl. J. Admin. L.* 78 at 89–93.
59. In some cases, both types of error will occur in the same case.
60. See *Asylum-Processes: Fair and Efficient Asylum Procedures*, UNHCR (May 2001).
61. *Statistical Overview 2001 (provisional)*, UNHCR; *Statistical Yearbook 2001*, UNHCR (2002) at 49.
62. *Ibid.*
63. See, e.g., Amnesty International, *Selective protection: Discriminatory treatment of non-European refugees and asylum-seekers*, EUR 44/16/94 (March 1994); Iranian Refugees Alliance, *Evading Scrutiny: Does Refugee Status Determination Procedure Measure Up to International Standards?* (May 1995); Human Rights Watch, *50 Years On: What Future for Refugee Protection?* (2001); Human Rights Watch, *Hidden in Plain View: Refugees Living Without Protection in Nairobi and Kampala* (2002); Michael Kagan, *Assessment of Refugee Status Determination Procedure at UNHCR’s Cairo Office 2001–2002*, Working Paper No. 1, Forced Migration and Refugee Studies, American University in Cairo (2002), online: <www.aucegypt.edu/academic/fmrs> (follow “Reports” link).
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65. See Kagan, *supra* note 63 at 11.
66. *Statistical Overview 1998*, UNHCR; *2002 Population Statistics (Provisional)*, UNHCR.
67. *Statistical Overview 2001*, UNHCR (UNHCR did not report Iraqi recognition rates for Canada, the third main resettlement country from Lebanon).
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69. See Rutinwa, *supra* note 12 at 1, 19.
70. *Preliminary Repatriation and Reintegration Plan for Iraq* UNHCR (April 2003).
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Why Governments Prefer Spatially Segregated Settlement Sites for Urban Refugees

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Abstract

The urbanization of Africa has been recent, rapid and notably dissimilar from the pattern of urbanization that occurred previously in Europe. Significantly, the urbanization of Africa has occurred in the absence of structural transformation. Within this reality, refugees are viewed by African host governments as exacerbating the problems of urbanization and are most often located in government-designated and spatially segregated sites - refugee camps or settlements. Often in defiance of such policies, most refugees with urban backgrounds tend to congregate in urban centres. The case study of Sudan illustrates that even where the stay of certain refugees in urban areas may be formally regularised by governments there are nonetheless identifiable common patterns and problems arising out of and causing the spatial segregation of refugees away from urban centres. It is argued that the underlying reality of urbanization in Africa plus the protracted problems for governments created by urbanisation generally and cross-border ethnic solidarity in the case of many refugee movements in Africa, shape current hostile refugee policies towards urban refugees.

Résumé

L'urbanisation de l'Afrique est de date récente. Elle s'est faite de façon rapide et a suivi un parcours particulièrement différent de celui emprunté par l'urbanisation précédente de l'Europe. De manière significative, l'urbanisation de l'Afrique s'est produite en l'absence d'une transformation structurelle. Avec cette réalité comme toile de fond, les réfugiés sont perçus par les gouver-

nements hôtes des pays d'Afrique comme aggravant les problèmes d'urbanisation, et ils sont le plus souvent installés dans des lieux spécialement désignés par les gouvernements et spatialement séparés – notamment des camps de réfugiés ou des zones d'installations.

Souvent en faisant fi de telles politiques, la plupart des réfugiés issus des milieux urbains tendent à se rassembler dans les centres urbains. L'étude de cas du Soudan démontre que même là où des gouvernements arrivent à sanctionner le séjour de certains réfugiés en milieux urbains, on peut néanmoins identifier des tendances communes et des problèmes qui résultent de, et provoquent, la ségrégation spatiale des réfugiés loin des centres urbains.

L'article soutient que la réalité sous-jacente de l'urbanisation en Afrique, ajoutée aux problèmes à n'en pas finir confrontant les gouvernements et engendrés, d'une part par l'urbanisation en général, et de l'autre par la solidarité ethnique transfrontalière dans le cas de beaucoup de mouvements de réfugiés en Afrique, tout cela pris ensemble, façonne les politiques actuelles relatives aux réfugiés qui sont hostiles aux réfugiés urbains.

Introduction and Statement of the Problem

The question of urban refugees should be placed in the context of the rapid process of urbanization experienced by most African countries. What is peculiar about the process of urbanization in this region is that it is taking place in the absence of structural transformation.¹ In the West, rural-urban migration took place in the eighteenth and nineteenth centuries in the context of massive process of structural transformation reflected in technologi-

cal innovation, industrialization, and shrinkage of the primary sector—agriculture. As a result, those who were separated from their means of production were easily absorbed in manufacturing and later in the expanding service sector.

In much of Africa, however, the manufacturing sector is very small and its capacity of absorption is quite limited. The manufacturing sector has been experiencing further constriction due to macro-economic policy reforms introduced in connection with structural adjustment programs. Many adjusting economies in sub-Saharan Africa have been experiencing a process of de-industrialization due to inability to compete with economies that enjoy technological comparative advantages. In most sub-Saharan African countries, the primary sector—agriculture—still remains a dominant economic activity. However, the performance of the agricultural sector has been prejudicially affected by adverse weather conditions, lack of productivity-enhancing modern technological inputs, and high population pressure. Horizontal expansion of commercial agriculture which takes place in the absence of well-developed policy and institutional framework and enforcement capability has led not only to loss of traditional resource rights but also to degradation of productive capability of renewable resources. In the countries that have been experiencing expansion of commercial agriculture, the property rights regimes are so inauspicious that they provide no adequate protection against encroachment by commercial interests.² In most cases, those who are squeezed out in the process or separated from the means of production are left with no alternative but to migrate to urban areas in search of sources of livelihoods. Sub-Saharan Africa has been experiencing rapid urbanization in the context of lack of protection of pastoralist and peasant land and resource rights. The poor performance and the low capacity of absorption of the agricultural sector is also substantially exacerbated, on the one hand, by the excessive subsidies paid to farmers in the European Union and North America and, on the other, by the restrictions imposed by the European Union and the US government on imports of primary and processed agricultural products from developing countries, including Africa. Governments in the EU and the US preach liberalism but in reality their markets are inaccessible because they are protected. This policy has had a detrimental impact on the economies of African countries and has resulted not only in the economic stagnation of the agricultural and the manufacturing sectors but also in squalor and poverty in the urban areas where there are large concentrations of unrecognized refugees. The hostility of host governments and, to some extent, host populations towards them cannot be understood in isolation from what goes on in the international arena.

In sub-Saharan Africa, rural-urban migrants invariably end up in the saturated informal sector where competition is fierce. The informal sector is the only conceivable source of livelihood for: (i) retrenched public sector employees; (ii) workers laid off from the private sector due to rationalization/restructuring or de-industrialization; (iii) new job seekers; and (iv) those who need to supplement their meagre incomes. Some of these are consequences of structural adjustment programs. In the past, the informal sector was considered “spongy,” reflected in an “unlimited” capacity of absorption. These days, there are no analysts who believe that the capacity of the informal sector to absorb new entrants is unlimited.

The other factor that is contributing to rapid urbanization in Africa is the educational system, which is highly elitist and inevitably detaches students from their particular socio-cultural environments. Most of the curricula taught in African schools are designed to prepare students for employment in the modern urban sector. Unfortunately, this sector is stagnant for reasons explained above, and its capacity to absorb additional labour is either limited or non-existent. The millions of students who complete secondary education often leave school without any vocational skills and are hence unemployable. Those from rural areas often seek an escape from rural life, instead ending up in urban slums, and try to eke out a meagre existence in the informal sector. Though the informal sector is dynamic, its capacity of absorption is not unlimited. In most African countries, it is stretched to a breaking point.

The fact that this rapid urbanization is taking place in the absence of structural transformation also means that the states are unable to generate enough revenues from taxes to invest in the social and physical infrastructures to cope with increased demand. Thus, in most of sub-Saharan Africa, the infrastructures in urban areas are either weak or are on the verge of collapse. This can also exacerbate the HIV/AIDS pandemic due to shortages of housing, sanitary facilities, health services, and educational opportunities. When diverse groups inhabit slum areas in cities and individuals originating from different ethnic, religious, and geographical origins and different cultural backgrounds intermingle, the informal institutional rules and social norms that previously regulated their sexual and other social behaviours tend to weaken if not break down. This creates fertile ground for the spread of HIV/AIDS and other sexually transmitted diseases.

Urban Refugees: Unwelcome Guests

In Africa as elsewhere in developing societies, governments loathe the presence of refugees in urban areas.³ This is because they see the presence of refugees as a factor that

exacerbates the urban condition. Hence they prefer to place all refugees regardless of their occupational, educational, and experiential backgrounds in government-designated and spatially segregated sites—refugee camps or settlements. More often than not, these sites are devoid of freedom of movement and residence.⁴ Some governments also apply draconian measures to control the behaviour and political activities of refugees in such sites.⁵ Whenever refugees want to leave such sites they are required to seek permission.⁶ Nearly all African host governments do not formally recognize the rights of refugees to settle in urban areas.⁷ Understandably, therefore, most refugees with urban backgrounds are opposed to living in refugee camps or settlements where no employment opportunities, amenities, and freedom of movement exist. Thus, most refugees with urban backgrounds tend to congregate in urban centres, defying host governments' policies. As a result, they are in most cases treated in a manner that violates their basic human rights.⁸

As we shall see in a brief case study of Sudan, there may be some cases of refugee populations whose stay in urban areas may be formally regularized by governments, but these are exceptions. Nevertheless, notwithstanding hostile government policies, in all refugee-hosting countries in sub-Saharan Africa, there are tens of thousands of refugees who reside in urban areas illegally. This is because governments are either unable to enforce their own laws and policies or refugees subvert the restrictions by developing complex strategies, including adoption of fictive identities, to pass as citizens.⁹ Given the artificial construction of many African borders which were established by bisecting communities, it is not easy to distinguish between citizens and non-citizens who often share identical structural traits.

The Rationale of Placing Refugee in Spatially Segregated Sites

Even though the rationales discussed in what follows are based on the experience of sub-Saharan Africa, they are relevant to all developing countries.¹⁰ Though the rationales that underpin different host governments' policies on urban refugees may be varied, it is argued here that there are identifiable common patterns that characterize most governments' responses to urban refugees. These include:

1. prevention of integration of refugees into host societies;
2. minimization of actual or perceived risk to national security;
3. prevention of refugee competition with nationals for employment, self-employment, resources, and services;
4. aversion to ethnic imbalance in border areas;

5. shifting of responsibility in meeting refugees' needs to the international donor community indefinitely, including UNHCR;
6. creation of an opportunity to develop previously neglected remote areas; and
7. prevention or minimization of societal insecurity.

Each of these factors is discussed in what follows briefly.

1. Prevention of Integration of Refugees into Host Societies

The three conventional solutions to the problem of refugees are enshrined in the Statute of the UNHCR. Paragraph 1 of the Statute states:

The United Nations Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection, under the auspices of the United Nations to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting Governments and, subject to the approval of the Governments concerned, private organisations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.¹¹

It is important to point out, however, that in all African countries—and this is true in all developing countries¹²—refugees are accepted as temporary guests, notwithstanding the fact that the United Nations in co-operation with governments is required to seek permanent solutions to the problem of refugees by integrating the latter into receiving communities. In the developing countries, settlement in first countries of asylum does not provide a permanent solution to the refugee problem. This is true regardless of the length of their stay in countries of asylum. Refugee status is granted in anticipation that they would return home subsequent to the elimination of the factors that prompt them to flee. Thus, most host government policies are designed to prevent rather than to promote integration of refugees into host societies. For example, despite long-standing open door policies¹³ in Tanzania, Uganda, and Sudan, their reception and settlement strategies are designed to prevent rather than to promote integration of refugees. Treatment of refugees in these countries is formally based on the general principles of international conventions, mainly that asylum is a peaceful and humanitarian act; that voluntary repatriation is the ideal and most durable solution to the refugee problem; and that in the absence of any foreseeable prospects for repatriation, refugees are to be settled away from border areas with the aim of helping them to become self-supporting. Self-settlement is regarded by all sub-Saharan African countries as an unacceptable option.¹⁴ The single most important reason

why the consecutive governments in these countries reject self-settlement of refugees is, *inter alia*, to prevent refugees from integrating into the host communities.

This does not suggest, however, that there are no refugees that self-settle outside of government designated sites by defying host government policies.¹⁵ This does not also suggest that there are no African refugees who become integrated into host societies by disregarding government policies. There are refugee communities that integrate themselves into host societies by relying on pre-existing historical, ethnic, language, and faith-based informal social networks. For example, notwithstanding the fact that the factors that produced pre-independence Eritrean refugees have indisputably ceased when the country achieved its independence, a substantial proportion of the refugees in Kassala and Port Sudan towns have stayed put. These are invariably people who share common ethnicity, religion, language, and way of life with the local residents.¹⁶

For example, the government of Sudan enacted its own national legislation to this end, known as the Regulation of Asylum Act, 1974. The Asylum Act lays down the principles upon which the country's refugee policies and practices are based. There are some fundamental restrictions which are designed to perpetuate rather than to end refugee status. For example, refugees are prohibited from owning land and immovable property.¹⁷ Non-compliance is punishable with imprisonment not exceeding one year.¹⁸ The *raison d'être* of the limitation on freedom of movement and residence is prevention of integration of refugees into the host societies because they are accepted as temporary guests until the factors that prompt their displacement are eliminated.¹⁹ For example, the late Dr. Ahmed Karadawi, who was an assistant commissioner for refugees in the Ministry of Interior, said,

As most of the refugee situations in the Sudan have not developed because of any deliberate intention either on the part of the refugees or on the part of the government, how realistic is the approach that aims at helping the refugees to settle permanently in the Sudan and become Sudanese? The strategy of what is called 'integration' by the aid agencies is a European import oblivious to the local processes that have brought refugees into the Sudan.²⁰

Karadawi could not be regarded as xenophobic or refugee-unfriendly by any standard.²¹ This clearly demonstrates that Sudan's refugee policies are designed to perpetuate rather than to end refugee status. This was further amplified by the Commissioner for Refugees, who argued that the term "integration" is misleading because it does not give the right sense of the treatment accorded to refugees in the Sudan. He said,

If you talk of integration as a sort of naturalisation, this is completely rejected in the Sudan ... and I feel that refugees will not like it. Being a refugee in a country for 20, 30 or 100 years, I don't think will deprive you of your own nationality, your own origin... That is why in Sudan... this policy of local settlement, rather than local integration [is adopted].²²

Thus in Sudan as in many other developing societies, refugee camps and settlements are created as a means of preventing refugees from incorporating themselves into the larger society. The Commissioner for Refugees further maintained,

... refugees should be given a certain place [a camp or settlement] to continue their own sort of relations, with their own people [not with Sudanese], not to forget their country, because we are not interested that they will forget their countries, they have to go back. We don't want more population in this country: enough is enough.²³

Camps and settlements are thus established to perpetuate, rather than to bring to an end, refugee status and to accomplish this by blocking the incorporation of refugees into host societies. In the government's view the best way to achieve this goal is to keep refugees in spatially segregated "containers" so that they are able to maintain their old relationship with each other in isolation from local populations and consequently maintain their collective national identity.

It is important to state that this is not only true in Sudan. It is generally true of all refugee-hosting countries in the developing societies. The statements of the Sudanese Commissioner for Refugees and the Assistant Commissioner accurately encapsulate the principles underlying nearly all government policies in the developing world. On paper, Tanzania made a general offer of naturalization to all refugees in 1980, but bureaucratic incompetence and the refugees' economic inability to meet prohibitive charges prevented many refugees from seizing the opportunity to be naturalized.²⁴ However, during the Great Lake crisis in the mid-1990s, not only did Tanzania backtrack on naturalization, but it also closed its borders with Rwanda. The country's Foreign Minister said, "We are saying enough is enough. Let us tell the refugees that the time has come for them to return home and no more should come."²⁵ The country also forcibly repatriated thousands of Rwandan refugees in 1996 in a situation where the political conditions were unsafe. In the 1980s, not only were Rwandan refugees forcibly repatriated from Uganda after having lived there for decades, but they were also victimized by Obote's government under which over 60,000 died in the Lwero triangle of Buganda.²⁶ All the available studies show

that in all developing countries, refugees are accepted as temporary guests and placement of refugees in spatially segregated rural sites is seen as an indispensable instrument of operationalizing such a policy.²⁷ It is also worth mentioning here that in sub-Saharan Africa, most international assistance is directed to refugee camps and formal settlements.²⁸

2. *Minimization of Actual or Perceived Risk of National Security*

There is an excessive tendency on the part of host governments to label the presence of refugees, including immigrants, in their territories a security threat. The single most important reason why governments place refugee issues on the security agenda is to excuse even the most unjustifiable or draconian measures they take against them. Such measures are often justified in terms of the need to avert the danger that might occur in the absence of such measures. Security, Waever argues, is:

... a practice, a specific way of framing an issue. Security discourse is characterised by dramatising an issue as having absolute priority. Something is presented as an existential threat: if we do not tackle this, everything else will be irrelevant... And by labelling this a security issue, the actor has claimed the rights to deal with it by extra-ordinary means, to break the normal political rules of the game... Something is presented as existentially threatened, and on this basis it is argued the 'we' must use extra-ordinary means to handle the threat.²⁹

If a government places an issue on the security agenda, whatever measures it takes to avert the alleged danger are said to be dictated by necessity. Thus if refugees are considered to constitute a threat to national security, whatever measures governments take to protect themselves and their citizens against the alleged threat of insecurity, including their confinement in spatially segregated sites, are considered justifiable. The presence of Eritrean refugees in Sudan was, for example, securitized from the outset.³⁰ The Sudanese government of the time even went to the extent of handing over to Ethiopia twelve prominent Eritreans in 1961.³¹ The placement of refugees in spatially segregated sites is therefore designed to facilitate control of refugee movements and their activities.³² If refugees are allowed to settle freely among local populations, host governments often fear or pretend to fear that not only may they freely engage in subversive activities and threaten the security of receiving areas and their countries of origin, but also influence citizens by "contaminating" their political views. Thus, it is not uncommon for host governments to view refugees as potentially dangerous that could radicalize their citizens.

Hence their placement in spatially segregated sites is seen as a means of avoiding the danger of insecurity.

3. *Prevention of Competition for Resources and Services*

Spatial segregation enables governments to prevent refugees from competing with nationals for employment, land, water, pasture, firewood, construction materials, common property resources, employment, transportation, housing, and income-generating opportunities. Many developing countries have been facing shortages of such resources due to many reasons. For example, in Sudan, though over half of the total refugee population managed to avoid them, all refugees are by law required to reside in camps and settlements in accordance with government policy. Those who self-settle outside camps and settlements often face the risk of being rounded up, harassed, detained, and deported to rural areas.³³ In some countries refugees found outside the designated areas are deported to their countries of origin even when the factors that prompted their flight are not eliminated.³⁴

As we saw before, the rapid process of urbanization is taking place in all sub-Saharan Africa in the context of a stagnant manufacturing sector and over-saturated service and informal sectors. Unemployment in urban areas is rampant. Governments and host populations thus resent the presence of refugees because they are said to compete for scarce employment and self-employment opportunities. Though the economic crises facing African countries have nothing to do with the presence of refugees, the latter are invariably blamed for being the causes of economic crisis and of shortages of housing, transportation, water, electricity, employment, etc. Refugees are also blamed for theft, crimes, prostitution, and other forms of anti-social behaviour.

Ironically, the blame game has been exacerbated by multi-party elections that have been spreading over most sub-Saharan African countries since the end of the 1980s. This is contrary to expectations. In many countries, opportunist politicians use the refugee card to stir up xenophobic sentiments among their constituencies in order to win votes by blaming shortages of employment opportunities, resources, and services, as well as crimes, on refugees. In refugee-hosting countries, many parliamentary candidates promise to throw out refugees if they are elected. This is not only true in the developing countries but the refugee card is vote-winning even in "mature" democracies.

4. *Prevention of Ethnic Imbalance in Border Areas*

Colonial borders divide many ethnic groups, and governments fear that if refugees are allowed to self-settle among members of their own ethnic groups in border areas, the

numerical sizes of some of the border communities would increase substantially. There is a concern on the part of governments that this might upset the pre-existing ethnic balance of power. In some cases, this imbalance could jeopardize the security and stability of local communities. Thus, governments opt for relocation of refugees to areas away from people with whom they share a common ethnicity. In Sudan this consideration has been the main factor as to why the authorities in the local government in the east were reluctant to accept the establishment of refugee settlements in Kassala Province.

The large majority of the Eritrean refugees who fled Eritrea in the second half of the 1960s were from the Beni Amer ethnic group. Having members of their ethnic group provided a soft landing in the border areas with Sudan. Because of pre-existing trade and other ties, they had long-standing social networks which they made use of in adversity and consequently found new homes among the border Sudanese communities.

However, the Beni Amer had a long-standing feud with another Sudanese border community, the Hadendowa. This feud degenerated into war in the early 1940s over grazing rights along the Eritrean frontier which the Beni Amer regarded as their own. A tense situation exploded in 1942 when a simple incident of a camel theft triggered a bloody tribal war which raged off and on for more than three years.³⁵ Though a peace settlement was successfully negotiated in December 1945 in which the Beni Amer agreed to pay the Hadendowa thousands of pounds compensation and surrendered about 700 rifles³⁶ the relationship between the two tribes has always been tense.

When nearly 30,000 Eritrean Beni Amer refugees arrived in the border areas inhabited by Sudanese Beni Amer and the Hadendowa in February and March of 1967, the number of Sudanese Beni Amer increased dramatically not only in the rural border areas but also in the urban border town of Kassala. This created a sudden imbalance which the Sudanese authorities feared could encourage the Sudanese Beni Amer to attack their long-standing adversaries. Hence a decision was taken to relocate the Eritrean refugees far from the border areas to the district of Qala en Nahal which belonged to the Shukria tribe, but the particular sites where the refugees were settled were either empty or sparsely inhabited by West African immigrants.³⁷

This is not only true in Sudan but is a common consideration in many refugee-hosting countries in Africa. For example, the Banyarwanda refugees were settled in the border areas of Uganda. In the early 1980s the refugees were attacked by Obete's government for their alleged support for Yoweri Museveni's resistance movement. As a result, thousands were killed and the survivors were either de-

ported or scattered. Most African governments allege that the reason they reject self-settlement of refugees in both urban and rural areas is to avoid such dangers. Since such dangers are rare occurrences, governments use such incidents in attempts to justify their unjustifiable reception and settlement strategies.

5. *Shifting of Financial Responsibility to the International Donor Communities*

Refugees in segregated sites, besides being visible, can be kept as distinct groups indefinitely. If they are allowed to self-settle among local populations, they could easily melt into local communities and become indistinguishable. This among other things could weaken governments' requests for funds from donors. Thus, placement of refugees in spatially segregated sites is seen as a necessary condition for shifting the responsibility of meeting refugees' needs to the international donor community indefinitely. For example, some refugees in the developing countries have been living in refugee settlements and camps for over thirty years and, in most cases, the international donor community has been footing the bill for all this time. It is interesting to note in this connection that, as pointed out earlier, all international assistance is only channelled to those who are placed in spatially segregated sites—namely, camps and settlements. Those who are outside camps and settlements, particularly in the urban areas, receive no international or any form of assistance. Thus, governments have no incentive to allow refugees to settle themselves.

However, the reason why aid agencies are reluctant to provide assistance to urban refugees is because this would undermine host governments' policies and pull refugees to urban centres from rural refugee camps and settlements. As pointed out earlier, in Sudan, a large number of the Eritrean and Ethiopian refugees are settled in cities and towns in defiance of the government's policy. As a result they are subjected to periodic roundups, arbitrary detention, extortion, payment of bribes, etc. Those without transnational networks also suffer from lack of basic necessities such as food, clothing, and shelter. The UNHCR and the other aid agencies are aware of their plight but they argue they cannot help them because this would be contrary to the host government's policy. Hence the refugees have to either depend on remittances or fend for themselves by different means.

6. *Opportunities to Develop Previously Neglected Remote Areas*

The arrival of refugees in poor countries is invariably accompanied by provision of emergency relief provided the said refugees are placed in camps which, in sub-Saharan African countries, are invariably located in rural areas. In most

refugee-hosting countries, assistance is seldom provided to refugees in urban areas. Egypt, South Africa, and to some extent Kenya are probably the exceptions.

Many countries in Africa, at least in the past, relocated refugees to self-sufficiency projects which are in most cases based in remote areas. UNHCR and other donor agencies often foot the bill for the development of the infrastructure, including roads. This benefits local communities and the government of the country concerned. For example, the refugee settlements located in remote areas in Tanzania produce large amounts of tobacco and food crops which contribute to the country's foreign exchange earnings and regional food security, respectively. The six refugee settlements in Qala en Nahal also used to produce substantial amounts of the cash crop sesame. Prior to the establishment of the Qala en Nahal refugee settlements, all the local populations used to migrate to the Rahad River during the dry season. When the refugee settlements were established, UNHCR with its partners established a reliable water supply system that enabled the local population to stay in their villages throughout the year.³⁸ There is thus evidence to suggest that one of the reasons why governments do not want refugees in urban areas and prefer to place them in designated rural areas is to take advantage of UNHCR and donor resources to develop areas previously neglected areas due to lack of resources.

7. Minimization of Perceived Societal Insecurity

Societal security refers to "...the sustainability, within acceptable condition, of traditional patterns of language, culture and religious and national identity and custom."³⁹ It is often assumed that it is only refugees seeking asylum in the predominantly white societies of the North who experience racism and discrimination. There is evidence to show that even refugees who seek asylum in the South are sometimes regarded as "pollutants" of host countries' "cultural purity"⁴⁰ and civic virtues. For example, in Sudan municipality police in Khartoum wrote to the General Director of the Police stating: "We have been watching, with great alarm, the continuing refugee influx in Khartoum. Your Excellency will undoubtedly agree that such an unorganised movement will contribute to an increase in the rate of crime."⁴¹ The Khartoum Police Commissioner in his recommendation to restrict the movement of refugees to the capital city wrote:

We write this in the hope that your Excellency will contact the competent authority and propose to the Minister of the Interior that he should use powers accorded to him by Article 10(2) of the Regulation of Asylum Act, to restrict the refugee movement from the camps. *This will enable us to take the necessary measures*

*to stop this harmful movement which is becoming a threat to our moral values and public decency.*⁴²

Anything that constitutes "a threat" to "moral values and public decency" by definition constitutes a threat to societal security, and one of the reasons why host governments are determined to remove refugees from urban areas and place them in camps and settlements is to "keep their cultural purity" intact (*sic*). The Sudanese police authorities and many nationals seem to regard the Eritrean and Ethiopian refugees' liberal lifestyles, particularly the relations between the two sexes, as a threat to societal security. These are seen as constituting a major threat to Sudanese religious and cultural norms, as well as way of life. The experience of refugees elsewhere, *e.g.* Tanzania, also shows that local hosts do not seem to attach the same value to refugees' lives and physical safety as they would to a citizen's. A Burundian refugee living in Kigoma (a Tanzanian town) told Lisa Malkki,

Apart from problems of food and lodging, the gravest problems were only that citizens considered us to be savage animals. I say this because sometimes, if one hits a Burundian, it was said, 'Hit harder, it is a refugee.' For this we found ourselves to be without value in their eyes.⁴³

Though I have not conducted fieldwork in Egypt, a discussion I held with a group of Eritrean refugees in the American University in Cairo also showed that the host population and government officials regarded them as representing a threat to societal security. A few South Sudanese refugees I talked to in Alexandria and Cairo also confirmed this.

Throughout this article it has been demonstrated that local and national authorities of a range of African countries seek to segregate, control, and ignore the needs of refugees in their midst, as they are seen to compete with nationals for limited services while presenting a perceived threat to their hosts' security and way of life. It is argued that these underlying factors, plus the protracted problems for governments created by urbanization generally and cross-border ethnic solidarity in the case of many refugee movements in Africa, shape current hostile refugee policies towards urban refugees.

Notes

1. G. Kibreab, "Eritrean and Ethiopian Refugees in Khartoum: What the Eye Refuses to See," *African Studies Review* 39, no. 3 (1996): 131–78.
2. G. Kibreab, *State Intervention and the Environment in Sudan 1889–1989: The Demise of Communal Resource Management*

- (Lewiston, NY; Queenston, Ontario; and Lampeter, Wales: Edwin Mellen Press, 2002).
3. For an extensive discussion on refugee policies in selected countries in the less developed countries, see G. Kibreab, "Citizenship Rights and Repatriation of Refugees," *International Migration Review* 37, no. 1 (2003): 24–73. For Sudan's government policy on urban refugees, see G. Kibreab, "Eritrean and Ethiopian Refugees: What the Eye Refuses to See"; G. Kibreab, "Resistance, Displacement and Identity: The Case of Eritrean Refugees in Sudan," *Canadian Journal of African Studies* 34, no. 2 (2000): 249–296; A. Karadawi, *Refugee Policy in Sudan 1967–1984* (Oxford: Berghahn Books, 1999). For Central America, see E. Ferris, *The Central American Refugees* (New York: Praeger, 1987). For Tanzania, see B. Rutinwa, "Refugee Admission and Eligibility Procedures in Tanzania: The Law and Practice" (unpublished, Dar es Salaam, 2001); B. Rutinwa, "The Tanzanian Government's Response to the Rwandan Emergency," *Journal of Refugee Studies* 9, no. 3 (1996): 291–302.
 4. See G. Kibreab, "Citizenship Rights and Repatriation of Refugees."
 5. *Ibid.*
 6. See G. Kibreab, "Eritrean and Ethiopian Refugees in Khartoum: What the Eye Refuses to See." See also M. Sommers, *Fear in Bongoland: Burundi Refugees in Urban Tanzania* (New York and Oxford: Berghahn Books, 2001).
 7. South Africa and Egypt are the only exceptions. Once asylum seekers are granted refugee status, they are free to live in the urban centres of South Africa and Egypt. In other countries, refugee status is premised on residence in government-designated sites.
 8. See A. Karadawi, *Refugee Policy in Sudan 1967–1984*; G. Kibreab, "Eritrean and Ethiopian Refugees in Khartoum: What the Eye Refuses to See."
 9. L. Malkki, *Purity and Exile: Violence, Memory and National Cosmology among the Hutu Refugees in Tanzania* (Chicago: University of Chicago Press, 1995). See also G. Kibreab, *Ready and Willing . . . but Still Waiting: Eritrean Refugees in Sudan and the Dilemmas of Return* (Uppsala: Institute of Life and Peace, 1996); G. Kibreab, "Resistance, Displacement and Identity."
 10. G. Kibreab, "Citizenship Rights and Repatriation of Refugees."
 11. Statute of UNHCR, Annex to Resolution 428(V) of the United Nations General Assembly.
 12. G. Kibreab, "Citizenship Rights and Repatriation of Refugees."
 13. Tanzania no longer pursues an open door policy. Its policy towards refugees has changed dramatically as a consequence of the refugee crisis in the Great Lake Region. For Tanzania, see B. Rutinwa, "Refugee Admission and Eligibility Procedures in Tanzania: The Law and Practice"; B. Rutinwa, "The Tanzanian Government's Response to the Rwandan Emergency." For Africa in general and Sudan in particular, see G. Kibreab, "The African Refugee Regime with Emphasis on Northeastern Africa: The Emerging Issues," in *Legitimate and Illegitimate Discrimination: New Directions in Migration*, ed. H. Adelman (Toronto: York Lanes Press, 1995), 57–102; G. Kibreab, "The Problem of Refugees in the Sudan: Some Unresolved Issues," in *African Refugees: Development Aid and Repatriation*, ed. H. Adelman and J. Sorenson (Boulder: Westview Press, 1994), 43–88; G. Kibreab, "Local Settlements in Africa: A Misconceived Option?" *Journal of Refugee Studies* 2, no. 4 (1989): 468–90; G. Kibreab, "Citizenship Rights and Repatriation of Refugees."
 14. National Committee for Aid to Refugees (NCAR) Documentation for the June 20–23 Conference, vols. 1–3 (Khartoum, 1980), vol. 2, p. 2.
 15. G. Kibreab, "Access to Economic and Social Rights in First Countries of Asylum and Repatriation: A Case Study of Eritrean Refugees in Sudan," in *Problematising Rights and Policies in Forced Displacement: Whose Needs Are Right?*, ed. Katarzyna Grabska and Lyla Mehta (Hampshire: Palgrave Macmillan, forthcoming).
 16. *Ibid.*
 17. Government of Sudan, Regulation of the Asylum Act, 1974, Article 9.
 18. *Ibid.*, Article 10 (2).
 19. G. Kibreab, "Eritrean and Ethiopian Refugees in Khartoum: What the Eye Refuses to See."
 20. A. Karadawi, "The Dynamics of Policy Towards the Refugee Problem in Sudan" (paper for the conference Sudan After Nimeiri, School of Oriental and African Studies, London, September 1985).
 21. In fact throughout most of his life he was a champion of the refugee cause. He was also one of the two committed academics who founded the Refugee Studies Programme (RSP), now Centre for Refugee Studies, at Oxford University.
 22. Hasen Mussa Atiya, quoted in G. Kibreab, "Resistance, Displacement and Identity," 389.
 23. *Ibid.*
 24. C. Gasarisi, "Mass Naturalisation and Further Integration of Rwandese Refugees in Tanzania," *Journal of Refugee Studies* 3, no. 2 (1990): 88–109.
 25. Quoted in B. Rutinwa, "The Tanzanian Government's Response to the Rwandan Emergency," *Journal of Refugee Studies* 9, no. 3 (1996): 291–302; 295.
 26. R. Van der Meer, "Three Decades in Exile: Rwandan Refugees 1960–90," *Journal of Refugee Studies* 9, no. 3 (1996): 252–68.
 27. For a detailed comparative study, see G. Kibreab, "Citizenship Rights and Repatriation of Refugees."
 28. See G. Kibreab, "Local Settlements in Africa: A Misconceived Option," W. Kok, "Self-Settled Refugees and the Socio-Economic Impact of Their Presence on Kassala, Eastern Sudan," *Journal of Refugee Studies* 4, no. 2 (1989): 419–40.
 29. O. Waever quoted in G. Kibreab, "Resistance, Displacement and Identity," 271.
 30. A. Karadawi, *Refugee Policy in Sudan 1967–84*; G. Kibreab, "Resistance, Displacement and Identity."

31. See J. Markakis, *National and Class Conflict in the Horn of Africa* (Cambridge: Cambridge University Press, 1990); G. Kibreab, "Resistance, Displacement and Identity."
32. A. Karadawi, *Refugee Policy in Sudan 1967–1984*; G. Kibreab, "Refugees in Sudan: Unresolved Issues;" G. Kibreab, "The African Refugee Regime with Emphasis on Northeastern Africa: Emerging Issues."
33. See A. Karadawi, *Refugee Policy in Sudan 1967–1984*; G. Kibreab "Stranded Birds of Passage?: Eritrean and Ethiopian Refugees in Khartoum," *Refuge* 10, no. 4 (1992): 6–11.
34. For many such examples see G. Kibreab, "Citizenship Rights and Repatriation of Refugees."
35. G. K. N. Trevaskis, *Eritrea: A Colony in Transition: 1941–52* (London, New York, and Toronto: Oxford University Press, 1960), 71.
36. *Ibid.*
37. See G. Kibreab, *People on the Edge in the Horn: Displacement, Land Use and Environment* (Oxford: James Currey Publishers, 1996); G. Kibreab, *Refugees and Development: The Case of Eritrean Refugees* (Trenton, NJ: Red Sea Press, 1987).
38. G. Kibreab, *Refugees and Development: The Case of Eritrean Refugees*.
39. B. Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, 2nd ed. (London: Pearson/Longman, 1991), 19.
40. See G. Kibreab, "Resistance, Displacement and Identity."
41. Provincial Commissioner for Police to Director of Police, 17 December 1977, quoted in A. Karadawi, *Refugee Policy in Sudan 1967–1984*, 102.
42. *Ibid.*, 103 (emphasis added).
43. Quoted in G. Kibreab, "Revisiting the Debate on People, Place, Identity and Displacement," *Journal of Refugee Studies* 12, no. 4 (1999): 385–410, 395.

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“Forgotten,” “Hidden”: Predicaments of the Urban Refugee

PHILIP MARFLEET

Abstract

Urban refugees are widely viewed as anomalous—people who stand outside a refugee regime which, in Africa, Asia, and Latin America, is based upon rural encampment. This article considers why states and humanitarian agencies view urban refugees in this way. It examines the history of the refugee as an urban person and the recent change in perspective which has enforced a rural norm. It considers the extreme pressures placed upon displaced people in the city and the consequences for communities which contest their marginal status.

Résumé

Les réfugiés urbains sont généralement considérés comme une anomalie – des gens qui ne tombent pas sous le domaine d'application d'un régime de réfugié qui, en Afrique, en Asie et en Amérique latine, est fondé sur des camps ruraux. Cet article traite des raisons pour lesquelles les états et les organismes humanitaires conçoivent les réfugiés urbains de cette façon. Il examine l'histoire du réfugié comme citoyen, ainsi que le changement de perspective intervenu récemment qui a imposé une norme rurale. Il tient compte des pressions extrêmes exercées sur les personnes déplacées dans les villes et les conséquences pour les communautés qui contestent leur marginalité.

Urban refugees, observed Rogge and Akol, are “forgotten people.” Writing in the late 1980s, they noted that large communities of displaced people in the cities of Africa were unrecognized by the authorities and lived at the margins of local society.¹ Over ten years later, after repeated mass displacements across the continent, the situation was unchanged: Human Rights Watch commented on the many urban refugees “hidden” to govern-

ments and international agencies.² This apparent conundrum—the presence/absence of urban refugee communities—is in fact a global phenomenon. More and more refugees are city dwellers whose existence is denied by governments and agencies. This article considers the policy of denial and its implications for refugees.

The urban refugee presents a special case of the problem presented to state authorities by migrants in general. In a recent assessment of global migration policy Cohen comments that “nothing is as disturbing to national societies as the movement of people.”³ Although of enormous importance to many receiving societies, especially in the economic context, migration represents a challenge to the modern state. The presence (or anticipated presence) of migrants may disturb ideas about citizenship, national integrity, and local rights and responsibilities. In the case of forced migrants – people engaged in movements that are usually unplanned and unexpected – the authorities may perceive a threat to their control over territorial borders and to their authority in defining “internal” cultural boundaries. Mass movements of refugees are seldom welcome, unless they fulfill a specific economic or ideological function, and states may go to great lengths to exclude incomers and/or to isolate them from the wider society.

Urban refugee communities present a further difficulty. Power is invariably concentrated in cities and it is in the urban context that the state exercises authority in the most assertive and exemplary fashion. At times of economic instability or political crisis the presence of non-national communities can become especially problematic as they are targeted by nativist or nationalist currents and/or by the state itself. One outcome—and a further paradox associated with the urban refugee—is that people who are usually “invisible” can quickly become the focus of high-profile campaigns of exclusion.

Urbanism and the Refugee

Over the past thirty years the urban refugee has been viewed as anomalous and sometimes as illegitimate and unacceptable to state authorities and international agencies. This is especially striking in Africa, Asia, and Latin America, where in some countries urban communities now contain a large majority of the displaced population. The reluctance or even refusal of governments and officials to recognize them is inconsistent with historic practice, for traditionally people recognized as refugees have been of urban origin and have found sanctuary in urban environments.

In ancient traditions of sanctuary and of asylum, such as those recorded in Jewish and Indian religious texts, certain cities were identified as places of refuge.⁴ In ancient Greece the institution of *asylon* embraced an understanding between city states that their citizens would be accommodated unharmed in places protected by local deities. A similar approach afforded the *exsul* (exile) of ancient Rome protection guaranteed by gods associated with specific *sanctuarium*, usually located in major cities.⁵ In Arabia key trading centres were also sanctuaries where fugitives could expect protection. In Islamic tradition—born in the cities of Hijaz in the seventh century CE—displacement, flight, and sanctuary became integral to principles of the faith and were recognized in the notions of *hijra* (“emigration”/flight) and *muhajir* (“emigrant”/“exile”/“refugee”), and celebrated in the practice of *hajj* (pilgrimage) to Mecca, Najaf, Karbala, and many lesser urban centres.⁶

In medieval Europe sanctuary was based upon the idea of inviolability of religious sites, of which the most important were the great abbeys, monasteries, and city cathedrals. When these traditions changed in the early modern era, giving way to notions about asylum granted by the nation-state, the first groups accommodated as refugees were people of urban origin who found sanctuary in the cities of the receiving society. The Huguenots of France were urbanites—mainly entrepreneurs, merchants, traders, and artisans—who moved primarily to the cities of Switzerland, Holland, England and Ireland. In the case of the much-celebrated emigration to England, the great majority of Huguenots moved to London: a small number settled in other towns; very few settled in rural areas.⁷

Over the next two hundred years all manner of people were displaced by upheavals in Europe: of those who benefited from asylum rights most originated in the urban elite. Marrus notes that during the nineteenth century the great majority of those recognized as political exiles or as *émigrés*—the terms most closely correlated with today’s definitions of the refugee—were bourgeois.⁸ They were people of “the relatively well-to-do or, at least of the once well-to-do.”⁹ Most had played a leading role in nationalist movements such as those

in Italy, Hungary, Austria, and Poland, or were radical activists from France and Germany—people (almost invariably men) involved in modernizing, essentially urban projects who sought sanctuary in cities in which they could maintain communication with other exiles and with movements in their countries of origin. So many activists settled in London that in the mid-Victorian era the city became known as “Little Germany.”¹⁰ Some European cities also accommodated leading figures from the embryonic anti-colonial movements of the Middle East and Asia. All were urban radicals, for rural activists (such as the guerrilla fighters who opposed French forces in North Africa) seldom left the remote areas which were their military bases.¹¹

There were exceptions to the “rule” of urbanism. In the late eighteenth century Loyalist groups in Britain’s American colonies who opposed independence and the establishment of a United States of America were rewarded with grants of land in Canada: in effect they became rural refugees. A hundred years later refugees from the Franco-Prussian war were directed by the French government to Algeria, where some were placed on land seized from the indigenous inhabitants. Even they were a minority of the *colon* population, however, for most *pièdes-noirs*—including refugees from Europe—were implanted in the cities of Maghreb.¹²

The pattern began to change in the late nineteenth century, when large numbers of people living in territories under Tsarist rule sought sanctuary in North America and western Europe. Most were Jews from Poland, Belorussia, Ukraine, and the Baltic states who fled increasingly intensive anti-Semitism, and many were of rural origin—poor and ill-educated people who proved much less attractive to receiving states than the *émigrés* of an earlier era.¹³ In an important development the British government closed its borders against them, using the Aliens Act—the first legislation of the modern era to deny entry to people seeking asylum. For the next fifty years most mass displacements in Europe and neighbouring regions were of a similar social composition: during the First World War some six million people were affected in Russia alone, most of whom were peasants from provinces occupied by German forces.¹⁴ Few were regarded as suitable candidates for asylum and very few became refugees, even on the loose, informal basis operated by most state authorities. It was the fate of people of rural origin that as more were displaced they had fewer opportunities to find places of sanctuary, for by the 1930s most states of Europe and North America had closed their borders to intending immigrants.¹⁵

Elite class

When the first international legal regime on asylum came into existence after the Second World War it was based upon

the preference of certain states for refugees of a specific social status. Those who wrote the Geneva Convention and shaped refugee policy in the 1950s and 1960s were strongly influenced by the ideological battles of the Cold War and the desire to encourage movement from East to West of “escapees” from Communist rule. Tuit comments that refugees of this period were largely “of an elite class able to perform a relatively sophisticated ambassadorial role on behalf of the host state.”¹⁶ They were mainly adult males of professional standing—technocrats, scientists, and military men judged suitable for resettlement in states of North America and western Europe. The Convention confirmed a long-standing historic pattern: refugees were conceived as members of the urban elite; others, including the mass of people of rural origin, seldom appeared as candidates for asylum.

There was a further difficulty: the Refugee Convention of 1951 defined the refugee as a person located in Europe—displaced people elsewhere were simply ineligible for refugee status. This had implications for all those involved in mass displacements then under way in the “Third” world. Break-up of the European colonial empires was associated with huge population movements: in the late 1940s some fourteen million people crossed the borders of the new states of India and Pakistan, and almost a million were displaced in and from Palestine. The vast majority were peasants—as people living in overwhelmingly agrarian societies it was inevitable that they would make up the bulk of those affected. None were recognized as refugees who might be included under the terms of international agreements then under negotiation. In the case of India the International Refugee Organisation (the immediate precursor of the UNHCR) refused to intervene, and in Palestine those affected were treated as a unique local problem.¹⁷ People of Africa, Asia, and Latin America, overwhelmingly of rural origin, did not qualify for refugee status. They were not discriminated against as peasants, agricultural labourers, etc., but because they were not Europeans and specifically not “escapees.”

For the next twenty years dominant states viewed refugees in the context of their preoccupation with the Cold War. The model candidate for asylum was a person persecuted in a state of the Eastern Bloc whose journey to the West could be presented as a flight from totalitarianism to freedom. In the case of the US, people displaced from states not dominated by Communist or radical regimes were rejected out of hand: there was simply no policy under which they could be recognized.¹⁸ With rare exceptions, refugees continued to come from among those who could perform an “ambassadorial” function.¹⁹ During the 1960s, however, this approach was modified in the light of a new and serious difficulty—the problem of mass displacement

in Africa. Here large numbers of people had been affected by conflicts involving the colonial powers in Congo, Kenya, Rhodesia, Angola, Mozambique, and Guinea-Bissau, and by new conflicts which affected independent states such as Rwanda, Burundi, Uganda, Tanzania, and Sudan. The US in particular was worried by these developments: according to a US Senate Judiciary Committee those affected were likely to be “prey to agitators and potential reservoirs of political and quasi-military opposition to existing regimes.”²⁰ Successive American administrations had been sceptical about the Geneva Convention and the activities of the UNHCR. In 1967, however, the US agreed that the Refugee Convention should have worldwide applicability and that the UNHCR should become a body with a global mandate. Loescher makes a terse assessment of the conjuncture:

The Cold War moved from Europe to Africa and Asia where refugees and refugee assistance were now viewed as part of the East-West struggle for hegemony in the developing world. The UNHCR’s programs were [now] viewed by the United States and other Western states as providing stability in a region rife with conflict and potential for Communist expansion.²¹

The UNHCR had already developed a novel category—the *de facto* refugee—to embrace people who did not have a case for asylum under the strict definition imposed by the Refugee Convention, and had extended its “good offices” to many groups affected by war and civil conflict. During the 1950s the organization had been active primarily in Europe—but by 1969 it was spending over 60 per cent of its funds in Africa.²² Its new beneficiaries contrasted sharply with refugees in Europe, where “escapees” and “defectors” were still moving West and where most underwent settlement, eventually becoming citizens of the receiving states. Most displaced Africans were poor and lacked formal education and many were of rural origin. For states of North America and western Europe (some engaged directly in conflicts in Africa) the priority was to contain them *within* the region of displacement and to isolate them from sources of political contamination represented by Communists and other radical currents.

“Repackaging”

It was under these circumstances that a new regime was developed for displaced people. Harrell-Bond describes the change as a “repackaging” of refugees.²³ They were no longer “victims of communism and ‘votes for democracy’ ” but problem-people who, like victims of poverty and general developmental crisis, should be marshalled and closely managed by special agencies.²⁴ They were to be administered

according to principles of “modernisation” which, since the 1940s, had been applied to economic and social problems across Africa, Asia, and Latin America. The work of the UNHCR therefore became part of a wider effort “to assist developing countries with their modernization and development.”²⁵

Dominant theories of development assumed that people of the Third World could progress only by following models pioneered in the West. Rostow, Lerner, and others maintained that meaningful change would be the outcome of imitation—not merely the application of economic principles but an embrace of Western techniques and values.²⁶ This required only encouragement and the correct forms of management, for as Lerner memorably observed in the case of one “undeveloped” region, “What the West is... the Middle East seeks to become.”²⁷ On this view the mass of people worldwide would soon be goal-oriented, acquisitive, and physically mobile. They would accept radical change, especially change in agrarian practice including relocation of entire communities. This was the rationale for mass movements of population in rural areas undertaken to facilitate extensive cultivation and for infrastructural projects including dams, canals, irrigation schemes, and urban extensions. In states which rejected the Western model in favour of Soviet or Chinese principles, “command” agendas produced similar outcomes, moving large numbers of people to facilitate projects such as the High Dam in Egypt, the Volta River scheme in Ghana, and the *ujaama* village program in Tanzania (those affected by these initiatives were later to be viewed as “development-induced” migrants, sometimes as “development-induced” refugees.)

People displaced by war and civil conflict were treated similarly—as objects of the process of modernization. The UNHCR was advised by strategists who also worked for the World Bank and who favoured programs similar to the latter’s “integrated rural development” schemes. The UNHCR developed a specific practice in relation to refugees, transporting them to camps in the countryside where they were provided with food and shelter, allocated land, seeds, and tools, and directed to achieve “self-sufficiency.” In Africa over one hundred rural encampments were established as part of a program of “zonal settlement” based on this approach and in effect upon *a new model of the refugee*—that of a person contained in a rural location, closely managed and focused upon specific developmental objectives. This was soon the refugee around which states and agencies defined key areas of global refugee strategy.

Towards the Cities

Over the past fifty years governments in Africa, Asia, and Latin America have located most refugee settlements in rural

areas. This has sometimes complemented the desire of refugees to be close to places of origin but in many cases it has proved problematic for the displaced. Kibreab shows that, in the case of Sudan, rural settlement became a “standard response” to the arrival of refugees, notwithstanding the latter’s origins, experiences, skills, cultural practices, and aspirations.²⁸ During the late 1960s and early 1970s all refugees from Eritrea and Ethiopia who arrived in Sudan, including those of urban origin, were directed to settlements in the countryside. Although urbanites lacked appropriate knowledge and skills, they were directed into schemes in which cultivation was the only option. The refugees were under compulsion: “the authorities required [them] to adapt to the new situation by abandoning their previous urban lifestyle,” observes Kibreab.²⁹ Urbanism had become incompatible with refugee status.

Loescher comments that even when enthusiasm for rural settlement was at its height most refugees in Africa settled “spontaneously,” away from official projects.³⁰ Many evaded settlement programs and moved directly to towns and cities where their presence troubled both colonial officials and governments of the newly independent states. The latter were not only committed to policies of modernization (and obliged to honour these in order to obtain external funding) but also concerned to maintain their authority during the tense and sometimes troubled periods which followed independence. Isolation of refugees in remote rural locations therefore satisfied several strategic aims. It soon proved ineffectual, however: as Kibreab shows in the case of Sudan, refugees of urban origin were reluctant to move to rural settlements or even to pass through reception centres; instead many undertook long journeys in order to reach cities in which they could use their education, skills, and professional expertise.³¹

During the 1980s the global total of refugees increased rapidly as economic instability and the outbreak of numerous “new wars” prompted repeated mass displacement in vulnerable regions. It is likely that the rate of urbanization of refugees increased at an even faster pace.³² In Africa most “zonal settlement” schemes failed to achieve developmental aims and some residents, including people of rural origin, drifted away. Meanwhile in zones of intense crises the scale of displacement overwhelmed aid agencies and refugees moved through a series of states in the search for security, their journeys facilitated by new technologies of communication and by transport networks focused on the cities. In addition, as more international NGOs established offices in regional centres they attracted more refugees who hoped for employment, welfare support, and access to settlement schemes abroad. Urban communities grew apace: Mexico City drew refugees from conflicts in Central and South

America; New Delhi became a temporary home for refugees from across South Asia; Nairobi, Kampala, and Cairo attracted the displaced of Central Africa and the Horn of Africa; Conakry drew refugees from West Africa; Istanbul accommodated refugees from the Middle East and central Asia. There were numerous other such centres.³³

Unenumerated, Unmanaged

States, agencies, and researchers often have little information about urban refugees. Hansen notes that encamped refugees are usually carefully monitored: “Their identity and location are known. They live in locations that are supervised and managed by the national government or by international organizations.”³⁴ Urban refugees, however, are usually dispersed, unenumerated, and unmanaged. In the jargon of international NGOs they are “spontaneous” or “self-settled” refugees—people who have not entered the encampment regime or have abandoned it.

A minority of refugees in urban locations do have formal status. For almost sixty years Palestinians have lived in camps in the cities of Lebanon, Syria, and Jordan, and in the 1970s and 1980s large numbers of Vietnamese refugees were accommodated officially in camps in Hong Kong. In addition millions of Afghans are still located in settlements in and around Peshawar in Pakistan for which international agencies take responsibility. But these are a small minority of the mass of urban refugees: as aliens living outside approved locations the majority lack rights, including rights of residence and rights to employment, housing, education, and welfare. Many live at the margins of urban society—some, in effect, beyond the margin.

One of the rare independent studies of urban communities, Cooper’s *Needs Assessment of the Ethiopian and Eritrean Refugee Populations in Cairo*, published in 1993, gave early warning of developments under way worldwide.³⁵ It established that the city accommodated several large communities, drawing refugees across vast distances by means of what Cooper called a “magnet effect” associated with the presence of local and international NGOs, the prospect of employment, and the hope of admission to resettlement programs in the West.³⁶ Cairo had become a regional hub for refugees of many origins, part of a network of increasingly complex migrations which operated independent of states and agencies. The report had important implications: it was likely that in many other regional centres similar communities were in formation and that together they were exercising an important influence on global refugee movements.³⁷

A few years later the UNHCR published its own research on urban refugees. The agency conducted regional workshops in Harare and Kuala Lumpur and in 1997 produced

a detailed report, *UNHCR’s Policy and Practice Regarding Urban Refugees*.³⁸ This is probably one of the most controversial documents ever produced by the agency and, as we shall see, its conclusions were later modified by the organization’s own officials. It is worth considering in some detail.

The report began by noting that urban refugees could be difficult to identify among the “massive populations of illegal migrants” found in a number of regions.³⁹ The correlation of urban refugees with illegality was an indicative starting point, for the report was suffused with pejorative references to people whom UNHCR officials viewed as anomalous and in effect as inauthentic. The agency had no definition of the urban refugee, the report continued, noting that “the most commonly articulated definition of an urban refugee [among UNHCR officials] is that of an individual of urban origin... anyone who is not a farmer or a peasant.”⁴⁰ By using occupational status rather than location as a criterion, this approach excluded at a stroke the large numbers of people of rural origin now part of urban populations. The UNHCR could account for 56,000 urban refugees on its case-lists, the report noted, and on this basis suggested a possible global total of 200,000.⁴¹ At a time when refugee numbers worldwide were approaching thirty million (including refugees and people “of concern” to the UNHCR), of which a substantial proportion were already to be found in cities, the calculation was a gross underestimate. It reflected a widespread belief among agency officials that “real” refugees were people of rural origin properly encamped in rural locations, and that those who had chosen not to enter the camp regime, or who had escaped it, were of little account.

The report was sceptical about urban refugees in general—even the modest numbers who fell within the definitions used by UNHCR officials. It noted that some lacked genuine claims for asylum while others were dysfunctional personalities. It observed:

Urban refugees and asylum seekers tend to include a wide variety of people, some, but by no means all, of whom have genuine asylum claims. They include opportunistic and dynamic individuals as well as those who failed to survive as part of the normal migration (or refugee) flow—the maladjusted [*sic*], the social outcasts etc—a factor which can make status determination difficult. Furthermore, since such movement is often stimulated, at least partially, by a desire to improve their economic potential, urban refugees and asylum seekers tend to share a culture of expectation, which, if not satisfied, often leads to frustration and violence.⁴²

Urban refugees engaged in all manner of uncontrolled activities which were not part of “normal” migratory move-

ments, the report suggested. People who joined urban refugee communities were “irregular movers” against whom “preventive measures” should be taken; meanwhile there should be “curative measures [*sic*] to deal with individuals who have already moved irregularly.”⁴³ Urban refugees were said to make unreasonable demands on the UNHCR’s budget and upon the energies of its officials. Many agency staff had concluded that they should not be provided with assistance—that the UNHCR should not “reward” people who moved from rural settlements to the city “in order to seek better conditions and prospects.”⁴⁴ “A privileged few” left rural encampments for the city, lobbying for improved assistance or access to settlement programs and becoming “aggressive and violent” if their expectations were not met.⁴⁵ Among the most vehement protesters were the “irregular movers,” those whose applications for asylum had been rejected, and “the psychologically disturbed.”⁴⁶

Some urban refugees had been “politically manipulated,” the report observed: their journeys to the city implied illegitimate activities including the establishment of “networks”; their movements were sinister—“far from being random and spontaneous, such movements are organized” and raised questions about motives and outcomes.⁴⁷ The report proposed that no “irregular movers” should ever be registered as refugees; that all should be excluded from resettlement schemes and should be denied assistance including help with education; and that people found outside their regions of origin should be recorded on new databases with the aim of containing further movement.⁴⁸

Denial

The report reflected an increasingly hostile stance taken by Western governments towards refugees in general and long-distance migrants in particular. From the mid-1980s Western politicians and media became increasingly concerned about those who sought sanctuary in Europe, North America, and Australasia. The collapse of Communism meant that refugees no longer appeared as uncomplicated victims of culpable action by totalitarian states; rather they were poor and often desperate people who (publicly at least) had little to offer host societies. A pattern of conduct evident one hundred years earlier was repeated as desired states of asylum closed their borders to those in pressing need. Refugees were now depicted as calculating, aggressive, and undeserving—as opportunists who sought to exploit the credulity of Western publics. Like the politicians of Europe and North America, UNHCR officials were prepared to accept the presence of closely managed refugee communities in remote locations; when refugees appeared elsewhere, however, they became objects of suspicion and the focus of punitive action: in particular, when they entered urban networks which

facilitated movement to the North they were to be treated as dangerous and threatening.

The 1997 report represented a policy of denial and of rejection. It ignored the earlier analyses of Chambers, Rogge and Akol, Cooper, and Kibreab.⁴⁹ It minimized the scale and extent of urban refugee communities and, using mainly anecdotal evidence, went on to misrepresent them. In 2002 Human Rights Watch published the findings of its own research on refugees in Nairobi and Kampala, reaching very different conclusions. It noted that “tens of thousands” of displaced people from Ethiopia, Democratic Republic of Congo (DRC), Rwanda, Somalia, Sudan, and elsewhere lived in “dire and dangerous” conditions.⁵⁰ They existed at the margins of city life—not only poor, hungry, and often ill but also subject to beatings, sexual violence, harassment, extortion, and arbitrary arrest and detention at the hands of criminals, persecutors from their countries of origin, and local officials, police and armed forces. Their communities were invisible to the local authorities and to certain agencies, observed Human Rights Watch: they lived “hidden in plain view.”⁵¹

This account was soon confirmed by Horst’s detailed study of Somalis in Nairobi. She noted the presence of a large and growing community confronted by problems of illegality which were exploited by officials and by the Kenyan police.⁵² Meanwhile studies of Burundians in Dar El Salaam and of a range of refugee groups in Johannesburg had identified a similar picture in other cities of Africa.⁵³

Human Rights Watch questioned the “blanket assumption” made by the UNHCR that “most refugees should not be moving to or living in urban areas.”⁵⁴ Some officials within UNHCR had similar criticisms, prompting new research by the agency’s Evaluation and Policy Analysis Unit (EPAU) in Cairo, Nairobi, New Delhi, and Bangkok. The Unit argued for a different approach: in the case of New Delhi its researchers found that most refugees lived without formal recognition. Like those in African cities they were technically illegal, leaving them open to arrest and deportation. They were poor and faced discrimination and harassment: many were compelled to work illicitly, and under intense pressure some had left India by clandestine means.⁵⁵ A UNHCR workshop emphasized the need for a new policy on urban refugees based on a sympathetic understanding of their problems and a commitment to the principle that “refugees in urban areas are of concern.”⁵⁶

Refugee Resistance

In 2001 the UNHCR revised its count of urban refugees to 13 per cent of the global refugee population—some 1.9 million people but still a fraction of those living in urban environments.⁵⁷ In 2006, as part of a global survey, it issued

a new statement on urban refugees. More displaced people were moving to cities, it observed, with the aim of escaping “restrictive encampment schemes instituted by host countries.” They faced problems with local officials and “exploitation, police abuse, arbitrary arrest and deportation.”⁵⁸ For the first time, the UNHCR identified a general tendency to treat urban refugees “with considerable suspicion” and implicitly criticized the assumption that all must be “irregular movers.” Almost ten years after its first report the agency was still unable to offer a revised policy, however—an index of the continuing reluctance of states, transnational bodies, and local NGOs to accept that urban refugees in the global South are people who have good reason to seek sanctuary and who should be treated appropriately.

The UNHCR report of 1997 had identified urban refugees as people likely to have unreasonable aspirations and expectations. Violating “normal” patterns of migration by evading or escaping rural encampments, they demonstrated dysfunctional behaviour which could be manifested in aggressive or even violent conduct. This assessment was based in part on experiences of UNHCR officials who had witnessed protests at the agency’s offices worldwide—events which have recently grown in scale and become much more numerous. Urban refugees often organize to demand faster processing of applications for refugee status or resettlement, for improved welfare benefits, for the right to work, or against harassment and abuse by police and officials—issues over which most poor and vulnerable people might be expected to mobilize. For the UNHCR this has been evidence of personal instability and of the inherent threat posed by all “irregular” movers. The presence in cities of mobile, self-directed refugees continues to violate the idea that displaced people must be helpless and dependent—an idea inherited from modernization theory and which, decades after it has been discredited as a principle of development strategy, continues to inform those who shape migration policy.

Urban refugees in general are becoming more organized and more outspoken. This is in part a reaction to increased pressure from local authorities, in particular the determination of some states to enforce rural encampment or even deportation. Burundian refugees have long lived in camps in western Tanzania and increasing numbers have made their way to the capital, Dar El Salaam, living illegally as what Sommers calls “undercover urbanites.”⁵⁹ Those discovered by the authorities face arrest and, since 2003, return to the Burundi-Tanzania border without documents—and with all the attendant dangers.⁶⁰ In Thailand, where many Burmese refugees have lived in Bangkok and other cities, officials have recently forced thousands of people to move to areas in which they are restricted to rural camps. In 2005

the government announced that those who resisted encampment would lose UNHCR protection: they would also be barred from resettlement and could face arrest or even deportation to Burma. Similar measures have been threatened against Burmese refugees in Bangladesh.⁶¹

Official hostility towards urban refugees can take the form of extreme violence, especially when migrant communities organize publicly to defend their interests. In recent years there have been numerous public protests in cities including New Delhi, Bangkok, Nairobi, Kampala, Moscow, Beijing, and Cairo, often directed towards the local authorities and/or the UNHCR and other agencies. Some have been attacked by the police and the army, with mass arrests and heavy casualties. In 2002 hundreds of Burmese refugees surrounded the UNHCR office in New Delhi, demanding faster processing of applications for refugee status and reviews of cases which had been rejected. Banners read “SOS” and “Victims of UNHCR—silent killer.”⁶² The following year there were further demonstrations, calling for adequate subsistence allowances, help with basic health care, and a guarantee against *refoulement*. After attacks by police, refugee organizations said that hundreds had been arrested and twenty seriously injured.⁶³ In May 2005 a combined force of 12,000 regular police and special riot police invaded a camp for displaced persons in Khartoum, Sudan, killing fourteen people after protests in which residents had resisted “relocation.”⁶⁴ In December 2005 thousands of Egyptian riot police surrounded a protest by Sudanese refugees outside UNHCR offices in Cairo. Demonstrators were attacked with a show of violence that astonished witnesses and resulted in many deaths, including several among children. Government spokesman put the number of fatalities at twenty-seven; according to Egyptian human rights organizations the real figure was over one hundred.⁶⁵ Refugee community organizations alleged that the UNHCR was complicit in the planning and execution of the assault.⁶⁶

The Cairo events had been in the making for many years. Throughout the 1980s and 1990s refugees arrived from across Africa and the Middle East: in 2005 Moorehead observed that they made their way to the Egyptian capital across vast distances “by a hundred different paths.”⁶⁷ Some were granted formal recognition by the UNHCR but many were refused asylum or chose not to enter a refugee status determination (RSD) process they regarded as arbitrary and unjust.⁶⁸ Forced to live precariously in an intimidating urban environment, they made repeated individual and collective protests to the UNHCR, including allegations that the agency recognized only those applicants prepared to make payments to officials and that the UNHCR operated RSD on a “quota” system determined by the Egyptian

government. Welfare groups, including those run by independent religious charities, observed that as refugee communities expanded, their relations with the local state became increasingly tense.⁶⁹

In the early 1990s Cooper proposed an “open dialogue” between refugees, NGOs, and government officials. The key aim, he maintained, must be to ensure that refugees gained a measure of control in their lives, which were becoming increasingly stressful and insecure.⁷⁰ More than ten years later there was still no meaningful form of communication: to this extent the confrontation of December 2005 was predictable, even if the scale and intensity of violence on the part of the state could not have been anticipated. The Cairo events were an expression of official intolerance towards desperate people who dared to challenge their lowly status: when they mobilized as social/political actors the state took punitive measures, determined that they should be neither seen nor heard.⁷¹

Global trends suggest that more such tragedies are likely to occur. More displaced people are moving to the cities, where more of the population lives at the very margin of survival. For governments eager to demonstrate their authority refugees present an attractive target: vulnerable and often “voiceless,” they are a convenient focus for exemplary action against “illegals” and “criminals”—the same deviants who populate official discourses of the refugee in Europe and North America. For centuries the city was a place of sanctuary: for people of the global South it is increasingly a place of danger.

Notes

1. John R. Rogge and Joshua O. Akol, “Repatriation: Its Role in Solving Africa’s Refugee Dilemma,” *International Migration Review* 23 (1989): 184.
2. Human Rights Watch, *Hidden in Plain View* (New York: Human Rights Watch, 2002), <<http://www.hrw.org/reports/2002/kenyugan>> (accessed 11 March 2007).
3. Robin Cohen, *Migration and Its Enemies* (Aldershot: Ashgate, 2006).
4. In the Jewish texts see, for example, Psalms 16, 27, 36, 51, 52; and Isaiah 8.
5. Robert Gorman, “Poets, Playwrights, and the Politics of Exile and Asylum in Ancient Greece and Rome,” *International Journal of Refugee Law* 6, no. 3 (1994): 402.
6. Islamic tradition combines notions of emigration/exile with ideas of sanctuary, so that *mahjar* (a place of emigration, retreat, refuge, or sanctuary) is associated with the *muhajir* (an emigrant or émigré) as both a member of the community of the Prophet who travelled from Mecca to Medina, and the contemporary emigrant/refugee. See Hans Wehr, *A Dictionary of Modern Written Arabic* (Weisbaden: Otto Harrassowitz, 1971), 1019. On current Islamic state practice *vis-à-vis* refugees see the policy of the Islamic Conference Organisation, <<http://www.oic-oci.org/english/conventions/refugees-conf.htm>> (accessed 11 March 2007).
7. Bernard Cottret, *The Huguenots in England* (Cambridge: Cambridge University Press, 1991).
8. Michael R. Marrus, *The Unwanted: European Refugees in the Twentieth Century*, 2nd ed. (Oxford: Oxford University Press, 2002), 20.
9. *Ibid.*
10. Rosemary Ashton, *Little Germany: Exile and Asylum in Victorian England* (Oxford: Oxford University Press, 1986).
11. The new generation of anti-colonial activists included Jamal al-Din al-Afghani, the founder of pan-Islam, who during the 1880s lived with groups of supporters in both London and Paris.
12. See Edward Behr, *The Algerian Problem* (London: Penguin, 1961).
13. The attraction of the *émigrés* to host states during the nineteenth century, argues Porter, lay in their utility in ideological struggles with rival powers. In the case of Britain their presence was taken as confirmation of the value of local traditions of liberty and free expression. See Bernard Porter, *The Refugee Question in Mid-Victorian Politics* (Cambridge: Cambridge University Press, 1979) and Bernard Porter, “The British Government and Political Refugees, 1880–1914,” in *From the Other Shore*, ed. J. Slatter (London: Frank Cass, 1984). For an assessment of refugees’ status in Europe during the nineteenth century see Philip Marfleet, *Refugees in a Global Era* (Basingstoke: Palgrave, 2006).
14. Peter Gatrell, *A Whole Empire Walking: Refugees in Russia during World War I* (Bloomington: Indiana University Press, 1999), 3.
15. There were certain exceptions, such as the “population exchanges” between Greece and Turkey organized in the early 1920s.
16. Patricia Tuitt, *False Images: Law’s Construction of the Refugee* (London: Pluto, 1996), 16. The US National Security Council was precise about its preferences in relation to refugees, believing that damage to Eastern Bloc states and advantage to the West would be maximized when “emigration pertained to professionals.” See Tommie Sjoberg, *The Powers and the Persecuted: The Refugee Problem and the Intergovernmental Committee on Refugees (IGCR) 1938–1947* (Lund: Lund University Press, 1991), 10.
17. The United Nations Relief for Palestinian Refugees, later renamed the United Nations Relief and Works Agency (UNRWA), was created to administer camps and work programs. It viewed Palestinian refugees as distinct from all others and operated under a unique UN mandate.
18. Between 1956 and 1968 a total of 233,436 refugees were accepted for asylum in the US: all but 925 were from countries with Communist or radical nationalist governments. See Gil Loescher, *The UNHCR and World Politics: A Perilous Path* (Oxford: Oxford University Press, 2002), 55.
19. The US sometimes admitted more diverse groups, usually under special decree, such as the Hungarian refugees accepted

- after the 1956 uprising, and certain Cuban immigrants accommodated after the fall of the Batista regime in 1959.
20. Quoted in Loescher, 139.
 21. *Ibid.*, 105.
 22. UNHCR, *The State of the World's Refugees* (Oxford: Oxford University Press, 2000), 37.
 23. Barbara Harrell-Bond, "The Experience of Refugees as Recipients of Aid," in *Refugees: Perspectives on the Experience of Forced Migration*, ed. Alastair Ager (London: Continuum, 1999), 147.
 24. *Ibid.*
 25. Loescher, 105.
 26. Walter W. Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto* (New York: Cambridge University Press, 1961); Daniel Lerner, *The Passing of Traditional Society* (Glencoe: Free Press, 1958).
 27. Lerner, 47.
 28. Gaim Kibreab, "Eritrean and Ethiopian Urban Refugees in Khartoum: What the Eye Refuses to See," *African Studies Review* 30, no. 3 (1996): 147.
 29. *Ibid.*
 30. Loescher, 122.
 31. See Kibreab.
 32. Kibreab notes that the proportion of urban refugees in Africa may have increased from 4 per cent to over 30 per cent between the late 1970s and the late 1980s: Kibreab, 132.
 33. See Marfleet, chap. 10.
 34. Marc Sommers, Foreword, in *Fear in Bongoland: Burundi Refugees in Tanzania* (Oxford: Berghahn, 2001).
 35. Derek Cooper, *A Needs Assessment of the Ethiopian and Eritrean Refugee Populations in Cairo* (Cairo: Ford Foundation, 1993).
 36. *Ibid.*, 2.
 37. See also Derek Cooper, "Urban Refugees: Ethiopians and Eritreans in Cairo," *Cairo Papers in Social Science*, 15, Monograph 2 (1992).
 38. UNHCR, *UNHCR's Policy and Practice Regarding Urban Refugees, A Discussion Paper* (Geneva: UNHCR, 1997).
 39. *Ibid.*, 2.
 40. *Ibid.*
 41. *Ibid.*, 16.
 42. *Ibid.*, 3.
 43. *Ibid.*, 10.
 44. Others—an implied minority of staff—disagreed, said the report. *Ibid.*, 6.
 45. *Ibid.*
 46. *Ibid.*
 47. *Ibid.*, 2.
 48. *Ibid.*, 11.
 49. See R. Chambers, "Rural Refugees in Africa: What the Eye Does Not See," *Disasters*, 3, no. 4 (1979); Rogge and Akol; Cooper, "Urban Refugees: Ethiopians and Eritreans in Cairo"; Cooper, *A Needs Assessment of the Ethiopian and Eritrean Refugee Populations in Cairo*; and Kibreab. Authors of the 1997 report were either in ignorance of earlier research or chose to ignore it. Some UNHCR officers were well informed as to the circumstances of urban refugee communities: Kibreab notes that in 1987 he discussed problems of refugees in Khartoum in person with agency officials (Kibreab, 145).
 50. Human Rights Watch, Statement, <http://www.hrw.org/press/2002/11/kenya1121.htm> (accessed 11 March 2007).
 51. Human Rights Watch, *Hidden in Plain View*, 1.
 52. Cindy Horst, *Transnational Nomads: How Somalis Cope with Refugee Life in the Dadaab Camps of Kenya* (PhD thesis, University of Amsterdam, 2003).
 53. Sommers; Loren B. Landau, ed., *Forced Migrants in the New Johannesburg: Towards a Local Government Response* (Johannesburg: Forced Migration Studies Programme, University of the Witwatersrand, 2004).
 54. Human Rights Watch, *Hidden in Plain View*, 2.
 55. Naoko Obi and Jeff Crisp, "Evaluation of UNHCR's Policy on Refugees in Urban Areas: A Case Study Review of New Delhi" (Geneva: UNHCR Evaluation and Policy Unit, 2000), 4.
 56. Naoko Obi and Jeff Crisp, "UNHCR Policy on Refugees in Urban Areas: Report of a UNHCR/NGO Workshop" (Geneva: UNHCR Evaluation and Policy Unit, 2002), 1.
 57. UNHCR Statistical Yearbook 2001.
 58. UNHCR, *The State of the World Refugees*, <<http://www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.htm?tbl=PUBL&id=4444d3c32f>> (accessed 11 March 2007).
 59. Sommers, 30.
 60. Refugees International, Report, <<http://www.refugeesinternational.org/content/article/detail/951?PHPSESSID=5ce00f92779c166324e1d>> (accessed 11 March 2007).
 61. Anti-Slavery International, Statement, <<http://www.antislavery.org/archive/submission2005-CHRBurma2.htm>> (accessed 11 March 2007).
 62. *Asia Human Rights News*, 24 October 2002.
 63. Asian Centre for Human Rights, Report, <http://www.achrweb.org/countries/india/mizoram/CR0403.htm> (accessed 11 March 2007).
 64. Sudan Tribune, Report, <http://www.sudantribune.com/article.php?id_article=9744> (accessed 11 March 2007).
 65. *Report of Ahrum Weekly*, Report, 5 January 2006.
 66. Personal discussions with participants in the protest, Cairo, March 2006.
 67. Caroline Moorehead, *Human Cargo: A Journey among Refugees* (London: Chatto & Windus, 2005), 7.
 68. See Cooper, "Urban Refugees: Ethiopians and Eritreans in Cairo," and Marfleet, chap. 10. In numerous personal discussions with refugees in Cairo conducted between 1989 and 2006 it was made clear that entire communities viewed the UNHCR, which has sole responsibility in Egypt for status determination, with extreme scepticism. See also Michael Kagan, *Assessment of Refugee Status Determination Procedure at UNHCR's Cairo Office, 2001–2002*, <<http://www.aucegypt.edu/academic/fmrs/documents/RSDReport.pdf>> (accessed 11 March 2007).
 69. Interviews with officials at the Anglican Cathedral, Zamalek; Sacred Heart Church, Sakakini; St. Andrew's United Church

of Cairo; and Africa and Middle East Refugee Assistance (Am-
era), 2002 to 2005.

70. Cooper, *A Needs Assessment of the Ethiopian and Eritrean Refugee Populations in Cairo*, 83.
71. For an analysis of the events by researchers at the Forced Migration and Refugee Studies Program, American University in Cairo, see http://www.aucegypt.edu/academic/fmrs/documents/FMRSReportonRefugeeProtest_000.pdf (accessed 11 March 2007).

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To Be or Not To Be: Urban Refugees in Kampala

JESSE BERNSTEIN AND MOSES CHRISPUS OKELLO

Abstract

In Uganda, refugee policy and programming is focused almost exclusively on providing protection and assistance to refugees residing in rural settlements. While international law allows refugees the right to freedom of movement and choice of residence, Ugandan legislation restricts refugees' residency to rural settlements, subjecting those who wish to live outside of settlements and in urban centres to severe restrictions. This study sheds light on the reasons refugees choose to reside in Kampala as opposed to rural settlements and the challenges they endure while attempting to sustain and support themselves. Research findings indicate that at all stages of exile, refugees in Uganda are put under pressure, either implicitly or explicitly, to relocate to settlements. The lack of progressive thinking and hence over-reliance on settlements as the mainstay of refugee protection and assistance has hampered reforms of refugee policy and hindered the broader involvement of municipal authorities in responding to protection and assistance needs of refugees in urban areas. Research findings suggest that many refugees have talents, skills, and abilities which would enable self-sufficiency in Kampala and other urban areas. However, these capabilities are currently undermined by a refugee regime which only promotes self-reliance in rural settlements. In an effort to enhance refugees' overall human security and to support their own efforts to become independent and self-reliant, this paper asserts that refugee policy in Uganda should be reformed to support refugees' decisions to choose their own places of residence, instead of restricting them to rural settlements.

Résumé

En Ouganda, la politique, ainsi que la programmation, à l'égard des réfugiés est centrée presque entièrement autour de la protection et l'assistance accordée aux réfugiés vivant dans les zones d'installations rurales. Bien que le droit international accorde aux réfugiés la liberté de mouvement et de choix de résidence, la législation Ougandaise restreint la résidence des réfugiés aux zones d'installations rurales, en imposant des restrictions sévères à ceux qui veulent vivre à l'extérieur des zones d'installations ou dans les centres urbains. Cette étude met en lumière les raisons pour lesquelles les réfugiés choisissent de vivre à Kampala, par opposition aux zones d'installations rurales, et les défis qu'ils subissent dans leur lutte pour se nourrir et subvenir à leurs propres besoins. Les recherches indiquent que pendant toute la durée de l'exil, les réfugiés en Ouganda subissent des pressions, implicites ou explicites, pour qu'ils s'établissent dans les zones d'installation. Le manque de raisonnement progressiste, d'où une trop grande dépendance sur les zones d'installations comme pilier pour fournir protection et assistance aux réfugiés, a entravé les réformes dans la politique à l'égard des réfugiés, et a empêché une implication plus poussée des autorités municipales pour répondre aux besoins de protection et d'assistance des réfugiés en milieu urbain. Les résultats des recherches donnent à penser que beaucoup de réfugiés possèdent des talents, des compétences et des aptitudes, qui pourraient leur permettre d'être autonomes à Kampala et dans d'autres zones urbaines. Cependant, ces aptitudes sont actuellement entravées par un régime de réfugié qui ne prône l'autonomie que dans les zones d'installations rurales. Dans un effort pour améliorer la sécurité humaine générale des réfugiés et pour soutenir leurs propres efforts pour devenir indépendants

et autonomes, cet exposé affirme que la politique à l'égard des réfugiés en Ouganda doit être réformée pour soutenir les décisions des réfugiés de choisir eux-mêmes leur lieu de résidence, au lieu de les restreindre aux zones d'installations rurales.

1. Background

Uganda is generally known for its “generosity” to refugees. This perceived benevolence is based on Uganda’s long history of hosting refugees and the practice of parcelling out land to them, as a means of enhancing refugee protection and livelihoods, and an avenue through which refugees can regain a semblance of normalcy and in the short term be self-reliant as they await a durable solution. This very assertion is paradoxically premised on a legal framework that barely protects and only minimally enhances refugee livelihoods. This is because the assumptions underlying the self-perception of the Government of Uganda (GoU) as generous to refugees and the international acclaim for Uganda’s refugee policy and practice as generous are false: by preserving the settlement framework, policies and procedures governing refugee protection and assistance in Uganda, though seemingly cogent, remain, in fact, highly restrictive, *ad hoc*, and inconsistent¹ with the protection needs of refugees and the long-term goals of the refugee self-reliance policy. Current policy and practice instead compels refugees to reside in rural resettlements. Moreover, since the refugee status determination (RSD) process conducted in Kampala is integral to the experiences of refugees, this paper, focusing on the plight of urban refugees in Kampala, also sheds light on persistent problems with the RSD process (many of which have previously been documented by the Refugee Law Project (RLP)),² and highlights a number of the ways in which the current assistance framework raises challenges to and dilutes the definition of the term “refugee.”

Until May 2006, the Control of the Aliens Refugee Act (CARA),³ which required refugees to live in settlements and to only *move out* of settlements with the permission of the Settlement Commandant,⁴ was the legal basis of Uganda’s refugee policy. The CARA has long been criticized for being antiquated and not reflective of the rights afforded to refugees in international law.⁵ In attempting to dispel this criticism, the Department of Disaster Preparedness and Refugees in the Office of the Prime Minister (OPM/DDPR) has been contradictory in its responses. OPM has argued that refugee protection and assistance in Uganda is in practice governed by international law, and that the policy which requires refugees to reside in settlements is in fact to the advantage of refugees themselves and in the interest of Uganda’s national security. On the other hand, OPM ac-

knowledged that the CARA, with its emphasis on refugee control, was restrictive in its approach to assistance and protection⁶ and therefore that a new law should be enacted to address such shortcomings.⁷

Thus, prior to the new Refugee Act, which was assented to by the President of Uganda on 24 May 2006, the CARA was the legal basis for refugee settlements and the law governing refugees’ protection and assistance. The new Refugee Act, hailed as a progressive document throughout Africa as it defers to several international human rights and refugee laws, retains the settlement policy.⁸ In practice, therefore, what exists today – and for the foreseeable future – is a policy that focuses assistance and protection on refugees living in settlements, and not those refugees who chose, for various reasons, to live outside such restrictive spaces.⁹ As has been demonstrated in previous studies,¹⁰ however, refugee settlements and camps are not conducive to conditions which enable refugees to fully enhance their capabilities to be independent, an intended goal of Uganda’s settlement policy.

The current focus of Uganda’s refugee policy therefore ignores the unknown number of refugees who live outside settlements, especially those in urban areas such as Kampala. Although the United Nations High Commissioner for Refugees (UNHCR) was in the process of ascertaining the number and identities¹¹ of urban refugees in Uganda, as of April 2005, it had acquiesced to OPM’s settlement policy and officially recognized only 210 individuals on its urban refugee caseload, out of an estimated number of between 10,000 and 50,000 which it established itself.¹²

Moreover, OPM and UNHCR’s understanding of urban refugees appears to be limited to refugees in Kampala, to the exclusion of those in other urban centres, for instance, Mbarara, Kyenjojo, and Arua town centres.¹³ This raises questions regarding the definition of “urban refugees” employed by both OPM and UNHCR and highlights the lack of a coherent and cohesive urban refugee policy. Refugees in Kampala are only recognized if they have been referred from settlements to obtain medical assistance, to await resettlement, or on account of other protection or security concerns. This small group cited above therefore represents a minute fraction of refugees who have been referred from settlements.¹⁴ By focusing assistance and protection on refugees who live in settlements, current refugee policy in Uganda undermines refugees’ freedom of movement and the right to choose their place of residence, as stipulated by Article 26 of the 1951 UN Convention relating to the Status of Refugees (hereinafter referred to as the Refugee Convention). In addition, it unnecessarily fragments refugees into many categories.

Recently, OPM has begun to allow refugees to remain in Kampala and provide identity documents to them if they can prove “self-sufficiency.”¹⁵ By demanding evidence of employment and residency,¹⁶ OPM argues that this criterion for demonstrating self-sufficiency discourages those who cannot support themselves from remaining in the city.¹⁷ However, limiting the issuance of identity documents to those who can prove “self-sufficiency” though using such arbitrary criteria is discriminatory and violates the letter and spirit of the Refugee Convention: the Convention does not link refugee status to economic status.

In contrast to refugees living in settlements, who receive initial assistance in the process of becoming self-reliant, refugees in Kampala who are not listed on UNHCR’s urban caseload do not receive any targeted assistance, except in cases of medical emergency. NGOs that provide assistance to refugees and asylum seekers in Kampala are, on the other hand, limited both by resource constraints and by the current policy framework which requires them to toe the government line, and thus the assistance provided is minimal at best. As a result NGOs are unable to meet the high demand for assistance in urban centres. Refugees who opt to remain in Kampala are therefore left to access the same services as ordinary residents. In some areas, such as access to health care, the problems refugees experience in accessing quality services are however no different than those experienced by Ugandans. Nonetheless, in the education and employment sectors, refugees suffer from discrimination and experience additional obstacles in accessing services beyond the difficulties faced by Ugandan nationals. As a result, refugees are left with few avenues for improving their socio-economic situation.

The following paper is organized in four distinct but interrelated sections. In Section 2, the paper explains why and how refugees come to Kampala. Section 3 describes refugees’ immediate coping mechanisms upon arrival. This is followed by an analysis of the RSD process in Section 4, while Section 5 considers how refugees sustain themselves in Kampala, including how they access employment, health care, education, and other services. Finally, Section 6 examines protection issues faced by refugees in Kampala. The paper concludes that the overall policy on refugees in Uganda should support refugees’ decisions to remain in Kampala rather than aiming to relocate urban refugees to rural settlements.

1.1. Context

The origins of this research relate to the many refugees and asylum seekers approaching the RLP’s legal aid clinic for socio-economic assistance. As legal officers at the RLP found themselves listening to problems related to urban refugees’

inability to meet their basic needs, the RLP began to question the effectiveness of the systems which are supposed to assist and support refugees in Kampala. These concerns pointed to a need for a study aimed at better understanding refugees’ coping mechanisms – a study that would also gauge the thoughts and viewpoints of urban refugees themselves regarding the types of challenges they face. Urban refugees are under-researched generally – a quantitative demographic study of all urban refugees in Kampala is urgently needed to provide accurate statistics on the number of refugees living in the city as well as their needs.

Kampala is a city of roughly 1.2 million people¹⁸ and is comprised of five divisions.¹⁹ The city’s population continues to grow at an annual rate of 4.5 per cent.²⁰ Most of this growth, approximately 69 per cent, is due to rural-urban migration.²¹ Kampala City Council (KCC) states that the urbanization has been accompanied by an alarming increase in poverty levels²² and an immense strain upon available services. As noted in the KCC Development Plan, “The rate at which the city is developing is more than the capacity for the Kampala City Council to adequately plan and implement plans.”²³

At the same time, in urban centres throughout sub-Saharan Africa, refugee populations are growing.²⁴ Despite this increase, UNHCR’s 1997 policy on urban refugees states, “as a rule, UNHCR’s assistance should be reduced to a minimum.”²⁵ While, of course, assistance in all settings should focus on refugees’ attaining self-reliance, UNHCR’s global policies need to take into account that “a significant and long-term investment may be required to promote self-reliance in an effective manner.”²⁶

1.2. Methodology

This study is based on 160 interviews with refugees, asylum seekers, city officials, UNHCR and OPM representatives, and NGOs that work with refugees. The study was conducted from mid-September 2004 to January 2005.²⁷

Qualitative interviews and participant observation were the main methods used in conducting this study. Due to time and capacity constraints, the study provides a limited understanding of the entire urban refugee population but raises several issues which affect most urban refugees and thus warrants response from appropriate stakeholders.

Throughout this study, efforts were made to take into account the views and concerns of interviewees. For instance, after speaking informally with Rwandese refugees at the RLP, these refugees made known that due to security concerns, they felt extremely uncomfortable with the prospect of researchers visiting their homes and conducting interviews in their neighbourhoods. In response, interviews

with Rwandese refugees were conducted in a setting where they felt comfortable and safe.

The study also relied upon participant observation. For example, at the start of the study researchers introduced themselves to “ASSOREF,” a francophone refugee association, and “FASSOREF,” a women’s francophone refugee association, and attended a number of their meetings in an observational capacity. Members of these groups also provided helpful information as to where in Kampala other refugees could be located.

Research was carried out in most locations in Kampala where refugees reside.²⁸ A number of respondents were accessed with the help of organizations working with refugees, which provided information about areas of residence and additional contacts. Upon arrival of researchers in each area, introductions were made to local councillors and refugee leaders, who initially watched closely who was interviewed and where interviews were conducted. However, our prolonged presence in each area eventually allowed a greater degree of flexibility, and thus it is hoped that a broad spectrum of responses was gathered. The different language skills of the researchers, including English, French, and Kiswahili, were also an asset in gaining a variety of opinions. On a few occasions, interpreters were used in the course of research. Interpreters were either staff members of other organizations who work with refugees and volunteered their time, or individuals recommended to the RLP by related organizations who were given a small stipend.

One shortcoming of this study is that although local leaders and elected officials were interviewed in areas where refugees reside, no interviews were conducted with Ugandan community members due to time and capacity constraints. The experiences and perspectives of host communities would have helped to provide an understanding of their socio-economic situation in relation to refugees. This, in turn, would provide a basis for formulating a holistic policy aimed at improving the situation of refugees and the Ugandan urban poor alike.

Two other empirical issues need highlighting. First, the original intention was to compare findings from interviews of refugees on the urban caseload with those refugees who are not on the urban caseload and thus do not receive any formal assistance. This strategy proved impossible as it was difficult to determine with any degree of certainty who was on the urban caseload and who was not. It may be that refugees are hesitant to reveal that they are on the urban caseload, because they fear possible repercussions if they acknowledge support from multiple sources. In addition, the urban caseload fluctuates due to some refugees being resettled to third countries and other refugees being re-

turned to refugee settlements after medical treatment has been completed in Kampala.

Second, although it was clarified at the outset of every interview that the researchers were not involved in provision of assistance and protection, many refugees insisted on showing us their documents, assuming that an interview would improve their chances of resettlement. Often researchers found themselves explaining how the refugee registration process functioned. These experiences directly relate to our research findings: many refugees stated that they lacked direct access to government and UNHCR officials, and many were also confused about the registration process.

2. *Methods of Arrival in Kampala*

Officially, when asylum seekers arrive in Uganda, they are expected to report to the nearest police post at the point of entry.²⁹ However, in practice many asylum seekers travel directly to Kampala for a number of structural and bureaucratic reasons. First, asylum seekers reported lack of information regarding registration procedures at border entry points and therefore believed that they had to travel to Kampala to officially register as refugees. Second, asylum seekers who fled their country in large numbers often made no explicit decision about where to register and headed for Kampala as soon as crossing into Uganda.³⁰ A number of refugees from the eastern Democratic Republic of Congo (DRC) stated that their method of flight precluded registration in border areas as they entered Uganda riding on lorries transporting goods headed directly for Kampala.³¹ Refugees and asylum seekers were also acutely aware of security issues and felt that remaining in a border area would continue to jeopardize their physical safety.³²

In addition, numerous refugees move to Kampala after first residing in refugee settlements for reasons relating both to physical safety and access to employment and services. For instance, refugees in Pader, Yumbe, and Arua districts have been attacked in the past by rebels operating in northern Uganda and the West Nile region, forcing many to flee from settlements to other areas of the country, including Kampala, citing threats to their physical security.³³ Many of these refugees never “decided” to leave the settlements; rather, they fled in the midst of chaos resulting from an armed attack.³⁴

Such threats to refugees’ security do not only emanate from external sources. The alleged presence of Congolese and Rwandese rebel groups in settlements also motivated refugees to move to Kampala.³⁵ For example, a Congolese refugee stated that he “would never return to the camps ... there is too much insecurity ... Rwandese agents are there.”³⁶ Another Rwandese refugee stated that he

“wouldn’t return to Nakivale [refugee settlement] because of safety issues.”³⁷

Other refugees stated that they had left settlements due to harsh social and economic conditions.³⁸ In addition, a number of refugees also stated they had left their settlements in order to access certain services or to take advantage of commercial markets – they planned to return to their respective settlements upon completion of their task outside the settlement. This mobility suggests that some refugees may be benefiting from services that are offered in settlements while simultaneously exploiting their creative abilities in a major commercial centre such as Kampala.³⁹ For instance, while one refugee leader said, “No one can say that they like life in the camp. I have been [there] and know what they are like. If you tell them [refugees] to go to the camp, they will not go.”⁴⁰ Another respondent stated, “I would never return to a camp because of a job in Kampala.”⁴¹ Yet, still other refugees had left their settlements in order to access certain services or to take advantage of commercial markets but planned to return to their respective settlements upon completing their mission.⁴²

3. Assistance and Support Available to Asylum Seekers upon Arrival

3.1. Access to Shelter, Medical Care, and Food upon Arrival

Upon arrival in Kampala, the majority of asylum seekers face immense difficulties accessing basic services such as health care, shelter, and food. Some asylum seekers already have friends or relatives in Kampala who may provide initial support. Many refugees and asylum seekers interviewed, however, appeared to be without such networks and therefore have few options for accessing basic services. Refugees from two different nationalities revealed that they randomly inquire in bus stations and on the street where they might find other people of the same nationality upon arriving in Kampala.⁴³

The only two organizations that specifically assist asylum seekers in Kampala, InterAid and the Jesuit Refugee Services (JRS) are both overstretched and readily admit to the lack of capacity to assist and provide for all asylum seekers.⁴⁴ Moreover, not only are these organizations UNHCR’s Implementing Partners (IPs) who are, therefore, not free from bureaucratic dysfunctions obtaining from contractual obligations, they are also influenced by government policy which requires assistance for refugees to be provided in settlements. In other words, the assistance offered in Kampala terminates once refugee status has been accorded, and in some cases even before, depending on the availability of resources. The limited extent to which assistance is pro-

vided is specifically intended to encourage refugees to go to settlements as soon as they have been given refugee status.

3.2. Methods of Survival upon Arrival

Due to the considerable gap between the demand for assistance and the amount of assistance that is actually available, many asylum seekers sleep out on the streets and in other public places, outside Kampala Police Station, the RLP, or InterAid.⁴⁵ One refugee stated that he used to sleep outside Old Kampala Police Station but was told that if he continued to sleep there he would be taken to Luzira prison.⁴⁶ Even when assistance is made available (usually by JRS and InterAid), the amount is so small that it may not be enough to rent a room, and therefore refugees have to resort to “good Samaritans,” characteristically religious people some of whom are refugees themselves, for assistance.⁴⁷ While it is positive that individuals are willing to extend personal support to asylum seekers and refugees, once assistance is provided in the personal realm, its continuity and dependability are no longer guaranteed, and this may engender avenues for exploitation of vulnerable refugees and, in the absence of external monitoring, promote neglect and abuse. For example, a female Burundian refugee who had found support from a Congolese man stated, “The main problem is staying in someone’s house and depending on [this] man for food ... he may get tired of us and send us away.”⁴⁸

When issues related to physical safety and security arise for refugees in Kampala, access to social support and other protective mechanisms is limited because of the GoU’s policy of focusing refugee assistance and protection in rural settlements,⁴⁹ and the growing perception among the local population that refugees contribute to increasing levels of crime. However, since the community in Kampala “is not sensitised to what a refugee is,”⁵⁰ and because police records do not disaggregate foreign criminals by their legal status in the country, it is impossible to attribute these crimes specifically to refugees. It comes as no surprise, therefore, that refugees have become scapegoats for general problems affecting the wider community.

Often, the only solution offered to refugees who experience protection issues in Kampala is relocation to settlements, and as a result many refugees find themselves facing an impossible dilemma. On the one hand refugees have grave protection concerns and at the same time compelling reasons to remain in Kampala. On the other hand, settlements provide the promise of protection but no real guarantees and indeed limited avenues for utilizing their skills so as to support themselves. This implies that refugees in Uganda are often in a Catch 22, having to choose between a rock and a hard place. In light of this, GoU/UNHCR policy, which requires refugees to live in settlements, inad-

vertently convolutes the process of assistance and protection of refugees, challenging the refugee status determination process (RSD) by making protection, the main objective of the RSD process, dependent on geographic location, and thus undermining the conventionally agreed definition of refugees.

4. The Refugee Status Determination

4.1. The Official Process

This section highlights some persistent problems in the Refugee Status Determination (RSD) process and the limited extent to which issues raised previously by the RLP have been addressed by OPM and UNHCR. In July 2002, the RLP published a report on the RSD process which described a largely unstructured RSD process, with multiple processes built into one supposedly “standard” process.⁵¹ In addition, previous research found that the GoU had different RSD procedures for different nationality groups.⁵² The current study found that to a limited extent, RSD procedures have been standardized and the practice of officially employing different procedures for different nationalities ended, yet refugees still do not understand the different responsibilities of UNHCR and the GoU in the RSD process; neither do they have full comprehension of the specific role of UNHCR’s implementing partners. Some of the problems earlier identified therefore still exist.⁵³ In addition, because of the requirement that refugees live in settlements,⁵⁴ provision of humanitarian assistance to urban refugees is inextricably linked to the RSD process.⁵⁵ In most cases, when asylum seekers are granted refugee status in Kampala, all assistance and support is terminated as a means to encourage movement to settlements.

4.2. Step Two: Permission to Remain in Kampala

Once refugee status is granted, UNHCR writes an acknowledgment letter that states to which settlement the refugee is being referred. OPM endorses such letters and then, through InterAid, refugees are sent to the appropriate settlement.⁵⁶ Refugees who wish to remain in Kampala begin a second process, in the course of which they have to demonstrate why they should remain in the urban centres. This second process impacts on the refugees’ status by undermining the potency of the initial process of RSD. Those who remain in Kampala but are not on the UNHCR/OPM urban caseload become virtually invisible to refugee protection mechanisms in Uganda. In essence, the GoU/UNHCR policy of leaving refugees who wish to remain in Kampala to fend for themselves has in a way made some refugees more refugees than others. Similarly, provision of assistance only in camps ensures rigid distinction between protection and assistance and undermines the protective nature of assistance.

As noted above, refugees are now allowed to remain in Kampala if they are able to prove “self-sufficiency,” in the form of either proof of residency or proof of employment.⁵⁷ OPM has stated that it does not wish to encourage “desperate” refugees to remain in Kampala, and wants to limit permission to reside in Kampala to professionals, students, and others who have viable means to support themselves.⁵⁸ Self-sufficiency is, however, a fluid state that can easily slip away due to a number of circumstances – including loss of jobs, family illness, and fluctuating incomes – and therefore not necessarily a sound basis for deciding where and how to protect refugees. Moreover, this policy has only been verbally articulated by both OPM officials and refugees and has been extremely difficult to monitor.⁵⁹

Regardless of the way the policy is implemented in practice, the policy creates a link between refugee status and “self-sufficiency” which undermines the meaning of “refugee” as defined in international refugee law.⁶⁰ For those refugees who wish to stay in Kampala, the policy makes the issuing of identity documents dependent on refugees’ being able to prove self-sufficiency. In these circumstances, the inevitable result of the policy is that even if refugee status has been granted, the identity document which acts as tangible proof of refugee status may be withheld if the refugee in question wishes to remain in Kampala and is unable to prove being self-sufficient. This is contrary to Uganda’s obligations under the Refugee Convention, according to which Uganda must accord to all refugees the right to choose their place of residency and to move freely within its territory (Article 26), and must issue identity papers to all refugees in its territory who do not possess valid travel documents (Article 27).

Finally, even for those refugees who manage to prove their “self-sufficiency” and who are given identity documents, the problems do not necessarily end. The only services that they can continue to access as refugees are emergency medical assistance offered to all refugees by InterAid, and InterAid’s credit schemes.⁶¹ For all other services, they have to rely on Kampala’s municipal services. As will be demonstrated in section 5 of this paper, however, local government officials and civil servants in Kampala do not appear to be aware of the presence of refugees in the city, and refugees are not budgeted for in city planning provisions.

4.3. Flaws and Injustices in the RSD Process

Although the RSD process is accessible to the majority of asylum seekers in Kampala, findings indicate a number of fundamental flaws in the process that must be addressed by UNHCR and OPM.

First, asylum seekers are not allowed legal representation in the first instance.⁶² Second, asylum seekers who are denied refugee status by the Refugee Eligibility Committee (REC), the first decision-making body which reviews written appeals, are not provided with a legal reasoning as to why their claim was denied.⁶³ As a result, appeals are drafted with limited understanding of the reasons why particular cases were denied in the first instance. Furthermore, an independent appeals process separate from the REC is non-existent; asylum seekers may only request that their case be reviewed by the REC for a second time.⁶⁴

While the new Refugee Act includes a provision for a Refugee Appeals Board to be established separately from the REC,⁶⁵ this Appeals Board only has the power “to set aside the decision of the Eligibility Committee [the REC] and refer the matter back to the Committee for further consideration and decision.”⁶⁶ In other words, the Board may offer an opinion on a case, but it is not granted the power to substitute its own decision for the REC’s decision at first instance. An express provision for a right to appeal to a court of law does not yet exist in the new legislation.

In addition to the above, findings also demonstrate that refugees do not receive clear information about the RSD process, and as a result many of them question the integrity and impartiality of the process. Even if asylum seekers knew how the RSD process worked, a number reported being denied access to the process. In particular, the lack of direct access to those who make refugee status decisions caused anger and confusion amongst refugees and asylum seekers.

A number of female refugees and asylum seekers reported sexual harassment at different stages of the RSD process. While none of these claims could be independently verified, and recognizing the power of rumours, the fact that the above complaints exist are worrying and show the need for careful monitoring of the RSD process by both OPM and UNHCR. Mechanisms and procedures for filing formal complaints regarding any misconduct on the part of interviewers should also be instituted and information about such procedures should be made available to all refugees and asylum seekers, especially females.

The situation of accompanied minors and how they proceed through the RSD process is also in need of careful monitoring. How the “self-sufficiency principle” is applied to accompanied minors is of particular concern and requires further investigation.⁶⁷

5. Refugees in Kampala: Livelihoods and Sustainability

Once asylum seekers are given refugee status, assistance and support is limited to those on the urban caseload, and as noted above, this group represents an exceedingly small

fraction of the entire urban refugee population. Many refugees, therefore, reported difficulties in accessing city services for two principal reasons. First, many Ugandan service providers associate the term “refugee” with “UN” or “NGO”⁶⁸ and therefore assume that refugees are not only well provided for, they are in fact better off than Ugandan nationals since they are under the care of UNHCR.⁶⁹ Second, it is assumed by Kampala’s elected leaders and service providers that all refugees live in settlements.⁷⁰ Both of these assumptions are false, as UNHCR provides marginal assistance to refugees and this support is only provided in settlements. Generally, the lack of information on refugee issues on the part of Kampala city officials was found to be extremely poor. For example, one KCC official noted that “real refugees...are unable to support themselves [and] got to camps.”⁷¹ The Chief Town Planner of Kampala stated that although he believed there were refugees in Kampala, neither he nor his department had recorded them, and he thought they were looked after by the Ministry of Internal Affairs.⁷² Indeed, refugees are not budgeted for in city development plans and thus the municipality has no means to assist them. This situation evidences the need for those mandated to protect refugees in Uganda, *i.e.* OPM and UNHCR, to inform and sensitize city officials on refugees in Kampala, their needs, and how they can be best sustained and supported.

Due to the “self-sufficiency principle,” refugees who opt to live in Kampala when they are not on the urban caseload are in fact unable to access any material support from UNHCR, JRS, or InterAid. And as a result of service providers’ mistaken perception noted above, services may be denied to refugees, or refugees may be charged for what are usually free services. Language barriers also impede the ability of refugees to utilize city services.

For example, in regard to access to education, the Ugandan Constitution explicitly states that “all persons have the right to education.”⁷³ The Refugee Convention also requires Contracting States to “accord to refugees the same treatment as is accorded to nationals with respect to elementary education.”⁷⁴ The 1989 Convention on the Rights of the Child (CRC), to which Uganda is a party, affords the right to education and also includes a non-discrimination clause, from which it follows that the right to education cannot be denied to refugee children.⁷⁵

Although in 1997, Universal Primary Education (UPE) was introduced in Uganda, exempting four children per family from paying primary school fees, research findings indicate that most urban refugee families are unable to meet the cost of education for their children and – since this education is not entirely free⁷⁶ – as a result, many refugee children in Kampala are unable to access education. In-

terAid does provide limited education bursaries to refugee families, but only to families who are on the urban caseload.⁷⁷ As educational implementing partner to UNHCR, Windle Trust also provides a number of scholarships to refugee children, yet only to students in refugee settlements holding ration cards. Thus urban refugee children are not considered for scholarships, despite the fact that Windle Trust reports that not only does it receive weekly requests from refugees in need of educational assistance in Kampala, but also that the Trust cannot fill all of its scholarship quotas in settlements due to a lack of qualified applicants. Moreover, according to Windle Trust, there are many refugee children in Kampala who may meet the requirements for scholarships to be awarded.⁷⁸ There is no legal basis for this discriminatory way of allocating scholarships. In this case, providing benefits which should be available to all refugees in Uganda but are only available to those in settlements further substantiates how refugees are enticed to move to settlements and is a very tangible example of how refugees in Kampala are denied the ability to exercise their rights afforded to them in the Refugee Convention.

These problems are replicated in other service sectors: for example, access to employment, credit, and other business opportunities, shelter, and social integration. With respect to the last, refugees experience difficulties integrating into the Ugandan community, mainly due to language-related communication problems,⁷⁹ a diverse cultural mosaic in Uganda which engenders “different mentalities”⁸⁰ between refugees and their Ugandan hosts, and xenophobic statements relating to refugee presences in Kampala. Hence a local leader reported complaints made against the Somali community in regards to their cleanliness.⁸¹

While these portrayals are largely negative, research also revealed that in some areas of service provision, such as health care, refugees do not report any discrimination and are able to access services like any Ugandan resident of Kampala.

6. Protection and Security: The Need for a Broader Protection Strategy

Ensuring economic sustainability is only one aspect of protection for refugees in Kampala. When asked about their main problems, many refugees reported concerns relating to their physical security and the difficulties they experienced in seeking redress when a crime had been committed against them. Endemic corruption within the Ugandan police system not only affects ordinary residents; refugees also have to reckon with the additional problems of negotiating their legal status as well as having justice secured on their

behalf, opening further ground for exploitation. While it may be argued that Ugandans also experience crime⁸² and difficulties with the police,⁸³ refugees face specific obstacles in seeking redress for crimes committed against them. Many refugees stated that they were wary of reporting criminal incidents to the police because of fears of Uganda’s alleged relationships with rebel groups in their countries of origin. As a result of this situation, a number of refugees stated they preferred to solve disputes and problems amongst themselves.⁸⁴ The resort to extra-legal avenues to solving disputes often leads to further violations of rights and does not bode well for the image of refugees.

The genuine concerns regarding physical security after refugee status has been granted evidence the need for the GoU and UNHCR to be actively involved in securing refugees’ safety and protection at all times, and in all locations within Uganda and especially Kampala where most refugees lack access to protection mechanisms and social support networks. It should also be emphasized that in addition to concerns regarding physical security, the difficulties experienced by urban refugees in accessing Kampala’s municipal services have a direct impact on their human security.

In this respect, it is instructive to recall the definition of protection put forward by the International Committee of the Red Cross, which defines protection as “encompassing all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (*i.e.* HR law, IHL, refugee law).”⁸⁵ Notice should also be taken of the words of UNHCR’s Senior Protection Officer in Kampala, who stated: “In the developing world, assistance is protection. If you don’t feed them [refugees], they die. There is no clear division.”⁸⁶ Thus a GoU and UNHCR protection strategy should ensure access to fair RSD procedures and guarantee the observance of the principle of *non-refoulement*, and also should ensure that refugee protection in the widest sense is extended not only to refugees residing in settlements but also to the urban refugee population.

7. Conclusion

For some refugees, an urban setting offers the most conducive environment for achieving self-sufficiency. This paper asserts that decisions by refugees to remain in urban environments should be supported rather than undermined.

Research findings indicate that at all stages of their being in exile in Uganda, refugees are put under pressure, either implicitly or explicitly, to relocate to settlements. This over-reliance on settlements as the only model for refugee protection and assistance has hampered progressive thinking

and the involvement of other Kampala-based welfare organizations in providing assistance to refugees in Kampala.

Refugees choosing to remain in Kampala are only officially allowed to do so when they can prove themselves to be self-sufficient. Whether or not they can prove self-sufficiency to the satisfaction of OPM, refugees should be allowed to remain in Kampala if they wish to do so. Furthermore, the issue of self-sufficiency should not determine whether a refugee receives a refugee identity document.

When asylum seekers arrive in Kampala, the assistance they receive is minimal. Once refugee status is granted, for the majority of refugees assistance stops altogether. The study found that the majority of urban refugees live in poverty and lack the means to improve their socio-economic situation. While many Ugandan nationals face the same problems as the urban refugees in Kampala, refugees are especially disadvantaged for a variety of reasons, including lack of legal status, language barriers, and discrimination in respect of their attempts to access education and employment.

Part of the difficulty refugees have in accessing services in Kampala arises out of the fact that those who provide services are generally unaware of the presence of refugees in Kampala and are confused about the rights of the urban refugee population. As assistance to refugees is focused on refugees residing in settlements, city officials assume that all refugees reside in settlements. There is a direct correlation between the limited knowledge of city officials regarding the presence of refugees in Kampala and the ability of urban refugees to meet their needs. There is therefore a clear need for city officials and service providers in Kampala to be made aware of the presence of urban refugees in Kampala and of the rights accorded to refugees under national and international law.

Despite the difficulties faced by the urban refugees in Kampala, many of them choose to remain in Kampala instead of moving to one of the refugee settlements. These decisions are driven by a variety of reasons, of which perhaps the most important is that refugees judge Kampala to be the most conducive environment for attaining a state of self-reliance. This paper asserts that the choices of refugees relating to the environment in which they choose to live should be supported rather than undermined.

Notes

1. Within the government, there is a general lack of progressive and coherent thought on the implications of the presence of refugees in Uganda. This is reflected in the "continued movement of the department of refugees from one Ministry to the other." Ronald Kalyango, "Non governmental organisations and the Provision of Humanitarian Assistance to Urban Refugees in Kampala" (MA diss., Makerere University, 1999), 14 (on file with the RLP).
2. Note that the RLP has previously documented the RSD process in Kampala. See, for instance, Kirk Huff and Ronald Kalyango, "Refugees in the City: Status Determination, Resettlement, and the Changing Nature of Forced Migration in Uganda" (Working Paper No. 6, RLP, July 2002). For further information also see Barbara Harrell-Bond and Guglielmo Verdirame, *Rights in Exile: Janus-Faced Humanitarianism* (Oxford: Berghahn Books, 2005).
3. *The Control of Alien Refugees Act*, 1960, Laws of Uganda, Cap. 64.
4. Section 8 of the CARA requires all refugees to reside in settlements.
5. See for example, Guglielmo Verdirame, "Human Rights and Refugees: The Case of Kenya," *Journal of Refugee Studies* 12 (1999): 54; Harrell-Bond and Verdirame, 2005.
6. OPM Senior Protection Officer, OPM, Directorate of Refugees, interview by the RLP, Kampala, October 3, 2004.
7. While the draft version of a new refugee act grants refugees the right to freedom of movement, the act also gives the Commissioner discretion to limit freedom of movement (Section 30).
8. See the Refugees Bill 2003, s. 44, *Bills Supplement No. 8*, Uganda Gazette No. 58 XCVI, November 21, 2003.
9. As one example, the conditions in refugee settlements in the West Nile region of Uganda have most recently been documented and analyzed in Tania Kaiser, Lucy Hovil, and Zachary Lomo, "'We are all stranded here together': The Local Settlement System, Freedom of Movement, and Livelihood Opportunities in Arua and Moyo Districts" (Working Paper No. 14, RLP, February 2005).
10. As examples, see Richard Black, "Putting Refugees in Camps," *Forced Migration Review* 2 (1998); Jeff Crisp and Karen Jacobson, "Refugee Camps Reconsidered," *Forced Migration Review* 3 (1998); Barbara Harrell-Bond, "Are Refugee Camps Good for Children?" (Working Paper No. 29, New Issues in Refugee Research, 2000); Wim van Damme, "Do Refugees Belong in Camps? Experiences from Goma and Guinea," *The Lancet* 346, no. 8971 (1995): 360–362. The United States Committee for Refugees and Immigrants (USCRI) is currently campaigning for an end to the practice of forcing refugees to live in camps and settlements; see <<http://www.refugees.org>>.
11. UNHCR Country Operations Plan, Overview: Uganda, Planning Year 2006.
12. United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Humanitarian Update Uganda* 7, no. 4, Kampala, Uganda, April 2005.
13. UNHCR Protection Officer, telephone conversation with the RLP, Kyenjojo, May 11, 2006.
14. Director, InterAid Uganda, interview by the RLP, Kampala, October 6, 2004.
15. OPM Senior Protection Officer, OPM, Directorate of Refugees, interview by the RLP, Kampala, October 3, 2004.
16. *Ibid.*

17. *Ibid.*
18. "District Development Plan: 2004/2005 – 2006/2007," Planning Unit, Kampala City Council, at 130 (on file with the RLP).
19. The divisions are: Lubaga, Makindye, Nakawa, Central, and Kawempe.
20. Planning Unit, Kampala City Council, 129.
21. *Ibid.*
22. *Ibid.*
23. Throughout the global south, the number of urban refugees has "increased considerably." *Ibid.*, 130.
24. Naoko Obi and Jeff Crisp, *UNHCR Policy on Refugees in Urban Areas; Report of a UNHCR/NGO Workshop*, UNHCR Evaluation and Policy Unit, Geneva (EPAU/2002/09), 2002, 1. There is a growing literature on urban refugees. See, for example, Loren Landau, "Study Guide to Urban Refugees," *Forced Migration Online* (February 2004), <www.forcedmigration.org/guides/fmo024> (accessed July 4, 2006); see also Gaim Kibreab, "Eritrean and Ethiopian Urban Refugees in Khartoum: What the Eye Refuses to See," *African Studies Review* 39, no. 3 (December 1996): 132.
25. United Nations High Commissioner for Refugees, *UNHCR Policy on Refugees in Urban Areas* (Geneva: UNHCR, 1997).
26. Obi and Crisp, 6. UNHCR is currently working on a revised policy on urban refugees.
27. Specifically, interviewees included 9 elected local government officials; 12 civil servants; 11 representatives from international organizations and non-governmental organizations; 5 refugee leaders; and 117 refugees, asylum seekers, and forced migrants. Finally, six focus group discussions with refugees were conducted.
28. Research was carried out in the following areas of Kampala: Bakuli, Kasubi, Kilombe, Kisenyi II, Lubaga, Makindye, Mengo, Mengo Kisenyi, Mulago, Muyenga, Najjanankumbi, Nakulabye, Namirembe, Nsambya, Nsambya Kevina, Old Kampala, and Owino.
29. Divisional Special Branch Officer, interview by the RLP, Old Kampala Police Station, Kampala, October 5, 2004.
30. Refugee, interview by the RLP, Mengo, Kampala, September 28, 2004.
31. Refugee, interview by the RLP, Mengo Kisenyi, Kampala, September 29, 2004.
32. Refugee, interview by the RLP, Mengo, Kampala, September 27, 2004.
33. For more information on the conflict in West Nile, see Zachary Lomo and Lucy Hovil, "Negotiating Peace: Resolution of Conflicts in Uganda's West Nile Region" (Working Paper No. 12, RLP, June 2004).
34. This observation was also made by Kaiser, Hovil, and Lomo (Working Paper No. 14, RLP, February 2005).
35. Refugee, interview by the RLP, Mengo, Kampala, September 27, 2004. This complaint is also commonly heard in the RLP's legal aid clinic and usually relates to settlements, such as Kyaka II and Nakivale, that house Rwandese and Congolese refugees.
36. Refugee, interview by the RLP, Mengo, Kampala, September 27, 2004.
37. Refugee, interview by the RLP, Old Kampala, Kampala, October 6, 2004.
38. Refugee, interview by the RLP, Mengo, Kampala, September 27, 2004. See also, for example, Lucy Hovil, "Free to Stay, Free to Go? Movement, Seclusion and Integration of Refugees in Moyo District" (Working Paper No. 4, RLP, May 2002); Eric Werker, "Refugees in Kyangwali Settlement: Constraints on Economic Freedom" (Working Paper No. 7, RLP, November 2002).
39. Previous research conducted by the RLP resulted in similar findings: See Kaiser, Hovil, and Lomo, 2005.
40. Refugee leader, interview by the RLP, Lubaga, Kampala, October 11, 2004.
41. Refugee, interview by the RLP, Mengo, Kampala, September 29, 2004.
42. Refugee, interview by the RLP, Lubaga, Kampala, October 11, 2004; Refugees, focus group discussion with the RLP, Lubaga, Kampala, October 12, 2004.
43. Refugee, interview by the RLP, Mengo Kisenyi, Kampala, September 27, 2004. Other Somali refugees related similar experiences. Refugees, interviews by the RLP, Mengo Kisenyi, Kampala, September 28, 2004.
44. Director, InterAid Uganda, interview by the RLP, October 6, 2004; Project Director, Urban Programme, Jesuit Refugee Services, interview by the RLP, Kampala, October 4, 2004. For a more detailed account of assistance available to asylum seekers and refugee, in Kampala, see RLP, Working Paper No. 16, Section 3.1, May 2005.
45. The lack of shelter available to asylum seekers was also found to be an issue of concern in Huff and Kalyango, RLP Working Paper No. 6, July 2002.
46. Refugee, interview by the RLP, Lubaga, Kampala, October 11, 2004.
47. Refugee, interview by the RLP, Old Kampala, Kampala, October 6, 2004.
48. Refugee, interview by the RLP, Mengo Kisenyi, Kampala, September 28, 2004.
49. Section 6 of this paper analyzes protection and security issues in detail.
50. Kampala City Council Official, interview by the RLP, Kampala, October 12, 2004.
51. Huff and Kalyango.
52. *Ibid.*, 11.
53. For a detailed description of the RSD process, please refer to RLP WP No. 16, Section 4, May 2005.
54. *Ibid.*
55. *Ibid.*
56. UNHCR Senior Protection Officer, UNHCR, Kampala, interview by the RLP, Kampala, October 8, 2004.
57. OPM Senior Protection Officer, OPM, Directorate of Refugees, interview by the RLP, Kampala, October 3, 2004. A letter from an employer is required to show proof of employment and a letter from a local councillor (LC) is required as means of proof of residency.
58. *Ibid.*

59. Senior Legal Officer, RLP, interview by the RLP, Kampala, February 22, 2005.
60. International refugee law denotes treaty law, in particular the Refugee Convention and the 1969 OAU Convention; and soft law, including the Statute of UNHCR, ExCom Conclusions, United Nations General Assembly resolutions, and Security Council resolutions.
61. Director, InterAid Uganda, interview by the RLP, Kampala, 6 October 2004.
62. Huff and Kalyango.
63. *Ibid.*
64. *Ibid.*
65. *The Refugees Bill 2003*, s. 17, *Bills Supplement No. 8*, Uganda Gazette No. 58 XCVI, November 21, 2003.
66. *Ibid.*, s. 17(2B).
67. For more information on the situation of accompanied minors in Kampala, see section 4.4., WP No. 16, RLP, May 2006.
68. Project Director, Urban Programme, Jesuit Refugee Services, interview by the RLP, Kampala, October 4, 2004.
69. *Ibid.*
70. Kampala Central Division Official, interview by the RLP, Central Division offices, Kampala, October 5, 2004.
71. Kampala Central Division Official, interview by the RLP, 5 October 2004.
72. Kampala City Council official, interview by the RLP, 4 October 2004.
73. Constitution of the Republic of Uganda, 1995, Article 30.
74. Refugee Convention, Article 22.
75. CRC, Article 28. Article 2 of the CRC states: "State parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."
76. UPE includes a number of "hidden costs." Research revealed that all parents must pay UgShs 10,400 per term per child at the primary level for their children to enrol in Kampala primary schools. Working Paper No. 16, 31.
77. Director, InterAid Uganda, interview by the RLP, Kampala, October 6, 2004.
78. Windle Trust, Programme Manager, Interview with RLP, 6 October 2004.
79. FASSOREF (Women's Association of Francophone Refugees), focus group discussion with the RLP, Old Kampala, Kampala, October 6, 2004; Refugee, interview by the RLP, Old Kampala, Kampala, October 6, 2004; Refugee, interview by the RLP, Mengo, Kampala, 27 September 2004; Refugee, interview by the RLP, Mengo, Kampala, September 29, 2004.
80. Refugee, interview by the RLP, Mengo, Kampala, September 29, 2004.
81. Kampala City Council Official, interview by the RLP, Kampala, October 5, 2004.
82. Kampala City Council's District Development Plan notes that crime in urban slums is a problem. Planning Unit, Kampala City Council, 131.
83. See Republic of Uganda, *Report of the Judicial Commission of Inquiry into Corruption in the Uganda Police Force*, May 2000 (on file with the RLP).
84. Refugee, interview by the RLP, Old Kampala, Kampala, October 6, 2004; Refugees, interview by the RLP, Mengo, Kampala, September 27, 2004.
85. International Committee of the Red Cross, "Background Paper," Third Workshop on Protection, January 7, 1999. "HR law" refers to human rights law; "IHL" refers to international humanitarian law.
86. UNHCR Senior Protection Officer, UNHCR Kampala, interview by the RLP, Kampala, October 12, 2004.

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Insiders but Outsiders: The Struggle for the Inclusion of Asylum Seekers and Refugees in South Africa

M. FLORENCIA BELVEDERE

Abstract

This article examines the politics of urban refugees in South Africa. It shows that despite South Africa's adoption of an encompassing rights-regarding legal framework that has the potential to be inclusive towards asylum seekers and refugees in the country and afford them basic human rights and protection, asylum seekers and refugees nonetheless remain "internally excluded," predominantly as a result of practices adopted by a nationalist Department of Home Affairs to implement refugee legislation and by the UNHCR in its quest to prioritize the safeguarding of the institution of asylum. The article also shows how the adoption of these practices has been facilitated by a construction of asylum seekers and refugees as "bogus" claimants who have no place in post-apartheid South Africa.

Résumé

Cet article examine la politique sur les réfugiés urbains en Afrique du Sud. Il démontre que malgré l'adoption par l'Afrique du Sud d'un cadre juridique englobant le respect des droits, qui a le potentiel d'être inclusif envers les demandeurs d'asile et les réfugiés dans le pays et de leur assurer les droits fondamentaux et la protection, les demandeurs d'asile et les réfugiés restent néanmoins des « exclus internes », principalement en raison des pratiques adoptées dans l'implémentation de la législation concernant les réfugiés par un Département des affaires intérieures nationaliste, et par le HCR, dans sa quête de privilégier la sauvegarde de l'institution du droit d'asile. L'article démontre aussi comment l'adoption de ces pratiques a été facilitée par le fait de dépendre les deman-

deurs d'asile et les réfugiés comme de « faux » demandeurs n'ayant pas leurs places dans une Afrique du Sud post apartheid.

Introduction

In a society like ours which prides itself on its noble sentiments, [the treatment of refugees] is shameful. As South Africans we are justifiably proud of our country and of our democracy which has just celebrated its tenth birthday. We are proud of those policies which are enshrined in the Constitution, a constitution which is unparalleled in Africa, and indeed equals those of the most advanced countries in the world in terms of liberality and compassion...We subscribe to the principles contained in international treaties...We claim to enforce the laws put in place to protect the rights of [refugees], and especially those pertaining to children. Yet all these lofty ideals become hypocritical nonsense if those policies and sentiments are not translated into action by those who are put in positions of power by the state to do exactly that; who are paid to execute these admirable laws and yet, because of apathy and lack of compassion, fail to do so.

—Judge Anne Marie De Vos, 2004¹

Jude De Vos's harsh words, directed at representatives from the South African Departments of Home Affairs and Social Development and the South African Police Services for their failure to desist from continuing to detain approximately one hundred unaccompanied foreign minors, both undocumented foreign children and asylum

seeker/refugee children, at the Lindela Repatriation Centre, encapsulate the challenges that asylum seekers and refugees continue to face in their battle for inclusion in the post-apartheid South African state despite the fact that South Africa boasts a progressive legal framework within which the rights of these urban-based asylum seekers and refugees can be respected. However, as much as apathy and lack of compassion have come to characterize the treatment of asylum seekers and refugees in South Africa, I will argue that this sense of apathy and lack of compassion are in themselves the effect of a number of practices adopted by sectors of a nationalist post-apartheid South African state that, despite its commitment to the respect of human rights, evidenced through its adoption of an encompassing Constitution, its accession to international refugee conventions, and its adoption of a rights-regarding *Refugees Act*, nonetheless is bent on prioritizing the needs of South Africans first and deferring those of non-citizens such as asylum seekers and refugees. While there is no denying the need for the post-apartheid state to produce a sense of unity in the country against an apartheid history of division and dehumanization, the state's production of its citizens is ironically being facilitated by the dehumanization of asylum seekers and refugees and their recurrent portrayal as "bogus" claimants whose intent is to deprive South Africans from enjoying the spoils of their struggles and who should not be in South Africa in the first place. As much as in a country like South Africa it is the government, rather than the United Nations High Commissioner on Refugees (UNHCR), which bears ultimate responsibility for the well-being of asylum seekers and refugees in the country, as illustrated by its willingness to accede to the UN 1951 Conventions, its 1967 Protocol and the 1969 OAU Convention, I will nonetheless argue that UNHCR's practices to safeguard the institution of asylum in South Africa against what it perceives to be either "bogus" claimants or "irregular movers" finds an echo in nationalist practices by a Department of Home Affairs that jointly work to "internally exclude" asylum seekers and refugees, despite their legal protections, and further contribute to their dehumanization.

I rely on the use of the term "internal inclusion" to highlight the dissonance that exists between the rights and protections accorded to asylum seekers and refugees on paper, embodied in South Africa's Constitution, its *Refugees Act* and the mandate of the UNHCR, and the practical adoption and implementation of policies to give effect to those rights and protections which, informed by nationalist state sentiments and often tacitly supported by UNHCR, serve to undermine the realization of those very same rights and protections. To illustrate how asylum seekers and refugees exist in a state of "internal exclusion" in South Africa, in the first part of this article I provide some background to

the urban refugee situation. In the second part, I focus on key government practices that serve to reproduce the internal exclusion of asylum seekers and refugees. In particular, I show how nationalist practices have negatively influenced the ability of asylum seekers and refugees to access refugee reception offices and obtain documentation to secure their stay in the country, as well as the "disabling" types of documents that asylum seekers and refugees are issued and with which they have to secure their survival in the face of no state-provided assistance. The third part of this article focuses on how the UNHCR's policy on urban areas and its quest to safeguard the institution of asylum serve to reproduce asylum seekers' and refugees' state of internal exclusion.

Contextual Background to the South African Refugee Situation

South Africa is characterized by a non-camp, urban refugee situation where asylum seekers and refugees have freedom of movement within the country. However, their settlement in the country is generally confined to large urban centres such as Johannesburg, Cape Town, Pretoria, Durban, and Port Elizabeth, due to the fact that Refugee Reception Offices, where asylum seekers and refugees have to renew their permits, are located in these major centres. According to the UNHCR, by the year 2000, South Africa had come to host the largest single concentration of urban refugees and asylum seekers in the southern African region,² currently made up of approximately 30,000 recognized refugees and 120,000 asylum seekers, predominantly from African countries.

The South African government's policy towards asylum seekers and refugees is guided by the *Refugees Act* of 1998, which came into effect in April 2000 after the proclamation of its accompanying regulations, and which is administered by the Department of Home Affairs. In broad strokes, the *Refugees Act* and its regulations envision the asylum procedure to work as follows. Except in cases where the Minister declares a group or category of persons to be refugees in order to deal with a mass influx, each asylum application is expected to be individually determined. Consequently, a person who wants to apply for asylum needs to complete "without delay" an application form with a Refugee Reception Officer (RRO) in person at one of the established refugee reception offices located inland in five major urban areas, namely, Johannesburg, Pretoria, Cape Town, Durban, and Port Elizabeth. At this time, the applicant is issued with an asylum seeker permit in terms of Section 22 of the *Act*, which must be renewed until the applicant is asked to return to the refugee reception office to undergo a "non-adversarial" interview with a Refugee Status Determination

Officer (RSDO), who determines whether to grant or reject refugee status.

Depending on the outcome of the application, the applicant is granted refugee status and subsequently issued a refugee permit in line with Section 24 of the *Act*, or is given the opportunity to appeal the decision to the Refugee Appeal Board or the Standing Committee, depending on the grounds for rejection. If these two bodies uphold the decisions of the RSDO, the applicant is able to seek judicial review of the decisions by a high court, in line with Section 33 of the Constitution. Keeping these different permutations in mind, the regulations state that asylum applications should be adjudicated or finalized by the Department of Home Affairs “within 180 days of filing a completed asylum application with a Refugee Reception Officer.”³

In line with South Africa’s Constitution, the *Refugees Act* explicitly states that recognized refugees enjoy the rights contained in its Bill of Rights, which, unlike many constitutions in the world, not only embodies a bill of justiciable⁴ fundamental civil, political, cultural and socio-economic rights, but also expressly extends most of these rights to “everyone” (who lives in the country) rather than to “every citizen.”⁵ Important amongst these rights are a person’s right to equality and protection against unfair discrimination by the state; as well as the right to inherent human dignity and to have it respected and protected. Linked to these are a number of access rights which include: adequate housing, health care services including emergency medical treatment, sufficient food and water, social security and social assistance, lawful administrative action and information held by the state; as well as direct rights such as the right to education and a number of rights to protect children. Even though, except for the last two rights enumerated, these rights are limited, in the sense that the state must take reasonable legislative and other measures within its available resources, to ensure the progressive realization of each of these rights, these rights nonetheless provide an important safeguard to ensure a basic standard of living and the enjoyment of basic human rights amongst everyone in the country. In other words, despite its limitations and its frequent invocation as the *national* soul of the country,⁶ the content of the Constitution transcends narrow national boundaries and contains the potential to create a more humane society by asserting the primacy of human beings, whether national or not, whether legally in the country or not. In this regard, the *Refugees Act* has been hailed as one of the more inclusive pieces of refugee legislation in the Southern African region, as it enshrines freedom of movement, as well as other fundamental civil, political, social, and economic rights, in line with the Bill of Rights of South Africa’s Constitution.⁷

However, even though the Constitution embodies this humanist potential, the Constitution has become inserted into a state discourse that asserts its centrality as a key element to unite South Africans *first* as “equal citizens” against a history of relentless racial discrimination and massive socio-economic inequalities. In turn, giving effect to the rights in the Constitution, and the production of “equal” citizens, has in itself been circumscribed by a macro-economic framework that tends to reproduce the very same inequalities that the state has committed itself to undo. The gap between rising expectations and actual improvements in the lives of the black majority population has served to feed attempts by sectors of the state and society to protect state resources for citizens by excluding foreign others. As a result, its potential to produce a more inclusive political community that incorporates asylum seekers and refugees has been deferred. Instead, it has been up to interested political actors advocating for the rights of asylum seekers and refugees to engage in ongoing struggles to deterritorialize the Constitution, thereby giving substance to its expressed commitment to rights for “everyone.”

By way of illustration, the inclusiveness of the *Refugees Act* had to be fought for and, in my view, heavily influenced by the active participation of civil society representatives in the task team that drafted the *Refugees Act*. During this drafting process, NGO representatives on the task team had to lobby for the inclusion of refugee rights against recalcitrant representatives from the Department of Home Affairs who held that foreigners did not enjoy any rights in South Africa.⁸ They also had to remind departmental representatives that the Bill of Rights, including its socio-economic rights, applied to “everyone” and not just citizens, while refugees also enjoyed a number of rights as stipulated by international law instruments. Similarly, NGO representatives and UNHCR had to lobby for the inclusion of a hearing as the first step in the determination process, the independence of the status determination structures, the upholding of minimum standards in the arrest and detention of asylum seekers and refugees, and the involvement of civil society in the drafting process.⁹

One particular example of the Department of Home Affairs’ attempt to circumscribe human rights and prioritize its citizens was its unsuccessful attempt to institute a system of payment for asylum applications during the drafting of the *Refugees Act* to distinguish between “real refugees” and “bogus refugees” and recuperate costs, since “[i]t does not help us as a nation to assist others whiles [sic] our own backyard is still in a state of turmoil.”¹⁰ Under this system, an amount of money would be refundable to those declared to be “genuine” refugees, “but non-refundable to all abusers of the system” who “*would now suffer*.”¹¹ Asking

applicants to pay served a dual purpose. It acted as a deterrent to protect the nation from further “infiltration” and ensured that departmental resources remained focused solely on citizens. In its drive to protect its citizens, the Department was not concerned that the majority of applicants, whether genuine or not, would not be able to afford the application fee. Whereas the Constitution, as the highest law of the land, asserted the primacy of all human beings, for the Department of Home Affairs it seemed that some people were, and are, more human than others.

Having fended against these discriminatory incursions, the task team ensured that, at least in law, the “refugee” was to be extracted from the encompassing category of “illegal immigrant.” In contrast to the political construction of refugees as “illegal,” “invisible,” and “out of place” reproduced prior to the drafting of the *Refugees Act*, the adoption of national refugee legislation had the potential to enable the political construction of refugees as “legal,” “visible” bearers of rights that had a “place” within the post-apartheid state, albeit different to, but constitutive of, that of citizens. Unfortunately, however, this potential was seriously circumscribed with the drafting of the refugee regulations almost two years later to enable the practical implementation of the *Act*.

In contrast to the fairly consultative process followed for most of the drafting of the *Refugees Act*, the Department of Home Affairs drafted the regulations with minimal public consultation. The latter reflected Thabo Mbeki’s shift towards a greater centralization of state power at Cabinet level, once he replaced Nelson Mandela as president in April 1999.¹² This involved the co-option of political opponents, the elevation of the intelligence portfolio to a full ministry, and an increased silencing of dissenting views. Even though these moves drew heavy criticism from those who believed that a large degree of power was “being wielded largely behind closed doors”¹³ with limited accountability, the state defended these moves as a way to improve coordination across different ministries over key service delivery areas. The Refugee Regulations, reflective of state attempts to assert control, defined the character of the permits that would be issued to asylum seekers and refugees, including a provision that prohibited asylum seekers from working and studying during their first six months in the country in the face of no state-provided assistance, and introduced an exclusionary formal identity document for recognized refugees that differed markedly from that issued to citizens. As I will argue, the state’s adoption of these measures to give practical implementation to the *Refugees Act*, coupled to the historical tendency of the Home Affairs Department to neglect its Refugee Affairs section and facilitate access to the asylum procedure,

largely set the stage for the reproduction of the state of internal exclusion that asylum seekers and refugees have to endure while in South Africa despite progressive legal protections.

The Battle for Access to Refugee Reception Offices

Physical access by asylum seekers and refugees to refugee reception offices to lodge asylum applications and renew their permits, particularly in Johannesburg where the largest concentration of asylum seekers and refugees is located, has been an ongoing problem since 1994. While it was expected that these problems would be addressed as the Department of Home Affairs devoted greater attention to refugee matters, this has hardly changed from the time prior to the coming into force of the *Refugees Act*. In part, the ongoing failure by the Department to take in increasing numbers of asylum seekers and process their applications in a timely fashion is linked to its tendency, over the last ten years, to prioritize services to citizens.

The Department of Home Affairs is entrusted with both the registration and provision of documents to South Africans through its Civic Services branch, and with control over and regularization of population movements, including refugees, through its Immigration branch. This Department, which had historically been responsible for the issuing of passes and implementation of influx control measures against blacks, post-1994 was thrust into the crucial role of ensuring that millions of newly redefined citizens had documents¹⁴ that would allow them not only to exercise the right to vote but also to entitle them to “enter the struggle for resources,” a critical aspect of their demarcation as citizens.¹⁵ To shift its racist image and enable the production of citizenship, this Department devoted the bulk of its limited human and financial resources to its Civic Services branch, while treating Refugee Affairs as a residual section, exemplified by its existence, until very recently, as one of a number of subdirectorates within its Immigration branch.

The Department’s desire to prioritize civic services and its unwillingness to allocate the necessary financial and human resources to its Refugee Affairs section has meant that a large number of newly arrived asylum seekers, who have sought to follow the law and report to refugee affairs offices to lodge their applications, are being forced to remain tenuously in the country without access to any form of documentation for several months or in possession of appointment letters issued by the Department which have limited legal validity, do not count towards the 180 days within which the Department is mandated to adjudicate an application for asylum and are unrecognized by law enforcement authorities. Asylum seekers and refugees lacking

documents or in possession of expired documents as a result of being unable to gain access to refugee reception offices remain subject to arrest, detention, and possible *refoulement* under suspicion of being “illegal immigrants.” Despite ongoing legal challenges by legal NGOs such as Lawyers for Human Rights and the Legal Resources Centre to force the Department to enable access and issue valid documents to asylum applicants, the Department has not exhibited a sense of urgency in processing new applicants, who often sleep outside refugee offices for nights on end to gain access, even if this constitutes a violation of its own, and international, refugee law. Instead, as the Director of Refugee Affairs recently argued: “Those people sleeping outside—are they genuine asylum seekers? The system is clogged up by illegal immigrants—those people know South Africa, they know how to manipulate the system.”¹⁶ In other words, “those people” are not “genuine” anyway, so there is no contradiction in their being possibly subject to arrest and deportation. Neither is there any concern within the Department that if asylum seekers and refugees are not in possession of valid forms of documentation, namely an asylum-seeker or a refugee permit, they are unable to access basic social services such as health, education, and the limited forms of material assistance provided by UNHCR. Thus, even after the introduction of the *Refugees Act*, the state’s actions have actively served to reproduce the equivalence between a refugee and an illegal immigrant and internally exclude asylum seekers and refugees from access to basic forms of protection.

Besides having an impact on access to the asylum procedure, the Department’s neglect of refugee matters has also meant that those who are lucky enough to gain access to refugee reception offices and obtain asylum seeker permits have to wait for years for their applications to be decided. Over time, the Department has developed a backlog of undecided applications that includes not only increasing numbers of applicants who have legitimate asylum claims, but also increasing numbers of individuals who, aware of the length of time that it takes the Department to determine an application for asylum, exploit the weaknesses in the asylum system to gain access to, and remain in, South Africa for other reasons. At present, the backlog of undecided asylum applications stands in excess of 100,000, with some of these applications dating as far back as 1998.¹⁷

Despite the Department’s engagement in a protracted status determination process that both enables both the presence of “abusers” in the asylum system and often drives desperate asylum seekers and refugees to engage in corrupt practices to secure access or documentation in the face of perpetual delays, it has become more politically expedient for the Department to portray asylum seekers as fraudsters

and abusers of the system who are responsible for the failure of the asylum procedure than to admit that its own practices are working to undermine the asylum procedure. In this regard, whilst a prior Director General of the Department recognized that the protracted application adjudication process had rendered “the refugee system [as] the easy way in,”¹⁸ he nonetheless continued to state, on different occasions, that departmental officials often operate under “corrupting influences”¹⁹ or a “corrupting pressure,”²⁰ even though he himself recognized that South Africa’s immigration service “is a joke.”²¹ These views continue to be espoused despite the fact that the ex-Deputy Director of Refugee Affairs was fired for “her alleged failure to rein in corrupt subordinates at the country’s five refugee reception offices in Johannesburg, Durban, Cape Town, Pretoria and Port Elizabeth.”²² Similarly, the current Minister of Home Affairs, Ms. N. Mapisa-Nqakula, has argued that “particularly non-citizens appear to still have a high level of tolerance for practices that might result in opportunities for corrupt practices to emerge.”²³ Thus, it is the nation that is painted as being under threat rather than the state taking responsibility for adopting practices that enable the reproduction of the refugee as “bogus,” “corrupt,” and a “fraudster” and therefore of their exclusion.

Provision of “Disabling” Documentation for Asylum Seekers and Refugees

The Refugee Regulations prescribed the types of documents that would be issued to asylum seekers and refugees. As mentioned earlier, asylum seekers would be issued with Section 22 asylum seeker permits while refugees would be issued with Section 24 recognition of refugee status permits, after undergoing an interview with an RSDO and being declared or recognized as refugees. The *Refugees Act* and its Regulations also indicated that refugees had the right to an ID document but different to the South African one.

Section 22 Asylum Seeker Permit

The Section 22 asylum seeker permit is an A4 (297 by 210 mm.) flimsy piece of white paper with lettering in black ink, which contains a black and white scanned picture of the applicant, his or her personal details, a case or file number, and a section on conditions applicable to the permit that stipulates, amongst other things, the duration of the permit. Due to the need to renew the permit either every month or every three months, it cannot be laminated. Instead, as a result of the multiple renewals and the requirement for asylum seekers to carry these permits with them at all times, this piece of paper is subject to multiple folds, tears, and fading. Apart from the picture, the permit contains no other security features.

Until early 2004, when a protracted legal battle put an end to it, the asylum seeker permit's prescribed form had imprinted on it the words "employment and study prohibited" in bold, capital letters. The Department's imposition of this condition meant that during the 180 days or six-month period accorded to the Department to adjudicate asylum applications, asylum seekers would be able to neither work nor study. The Department argued that this was necessary not only to deter further movement into the country since "the rights that are accorded to applicants for asylum are abused by persons who are not genuine refugees," but also because allowing asylum seekers to undertake employment would automatically deprive citizens of that opportunity.²⁴ The prohibition might have been understandable if the state had taken it upon itself to provide for the basic needs of asylum seekers, in line with its national and international obligations. However, as early as 1997, the Home Affairs Minister had made it clear that the UNHCR, and not the Department, was in the country to provide for the needs of asylum seekers and refugees. As he put it, "[t]here is really no problem about refugees in this country...the UN High Commissioner for Refugees...is here to look after their interests."²⁵ However, as a later section will show, UNHCR is often more concerned with protecting its own interests than those of its constituency.

Despite the fact that the Department of Home Affairs is the lead government department entrusted with the implementation of the *Refugees Act*, the Department to this day sees its obligations as being limited to the provision of documentation to asylum seekers and refugees. Beyond these functions, the well-being of asylum seekers and refugees in terms of access to health, education, and social assistance does not concern it. Instead, it is of the view that either UNHCR or possibly other departments such as Health, Education, and Social Development should be approached to deal with the integration of asylum seekers and refugees into these services, particularly into state social assistance and public housing programs that are currently destined for citizens and permanent residents only. However, it has not seen the need to provide leadership in fostering interdepartmental co-operation to address these problems.²⁶ Thus in the absence of any state-provided assistance to asylum seekers, the institution of the work and study prohibition left asylum seekers without any legal means to ensure their survival and effectively served to criminalize them and to blur the distinction between asylum seeker and "illegal immigrant" as the former tried to find forms of employment to survive, despite being prohibited from doing so. Asylum seekers could be detained if they contravened the conditions of their permits, could have

their permits withdrawn, and could be subject to detention, a fine or imprisonment, or both.

Even though the prohibition was officially abolished in early 2004, the Department continues to this day to use the same forms for Section 22 permits that have already imprinted in them the words "employment and work prohibited,"²⁷ seemingly out of the Department's two-year long inability to redesign the form.²⁸ Instead, the currently adopted practice by some officials at refugee reception offices is to simply cross out such words and put their initials next to them²⁹ — a practice that simply fuels the sentiment amongst employers and law-enforcement agencies that asylum seekers are criminals who walk around with altered documents, since anyone can grab a pen, cross out the words, and initial next to them. It is, in turn, with these permits—which have to be carried for years on end—that the state claims to be fulfilling its obligations towards the local integration of asylum seekers and that asylum seekers must attempt to subsist in South African society. Despite the permit's shortcomings and its inadequacy in enabling asylum seekers to secure employment, asylum seekers engage in a constant battle to possess it as, at the very least, it provides some protection against arrest, detention and possible deportation.

Section 24 Refugee Permit and Identity Document

Much like the Section 22 permit issued to asylum seekers, the Section 24 permit is an A4 piece of white paper with black lettering, which contains the logo of the Department of Home Affairs, as well as a photograph, thumbprint, and basic personal details of the applicant. Beyond the picture and thumbprint, the permit neither contains any security features nor is it laminated. Further, due to its size and the requirement that refugees must carry documentation with them at all times, this permit, as in the case of asylum seeker permits, is subject to tears, folds, and fading. The permit also fails to state explicitly that this permit allows refugees, by law, to work and study, which poses ongoing problems for refugees who try to use these permits to secure employment in the face of employers who are unaware of what refugee documents look like, let alone the rights that refugees have during their stay in South Africa.

While the *Refugees Act* indicated that refugee IDs would be "different," the documents outlined in the Regulations turned out to be significantly different from documents issued to South Africans or permanent residents. South African ID documents are green-covered booklets that have a 13-digit bar-coded number and a number of pages, whereas ID documents issued to refugees are maroon in colour and do not have any pages inside. In a country where the 13-digit bar-coded green South African identity docu-

ment is the key to access public services and to integration, the Department assumed that “abusers” of the system would gain access to these valuable IDs and therefore to valuable services seen to be destined for citizens.³⁰ The state’s issuing of maroon ID to refugees has served to reinforce an important “internal exclusion,” by effectively denying them access to publicly provided services and employment.³¹

Despite the Department’s encompassing discourse of solidarity and empathy, and its supposed attempts at “humanising”³² and giving dignity to refugees by issuing them with very different-looking documents, refugees generally have seen these documents as further attempts by the state to keep them as “outsiders.” Some, quite rightly, have noted that these documents resemble the passes that used to be issued to Africans under apartheid. As one refugee put it, if indeed the Department aimed to give dignity to refugees then “why give a document that is physically different to those carried by South Africans?... It invokes the image of pass documents—after all, the apartheid police did think it may be giving dignity.”³³ Similarly, other refugees have pointed to the contradictions of this practice by stating that “[o]fficially [the Department] want to integrate us, but now we’re getting a red refugee book in contrast to the green South African identity document... They want to label us as different.”³⁴

The issuing of identity documents markedly different from those issued to South Africans and unknown amongst administrators in most public and private institutions, including employers, in practice has meant that refugees continue to be further “dehumanised,” as the Department seeks to delineate an “inside” of citizens that needs to be protected from the outside refugee threat. In this regard, even though some departmental officials have tried to argue that there was “nothing sinister”³⁵ in issuing a different-coloured document to refugees, the rationale behind it was predominantly focused on control and differentiation between refugees and citizens rather than on producing an “enabling” document for refugees.³⁶ The Department has made very few attempts to popularize these documents, or any documents it issues to asylum seekers, and thus allow asylum seekers and refugees to be integrated into South African society.³⁷

The character of the documentation issued to asylum seekers as well as refugees, and particularly its distinctiveness in relation to documents issued to citizens and residents, militates against their ability not only to sustain themselves in the absence of any state-provided assistance, but also to contribute their skills to a South African economy that is facing massive shortages as a result of decades of inadequate apartheid education. In this regard, results

from the most comprehensive national survey conducted with 1,500 African asylum seekers and refugees in the country in 2002 and 2003 showed that two-thirds of asylum seekers and refugees interviewed nationally had at least completed secondary education.³⁸ In particular, almost one-third had completed tertiary education, namely, undergraduate or graduate degrees, but only 3 per cent managed to obtain employment in skilled occupations after their arrival in South Africa.³⁹

In sum, despite the state’s formal (but always incomplete) compliance with both national and international law in the issuing of different forms of documentation to asylum seekers and refugees, its issuing of flimsy permits to asylum seekers which, despite numerous court actions, continue to deny them the right to work and study, coupled to unjustifiable delays in the issuing of red, albeit formal, identity documents to refugees which are unrecognizable by most private and public institutions, including employers, has ensured that asylum seekers and refugees remain internally excluded from access to the South African state and kept at bay from posing a threat to the nation. Moreover, these practices by the Department have cumulatively worked to reproduce a political construction of asylum seekers and refugees as “criminals,” as they are often driven to engage in extralegal activities to ensure their survival; as “invisible” or “subhuman,” as they are denied their right to have their basic human dignity respected; and as “out of place,” as they are issued with documents that reinforce that they are not from “here.”

Yet, despite the Department’s ongoing attempts to exclude asylum seekers and refugees, these groups have continually shown their resilience by finding ways of circumventing the numerous obstacles enabled by state practices in their quest for survival, through a reliance on country or region-based refugee networks and participation in informal sector activities such as street trading and car watching. This quest for increasing self-reliance to ensure their survival has not only been necessary to defend against exclusionary state practices, but also against exclusionary practices by the UNHCR, which, ironically, in the eyes of many asylum seekers and refugees should be their “protector” in South Africa.

The Contested Mandate of the UNHCR in South Africa

Towards an Understanding of UNHCR’s Mandate in Urban Areas

An understanding of UNHCR’s approach towards dealing with an urban refugee situation such as that found in South Africa must be cognizant of two main factors. Firstly, as an organization set up by the United Nations, with the support

of individual countries, UNHCR serves to reproduce the international system of states premised on a congruence between state, territory, and people. As an agency entrusted to deal primarily with large population displacements, the aim of the UNHCR is to ensure that disturbances to this congruence are contained as much as possible and eventually eliminated through the pursuit of voluntary repatriation upon the cessation of conflict, as the preferred and best long-term solution.⁴⁰ For the UNHCR (and the countries that fund it), ensuring the success of this policy requires that “individual refugees and groups remain as close as possible to their country of origin...or at least in a culturally and/or linguistically familiar environment.”⁴¹ Secondly, and to uphold these objectives, the general, and cost-effective, practice of the UNHCR has been to set up camps, particularly where conflicts have led to large population movements, situated geographically close to such areas of conflict where large numbers of refugees can be offered protection as a group, as opposed to being treated on an individual basis.

However, the increased *individual*, rather than *en masse*, refugee movements in the 1990s to urban areas away from camps prompted UNHCR to devise a policy to address these specific situations in a coherent way. The resultant UNHCR policy on refugees in urban areas has been driven by its desire to contain both movements to urban areas, and thus further away from what UNHCR considers “the familiar environment” of refugees, as well as the disproportionate costs incurred by UNHCR as it tried to deal with those in urban areas on an individual basis,⁴² while donors “show[ed] little enthusiasm for long-term care and maintenance of urban cases.”⁴³ Thus, from the start, it would seem that driving forces for the urban policy have been containment and the concomitant rationalization of financial resources balanced against a commitment to ensure the protection of refugees, regardless of location.

This tendency to regard camp-based situations as the norm against which to address the needs of refugees is exemplified by the UNHCR’s definition of urban caseloads as being derivative from camp-based caseloads. Assuming that the majority of refugees should be cared for in nearby camps, UNHCR envisions that only a minority should be allowed to move to urban areas in another country where usually there are no camps—or within the same country where a camp is located—only on the basis of compelling reasons, such as protection or security problems in camps or settlements, as well as family reunification. If such compelling reasons do not exist, then those who move to urban areas in other countries should be regarded as “irregular” movers.⁴⁴ As defined by both the December 1997 UNHCR urban refugee policy and UNHCR Excom Conclusion No. 58 (1989), “irregular movers” are refugees or asylum seek-

ers who move, without the consent of authorities concerned and therefore irregularly, from a country where they had found protection to another country. “Irregular movers” are often portrayed as individuals who, despite having valid asylum claims, engage in “asylum shopping” in search of better economic opportunities rather than protection, since UNHCR’s assumption is that protection has already been provided in the first country of asylum, usually through camps or rural settlements, even if very often this is not the case. To re-establish its desire for order, UNHCR policies recommend that “irregular movers” should be returned, where feasible, to their first country of asylum. As will be discussed further on, since often this is not possible, UNHCR’s assistance policy is aimed to discourage further “irregular” movement to urban areas.

Protection and Assistance to Asylum Seekers and Refugees in Urban Areas

Regardless of whether asylum seekers and refugees find themselves in urban areas as a result of regular or irregular movement, UNHCR’s December 1997 policy states clearly that its “over-riding priority remains to ensure protection, and in particular, non-refoulement and treatment in accordance with recognized basic human standards.”⁴⁵ In this regard, in urban settings where usually no camps exist, and until durable solutions such as voluntary repatriation or resettlement can be exercised, UNHCR is mandated to pursue the local integration of asylum seekers and refugees as an alternative third durable solution, premised on two assumptions, namely, “state obligation for protection and assistance” and “refugee self-reliance.”⁴⁶ Unlike in many camp-based situations where the UNHCR is the sole provider for the needs of refugees in the absence of a well-functioning state, in urban-based situations, and particularly those where states have become signatories to refugee conventions, UNHCR expects that states will exercise their responsibilities to asylum seekers and refugees. To facilitate this, UNHCR’s protection objectives enjoin it to engage in “strenuous and continuing interventions...with host governments...to encourage them to grant recognized refugees access to employment/the labour market; national hospitals, schools and other social services (at rates equivalent to those paid by nationals); and, the naturalisation process.”⁴⁷

To fill the gap that might exist until states take up their obligations to asylum seekers and refugees in urban areas, the December 1997 urban refugee policy indicates that, under certain circumstances, UNHCR should provide material assistance that is time-limited, “that encourages self-reliance and does not foster long-term dependency.”⁴⁸ However, it absolves the UNHCR from the provision of assistance to “irregular movers,” by arguing that UNHCR

“does not have an obligation to provide assistance to refugees after irregular movement on the same basis as it would had there been no irregular movement.”⁴⁹ The only exceptions are cases where life-saving assistance is not available from other sources or where the lack of UNHCR assistance would compromise its protection objectives. Besides limited emergency assistance, the policy states that UNHCR should provide solution-oriented assistance to promote self-reliance, amongst *recognized refugees*, “in a manner that will depend on local circumstances.”⁵⁰

Role of UNHCR and Implementation of Its Policy on Refugees in Urban Areas in South Africa

The UNHCR in South Africa tends to operate within two contradictory discourses. At an international and national public level, the UNHCR in South Africa projects an image of caring for asylum seekers and refugees, as per its mandate. However, lurking below UNHCR’s public face—and echoing the practices of the Department of Home Affairs—lies a discourse that represents asylum seekers and refugees in South Africa negatively, as “chancers” and “bogus” asylum claimants. This discourse emanates from a belief amongst UNHCR staff in South Africa that a large proportion of applicants who seek asylum in South Africa are applicants whose cases are likely to be manifestly unfounded, abusive, or fraudulent. To illustrate, comparing asylum seekers and refugees present in South Africa to those found in other countries, one UNHCR representative explained that “refugees in Zambia are refugees, refugees in Zimbabwe are refugees... [but] 80% of the people should not be here.”⁵¹ This is echoed in the UNHCR’s 2004 global report for South Africa, which states that “among the many pending applications, as many as 80 per cent originate from non-conflict countries.”⁵² While it might be the case that upon undergoing status determination with an RSDO, some or many of the claims made by asylum seekers are indeed found to be manifestly unfounded, this can only be known with certainty once the state undertakes this individual status determination process and the grounds upon which the claims are made are thoroughly considered. This much, the UNHCR recognizes; however, despite this acknowledgement, it is nonetheless of the view that “you might have the odd person who has a valid individual claim but those are the exceptions in the vast majority of cases.”⁵³ Added to this, UNHCR holds, despite the absence of proof to corroborate this, that the large majority of the remaining 20 per cent of asylum applicants who have “genuine” or founded asylum claims are nonetheless “irregular movers.”⁵⁴ Thus, whether asylum applicants have genuine claims or not, for the UNHCR they tend to be deviant and a close relative to “illegal immigrants,” either because their claims are pre-

sumed to be “manifestly unfounded” or, despite having legitimate asylum claims, because they are “irregular” movers. By classifying those in South Africa who might have valid claims predominantly as irregular movers, UNHCR also does not have an obligation to provide assistance, but *may* do so to meet minimum standards.

This belief by UNHCR that, even after an individual status determination process, only a few applicants would be “bona fide” or “genuine” cases, serves to create a culture of suspicion amongst UNHCR staff towards all asylum seekers and refugees in South Africa which converges with that espoused by the Department of Home Affairs, even if they are protecting different terrains. While the UNHCR argues that “these people should not even be here!” as part of UNHCR’s quest “to preserve the space that is refugee protection,”⁵⁵ the Department of Home Affairs does not want “these people here” in the face of “growing expectations of our nationals.”⁵⁶ As I have argued elsewhere, the tendency to see a potential abuser lurking behind every asylum seeker not only feeds a mentality within both government and UNHCR that asylum seekers and refugees should be seen as “guilty until proven innocent” but also, and in the process, helps to foster broader societal xenophobic reactions towards asylum seekers and refugees, irrespective of the validity of their claims.⁵⁷

UNHCR’s Interventions with the Department of Home Affairs

While both UNHCR and the Department assert that there is widespread “contamination” of the asylum procedure, they have adopted different ways of trying to close the loopholes in the system. For the state this has translated into contested attempts to deter people from entry into the asylum system in the first place as a way to protect its own citizens. These have included active attempts to impose boundaries of exclusion not only at South Africa’s geographical borders to limit the initial movement of asylum applicants into the territory, but also, and as shown earlier, internal boundaries by preventing the entry of asylum applicants into refugee reception offices and by refusing to issue asylum applicants with documentation (or issuing them with documentation that has made it as difficult as possible for asylum seekers and refugees to subsist in the country).

While UNHCR might privately agree with some of the initiatives undertaken by the state to control access to the asylum procedure in the first place,⁵⁸ UNHCR, whose mandate is to protect and advocate for the rights of asylum seekers and refugees, cannot be seen publicly as condoning the denial of any human being to apply for asylum. Instead, UNHCR has sought to protect this institution of asylum by

ensuring that the procedure adopted and implemented by the South African state itself can act as a tight and effective screening mechanism. In other words, while the state has sought to exclude applicants before they enter the asylum system, UNHCR has adopted practices to ensure that the proper implementation of the *Refugees Act* can produce these exclusions premised on the notion that a fast, efficient, and credible system that can quickly process applications represents a good deterrent against abuse. This serves to explain UNHCR's targeting of a large part of its interventions with the South African state on the Department of Home Affairs. These interventions, which have tended to take place away from the public eye, have included: capacity building and advice on status determination procedures based on international "best practice," through the ongoing training of government officials on refugee law and protection; and provision of equipment, such as computers and printers, as well as resources to expedite the issuance of refugee identity documents and the asylum determination procedure.⁵⁹

However, the UNHCR has been less willing to take active steps to raise concerns that might have a direct impact on the lives of asylum seekers and refugees. For instance, the UNHCR has been slow to intervene in raising problems of access to the refugee reception offices.⁶⁰ To date, it has also not prioritized working with the Department to initiate a public information campaign to make employers, banks, and government institutions aware of the right of asylum seekers and refugees to work, as well as of the types of documentation that asylum seekers and refugees are being issued, including the maroon refugee ID.

The perceived unwillingness of the UNHCR to play a more active role in ensuring the protection of those it is mandated to protect needs to be understood within UNHCR's desire to safeguard the institution of asylum against those who are not presumed to be "genuine" refugees. Within this context, advocating for greater access of asylum seekers to refugee reception offices and integration of asylum seekers whose cases are still pending, before a "proper" asylum determination procedure is in place, could enable the further "contamination" of the asylum determination procedure. So, as much as UNHCR works with the Department of Home Affairs to protect the rights of asylum seekers and refugees, the character of its interventions is selective and aligned with its desire to keep "clean" the institution of asylum first.

While asylum seekers and refugees regularly highlight the limited assistance and support that they receive from the UNHCR, UNHCR assumes that if asylum seekers with valid asylum claims made it all the way to South Africa, regardless of the hardships that they might have endured,

it must mean that they are either self-reliant or must learn to be so since they "chose" to come to this country.⁶¹ This perception also reinforces the notion that "real" refugees are the poor victims who stay behind in camps, whereas those who exercise a sense of agency in trying to improve their situation as refugees—as any human being would want to do—are not. Equating urban-based refugees with being self-reliant and with not being "real" refugees does not allow for the possibility that "real" refugees who have valid reasons to be in South Africa might need assistance while they struggle to be self-reliant.

The inadequacy of confining UNHCR emergency assistance to a period of three months when status determination can take years is compounded by a situation where UNHCR provides extremely limited solution-oriented assistance to recognized refugees, mainly in the form of language courses and some vocational training. Thus a situation exists in South Africa where, not only is emergency assistance inadequate due to its time limitation and strict criteria, but also UNHCR has not undertaken sufficient action to provide solution-oriented forms of assistance, as per the global urban refugee policy. Even though UNHCR has played an important role in facilitating the issuing of documents to refugees, it has neither taken steps with the government to ensure that employers become aware and accept these documents, nor advocated for the integration of refugees into employment. Further, despite the claims in the urban refugee policy that UNHCR should develop capacity to promote self-employment activities amongst refugees, UNHCR has made limited inroads in establishing contacts with key government departments to explore the possibilities of incorporating refugees into micro-credit facilities, the setting up of small businesses, or facilitating other avenues for self-employment and enabling them to utilize their much-needed skills.⁶² As discussed earlier, its main focus has been on safeguarding the institution of asylum first, to ensure that those who access the asylum procedure and its protection are "real" refugees. In the meantime, asylum seekers and refugees are becoming self-reliant not because of, but in spite of, the activities carried out by the UNHCR and the South African state. Asylum seekers and refugees have managed to find ways of taking charge of their own immediate destinies, by providing support and accommodation and by opening possible employment opportunities to fellow asylum seekers and refugees.

Conclusion

As asylum seekers, refugees, and organizations working with them have struggled, through their day-to-day practices and reliant on the inclusive framework of the *Refugees Act* and

the Constitution, to reaffirm a political construction of refugees as political actors with legal standing, with visible rights that need to be respected and as persons entitled to have a place in the new South Africa, the practices of UNHCR have worked to undermine this construction as it continues to represent refugees, echoing the nationalist-inspired practices of the Department of Home Affairs, as agentic “fraudsters” or “bogus claimants,” who have no place in South Africa, for either their asylum claims are seen to be “manifestly unfounded” or they have exercised their agency and have become “irregular movers.” While the UNHCR as the “refugee protector” would likely deny its role in reproducing a “culture of suspicion” towards asylum seekers and refugees in its quest to protect the institution of asylum, this “culture of suspicion” has come to find resonance amongst sectors of the state, key amongst these the Department of Home Affairs, which wants to limit the inclusion of asylum seekers and refugees to a bare minimum on behalf of its “new citizens” and despite an encompassing legal framework that explicitly affirms the human dignity of every person. As much as UNHCR might claim that its interventions represent forms of “apolitical” advice to the South African government, the selective practices adopted by the UNHCR are having a direct political impact on, and militating against, the ability of asylum seekers and refugees to gain visibility as political actors in the eyes of a Department of Home Affairs that defiantly justifies its apathy and lack of compassion against ongoing contestations by NGOs, asylum seekers, and refugees. While in the short term it will be up to NGOs, together with asylum seekers and refugees, and a progressive judiciary to fight for the humane treatment of asylum seekers and refugees in South Africa, in the longer term these struggles will require linking up with broader societal struggles affecting South Africa’s poor majority out of a realization that the economic forms of exclusion between rich and poor that we currently face do not distinguish between citizens and non-citizens.

Notes

1. *Centre for Child Law vs. Minister of Home Affairs and Others* 2005 (6) SA 50 (T), para 30, 14.
2. UNHCR, *UNHCR Global Appeal 2000: Southern Africa Regional Overview* (Geneva: UNHCR, 2000), 105.
3. *Refugee Regulations (Forms and Procedure) 2000*, Government Gazette No. 21075, 6 April 2000 (Pretoria: Government Printer, 2000), Section (3)(1), 6.
4. South Africa is one of the few countries in the world that has agreed to incorporate a list of directly enforceable socio-economic rights in its Constitution. While countries such as Namibia, Brazil, India, and Ireland recognize socio-economic rights, they do so as directive principles of state policy which

- are not directly enforceable by courts, even though they should be considered when interpreting legislation or drafting laws. In contrast, in South Africa, the courts can be relied upon not only to ensure that the state does not infringe negatively on socio-economic rights, but also, and more importantly, to assess the degree to which the state is meeting its positive obligations to realize these rights. J. de Waal, I. Currie, and G. Erasmus, *The Bill of Rights Handbook*, 3rd ed. (Pretoria: Lawyers for Human Rights and Law Society of South Africa, 2000), 399–401.
5. Rights that are expressly circumscribed to citizens include the right to vote (Section 19); the right to enter, to remain in, and to reside anywhere in the Republic (Section 21); and the right to choose a trade, occupation, or profession freely (Section 22). Even though Section 21 would seem to limit the right of refugees to enter and remain in South Africa, Section 39(1)(b) states that in interpreting the Bill of Rights, a court, tribunal or forum “must consider international law.” See *Constitution of the Republic of South Africa*, Act No.108 of 1996 (Pretoria: Government Printer, 1996). In this regard, the state must give due regard to international refugee law instruments such as the UN 1951 Convention and the OAU 1969 Convention on Refugees.
 6. N. Mandela, “Address by President Nelson Mandela to the Constitutional Assembly on the occasion of the adoption of the New Constitution” (Cape Town, 8 May 1996), <<http://www.anc.org.za/ancdocs/history/mandela/1996/sp960508.html>> (date accessed: 16 March 2006).
 7. See Legal Resources Foundation, *A Reference Guide to Refugee Law and Issues in Southern Africa* (Lusaka: Legal Resources Foundation, 2002) for a comparison of refugee legislation in different Southern African countries.
 8. B. Vantu, “Report of the White Paper Task Team,” (Pretoria: Lawyers for Human Rights, 1998), 2.
 9. *Ibid.*, 3. Even though the *Aliens Control Act* stipulated that individuals should be detained for a period of thirty days, which could be extended to a further thirty days subject to review by a High Court, the Department wanted asylum seekers and refugees to be detained for a continuous period of ninety days if their status were to be withdrawn.
 10. Department of Home Affairs, “Comments/Inputs on the Draft Refugee White Paper” (Pretoria: Sub-Directorate for Refugee Affairs, 1998), 4.
 11. *Ibid.* (emphasis added).
 12. A number of commentators raised concerns about the formation of a loyalist Mbeki cabal within Cabinet, with the President’s personal friend as the Minister of Government attached to the President’s Office. As Mbeki came to power, he strategically placed a series of hand-picked confidants to effect transformational changes in key portfolios, and agreed to centralize the flow of government information and propaganda, amongst other measures. See “Mbeki’s Lean, Mean Ruling Machine,” *Mail & Guardian*, 25 June to 1 July 1999; “Mbeki’s Co-option tactic Cannot Roll Back Intolerance Alone,” *Sunday Independent*, 4 July 1999; W. M. Gumede,

- Thabo Mbeki and the Battle for the Soul of the ANC* (Cape Town: Zebra Press, 2005).
13. "Mbeki's Lean, Mean Ruling Machine," *Mail & Guardian*, 25 June to 1 July 1999.
 14. To illustrate, in 1993 a total of 2,423,075 identity documents were issued, whilst a similar number (2,116,600) were issued between January and April 1994. See M. Buthelezi, Minister of Home Affairs, "Appropriation Bill: Debate on Vote No. 29—Home Affairs," *Debates of Parliament (Hansard), National Assembly, Proceedings of Extended Public Committee*, 9 August 1994, col. 1023.
 15. M. Mamdani, "African States, Citizenship and War: A Case-Study," *International Affairs* 78, no.3 (2002), 505.
 16. Ms. B. Mkhwebane-Tshehla, Director for Refugee Affairs, response to a question on the steps taken by the Department to address problems of access to the Rosettenville and Pretoria refugee reception offices, at a meeting held with the NCRA on 4 July 2005, Kutlwanong Democracy Centre, Pretoria.
 17. "Statement by Acting Deputy Director General: National Immigration Branch, Mr. Gcinumzi Ntlakana on the Refugee Backlog Project at the Court Classique Hotel" (Department of Home Affairs, Pretoria, 20 April 2006), 1, <http://www.home-affairs.gov.za/speeches.asp?id=157> (accessed 29 April 2006).
 18. B. Gilder, *Director-General's Media Briefing* (Sandton, 5 November 2003), 3, <<http://www.home-affairs.gov.za/speeches.asp?id=76>> (accessed 3 July 2005).
 19. B. Gilder, Director General, Department of Home Affairs, *Special Assignment*, SABC 3 Television (Johannesburg, South Africa), 22 February 2005.
 20. B. Gilder, *Director-General's Media Briefing*, 5.
 21. "Home Affairs Boss Paints Bleak Picture," [*Johannesburg Star*, 6 November 2003.
 22. "Wits Fingers Home Affairs on Corruption," *Cape Argus*, 11 December 2004. The *Special Assignment* program cited above also showed officials from the Department facilitating the acquisition of fraudulent documents by foreigners from their homes, after hours. For a deposit of 850 rands and a further fee of 1,500 rands, these officials used departmental forms and took fingerprints of applicants to enable them to receive their South African ID documents in less than three months. These officials were arrested and dismissed shortly after the program's airing.
 23. N. N. Mapisa-Nqakula, Minister of Home Affairs, *Statement on the Occasion of the Release of a Report on Finalised Cases of Corruption and Misconduct*, Pretoria, 18 July 2005, (Pretoria: Ministry of Home Affairs, 2005), 1.
 24. *Minister of Home Affairs and Others vs. MW Watchenuka and Cape Town Refugee Centre*, Case No. 10/03, S. Afr. S.C., Judgment, 28 November 2003, para. 33, 14–15.
 25. M. Buthelezi, "Introductory Speech to Home Affairs Budget Debate," *Debates of Parliament (Hansard), National Assembly, Proceedings of Extended Public Committee*, 17 April 1997, Vol. 13, col. 1320.
 26. In an interview with Head of the Refugee Affairs Sub-Directorate, she argued that inter-departmental coordination was "not a problem" because key departments met on a quarterly basis through the Inter-Departmental Disaster Management Committee. However, this Committee is tasked only with emergency situations and does not deal with inter-departmental coordination in non-emergency cases (Interview by the author, Pretoria, 28 March 2001).
 27. N. Ngozwana, Acting Head, Rosettenville Refugee Reception Office, "Address to the Forced Migrants in Johannesburg Working Group," Graduate School for the Humanities and Social Sciences, Wits University, Johannesburg, 15 March 2005.
 28. This is also not the first time that the Department has relied on administrative factors as justifications for non-compliance with the law. In a letter of complaint to the Public Protector, the Wits Law Clinic pointed out: "On many occasions people are turned away from the office without receiving any service from officials inside. Officials state that 'the printer is not working'; 'we cannot access the computer system because we haven't got appropriate codes'; and other technical faults... [T]hese problems happen with such regularity as to make them seem almost a deliberate obstruction of administrative justice." Wits Law Clinic, "Letter of Complaint on the treatment of asylum seekers and refugees at the Braamfontein Refugee Reception Centre (Department of Home Affairs)," unpublished, 2–3.
 29. G. Singh, *Accessing Rights: Crisis and Corruption at the Rosettenville Refugee Reception Office* (Johannesburg: Forced Migration Studies Programme, Wits University, 2005), 10.
 30. Department of Home Affairs, "Comments/Inputs on the Draft Refugee White Paper," Section 4.7, 3.
 31. While willing to give refugees ID documents that would go largely unrecognized amongst formal employers, the Department argued that refugees should not be allowed to engage in hawking but that hawking "should be reserved for citizen [sic] as this normally [sic] a point of conflict between citizens and aliens," despite this being an important source of livelihood for many asylum seekers and refugees who cannot access formal employment. *Ibid.*
 32. B. Masethla, Director General, Department of Home Affairs, "Address at the Launch of Identity Documents for Refugees," Yeoville Recreation Centre, Johannesburg, 7 April 2001.
 33. *Mail & Guardian*, "Pass Books for Refugees," 22 to 28 June 2001.
 34. "South Africa: New Asylum Regulations Anger Refugees," 9 April 2001, <<http://www.reliefweb.int/w/rwb.nsf/s/FCFB57A909865D1E85256A2A004F9D52>> (accessed on 2 May 2004).
 35. It is interesting that this individual saw the need to justify that there was nothing sinister about issuing different documents to refugees in answer to the question: "Why were different documents issued to refugees?"
 36. Mr. C. Schraivesande, Chairperson, Standing Committee for Refugee Affairs, interview by the author, Pretoria, 12 May 2005. Mr. Schraivesande explained that "the intention was that anybody looking at the document would know exactly right from the start, what kind of document it is... the colour of the

document would be telling you that in the first place. So that is just a separation of the rights, so that somebody would know what rights which document has.” Similarly, another official argued that “there were people who might have thought that it would be useful to differentiate between refugees and non-refugees, to easily identify them.” R. Sikakane, Assistant Director, Refugee Affairs Sub-Directorate, Department of Home Affairs, interview by the author, Pretoria, 26 April 2005.

37. When asked about attempts by the Department to communicate with employers about the documents issued to asylum seekers and refugees, the Chairperson of the Standing Committee for Refugee Affairs stated: “Not a whole lot. There have been a few occasions where Home Affairs or the Ministry has had a public platform where they mention that, but not to a great extent...” (Interview by the author, Pretoria, 12 May 2005).
38. M. F. Belvedere, E. Mogodi and Z. Kimmie. *National Refugee Baseline Survey: Final Report* (Pretoria: CASE, UNHCR, and JICA, 2003), 45.
39. *Ibid.*, 52.
40. Resettlement of individual refugees to other countries also constitutes a long-term solution, particularly in protracted refugee situations, for the purposes of family reunification, or where refugees might continue to experience security concerns or persecution even after fleeing to a safe nearby country.
41. UNHCR, *UNHCR Policy on Refugees in Urban Areas*, 12 December 1997, 4.
42. In a 1995 discussion document, UNHCR argued that while urban refugee caseloads accounted for less than 2 per cent of the total number of refugees under its care, they nonetheless consumed between 10 per cent and 15 per cent of the organization’s human and financial resources. C. Mougne, *UNHCR’s Policy and Practice Regarding Urban Refugees: A Discussion Paper* (Geneva: UNHCR Inspection and Evaluation Service, 1995), 2.
43. UNHCR, *UNHCR Comprehensive Policy on Urban Refugees*, 25 March 1997, 5.
44. UNHCR has become increasingly concerned about irregular migration, particularly as a result of an increase in restrictive immigration policies and measures in Northern countries. UNHCR, *Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection* (Cambridge: Cambridge University Press, 2003), 5; see also J. Vedsted-Hansen, *Europe’s Response to the Arrival of Asylum Seekers: Refugee Protection and Immigration Control*, New Issues in Refugee Research Working Paper No. 6 (Geneva: Center for Documentation and Research, UNHCR, 1999).
45. UNHCR, *UNHCR Policy on Refugees in Urban Areas*, 12 December 1997, Inter-Office Memorandum No.90/97, Field Office Memorandum No.95/97 (Geneva: UNHCR, 1997), 3.
46. UNHCR, *UNHCR Comprehensive Policy on Urban Refugees*, 25 March 1997, Inter-Office Memorandum 25/97, Field Office Memorandum 30/97 (Geneva: UNHCR, 1997), 12; UNHCR, *UNHCR Policy on Refugees in Urban Areas*, 12 December 1997, 4.
47. UNHCR, *UNHCR Comprehensive Policy on Urban Refugees*, 25 March 1997, 12.
48. UNHCR, *UNHCR Policy on Refugees in Urban Areas*, 12 December 1997, 4.
49. *Ibid.*, 7.
50. *Ibid.*
51. UNHCR Representative, interview by the author, UNHCR offices, Pretoria, 24 March 2005.
52. UNHCR, *UNHCR Global Report 2004 (South Africa)*, (Geneva: UNHCR, 2004), 296.
53. UNHCR Representative, interview by the author, UNHCR offices, Pretoria, 24 March 2005.
54. UNHCR, *UNHCR Policy on Refugees in Urban Areas: On Minimum Standards for Assistance to Urban Refugees/Irregular Secondary Movers* (Pretoria: UNHCR, February 2005), 1. This document was distributed at UNHCR’s 2006 Strategic Planning Workshop held on 14–15 February 2005, Pretoria.
55. UNHCR Representative, interview by the author, UNHCR offices, Pretoria, 7 March 2005.
56. M. Buthelezi, *Inaugural Address at the Regional Conference on ‘The 1951 Convention at Fifty: The Way Forward,’* hosted by the International Association of Refugee Judges, Centurion, Pretoria, 12 July 2001, 4.
57. See M. F. Belvedere, “Submission by the Community Agency for Social Enquiry (CASE) to the Open Hearings on Xenophobia and Problems Relating to It to be hosted by the SAHRC together with the Portfolio Committees of Foreign Affairs and Home Affairs,” 28 October 2004; and South African Human Rights Commission, *Report on Open Hearings on Xenophobia and Problems related to it* (Johannesburg: SAHRC, 2004).
58. It is important to point out that UNHCR was opposed to contesting the denial of asylum seekers to work and study as a measure to prevent abuse of the system, while it has been the UNHCR that recently advised the Home Affairs Department to do something to clean up the queues of prospective asylum applicants.
59. In this regard, a March 2005 unpublished draft of the Standard Operating Procedures (SOPs) for Refugee Affairs, drawn with the support of the UNHCR, contains twenty full pages that provide “tips” on how RSDOs should assess the credibility of an applicant based on objective evidence and the internal consistency and logic of an applicant’s testimony. Amongst its tips, the SOPs state that RSDOs should refrain from considering other applicants’ stories as “objective evidence” of the conditions in a country of origin “as it is conceivable that other applicants may be fabricating similar claims” (29). They also enjoin the RSDO to “be alert as there may be something that the applicant does not want...to tell you” (41). RSDOs then, must be able to show that applicants are “real” refugees at the end of the process. Department of Home Affairs, National Immigration Branch, *Standard Operating Procedures for Refugee Affairs*, Version 2, 29 March 2005 (unpublished).
60. The Forced Migration Working Group in Johannesburg in June 2005 asked UNHCR about the steps it had taken to address the closure of the refugee reception office in Johannes-

burg to newcomers with the Department since this presented a serious protection problem. In an e-mail response received on 20 June 2005, the UNHCR stated the following: "We are concerned that this is causing hardships to the asylum seekers. That said the department has indicated to us that they are in a process of looking for more durable solutions." In other words, beyond being concerned, UNHCR decided to wait for the Department to resolve the issue in its own time.

61. UNHCR-South Africa, *Refugees & Asylum Seekers: How to Access Social Assistance*, (Pretoria: UNHCR-South Africa, 2005), 3.
62. In 2002, the UNHCR commissioned research to evaluate the limited small business programs provided by three of its implementing partners and to provide a basic framework to develop self-reliance strategies for refugees. See: Resolve Worldwide, *Report to UNHCR on Proposed Micro-lending and Income Generation Model for Refugees in South Africa* (Cape Town: Resolve Worldwide, 2003), 2. This initiative, however, has not been followed up due to resource constraints.

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“Who Can Be Added”: The Effects of Refugee Status Determination and Third Country Resettlement Processes on the Marriage Strategies, Rites, and Customs of the Southern Sudanese in Cairo

LORRAINE CURRIE

Abstract

This study, based on ethnographic research, examines how refugee status determination and third country resettlement processes influence the marriage practices of the southern Sudanese refugee community in Cairo. The study showed that because of their inability to attain socio-economic integration into the host community combined with the growing insecurity of the environment of Cairo for refugees, many southern Sudanese have had to reevaluate their traditional marriage practices and family values to qualify for resettlement and escape to a better life. For example, the expectation of resettlement can directly affect courtship strategies, dowry payments, and couples' decisions regarding having children. Guidelines of UNHCR and/or resettlement countries play a considerable role in these decisions, as do rumours about marriage certification and difficulty in finding suitable partners in the West. In some instances, marriage becomes a business arrangement to secure resettlement. Refugee status denial sometimes has a negative impact on marriage, with spouses blaming each other for performing badly at the status determination interview, leading in some cases to violence and divorce. Sudanese youth with denied refugee status have particular difficulties as their hopes for a brighter future are dashed and with it their prospects of a normal family life.

Résumé

Cette étude, basée sur la recherche ethnographique, examine comment la détermination du statut de réfugié et le processus de réinstallation dans un pays tiers influencent les pratiques en matière du mariage dans la communauté de réfugiés de Soudanais du sud vivant au Caire. L'étude a démontré qu'en raison de leur incapacité d'atteindre l'intégration socio-économique dans la communauté d'accueil et de l'insécurité grandissante de l'environnement du Caire pour les réfugiés, beaucoup de Soudanais du sud ont dû revoir leurs pratiques traditionnelles entourant le mariage ainsi que leurs valeurs familiales afin de satisfaire aux critères d'éligibilité pour la réinstallation et pouvoir accéder à une vie meilleure. Par exemple, l'espoir de la réinstallation peut directement affecter les stratégies pour faire la cour, les paiements de la dot et les décisions des couples quant au fait d'avoir des enfants. Les directives du HCR et/ou des pays de réinstallation, ainsi que les rumeurs concernant la certification de mariage et la difficulté à trouver des partenaires convenables à l'Ouest, jouent un rôle considérable dans ces décisions. Dans certains cas, le mariage devient un arrangement d'affaires dans le but d'obtenir le droit de réinstallation. Le refus du statut de réfugié a quelquefois un impact négatif sur le mariage, avec les époux se reprochant mutuellement d'avoir fait mauvaise figure à l'interview de détermination de statut, menant dans certains cas à la violence et au divorce. Les jeunes soudanais, à

qui le statut de réfugié a été refusé, présentent des difficultés particulières, vu que leurs espoirs d'un avenir plus brillant sont anéantis et avec cela leurs perspectives d'une vie familiale normale.

Introduction

"Who can be added" through marriage to the file of a person recognized as a refugee under the United Nations High Commissioner for Refugees (UNHCR) mandate in the context of Cairo's considerable refugee population has become a security and livelihood issue for the exiled southern Sudanese community, who are on the margins of and unable to integrate into Egyptian society. Reservations entered by Egypt to the UN Convention relating to the Status of Refugees (1951) severely restrict refugees from exercising their socio-economic rights.¹ Refugees, even if born in Egypt, are not eligible for citizenship. The Four Freedoms reciprocal agreement signed in 2004 ostensibly granting Sudanese and Egyptian nationals freedom of movement, residence, work, and ownership of property in each other's countries is yet to be fully implemented. As a result of these constraints, at the time of this study, third-country resettlement was seen as the only durable solution for this group of people. Voluntary repatriation was not a feasible option until January 2005 with the conclusion of the comprehensive peace agreement between the Sudanese government and the Sudan's Peoples' Liberation Movement.² Furthermore, in the aftermath of the attack of September 11, 2001, the outlet of resettlement to Western countries was practically suspended, which created a huge backlog that was not cleared until 2004. This resulted in a larger, more visible Sudanese refugee population in Cairo, in turn leading to a series of police raids and detentions. The situation of the Sudanese refugee community in Cairo was further exacerbated by the earlier 1997 UNHCR urban refugee policy, which limited assistance and promoted self-reliance of urban refugees on the basis of budget cuts, and not on protection issues.

Although the Canadian and Australian embassies in Cairo do resettle around one thousand closed file cases per year through their private sponsorship and family reunification programs, official recognition by UNHCR under the Refugee Convention for the most part is required to meet the resettlement criteria. Thus, marriage to someone eligible for resettlement has become one of the only remaining options for those who fall under the local integration category or for closed file cases to qualify for resettlement.³ The quest to be "added" amid the insecure and hostile environment of Cairo is beginning to impact marital relations.

This paper considers the effects of refugee status determination (RSD) and third-country resettlement processes

on the marital strategies, rites, and customs of the southern Sudanese refugee community in Cairo. There is a paucity of academic research on the subject of refugees living in large urban agglomerates in the developing world. Previous studies of marriage among Sudanese populations have focused on how displacement in general has influenced marriage practices, rather than on specific variables such as RSD and resettlement procedures. By adding a different dimension using an "urban refugee" framework, this study aims to contribute new information and insight that will complement existing refugee literature, as well as stimulate interest in refugee issues that require further exploration. Furthermore, this research hopes to offer UNHCR and its resettlement partners in Cairo a more full-bodied understanding of the impact their policies have on the culture and behaviour of refugee communities, and subsequently this paper attempts to inform policy.

This paper is based on research that was conducted in Cairo over a six-month period in 2003 under the auspices of Forced Migration and Refugee Studies Program of the American University in Cairo. The study yielded qualitative data from semi-structured interviews with twenty-two southern Sudanese men and women; interviews with UNHCR, embassy and NGO officials; and participant observation.⁴ The research findings are analyzed under the different stages of the marriage cycle, namely: Courtship and Choice of Partner, Dowry Payment and Marriage Ceremonies, Marital Life and Children, and Divorce and Remarriage. Here the term "refugee" is used in its broadest sense at times to include "asylum seekers" and "displaced persons" who are living in refugee-type situations. Pseudonyms have replaced the real names of the refugees cited in this paper.

Southern Sudanese Refugees in Cairo

Between 1998 and 2005, UNHCR Regional Office in Cairo (RO Cairo) received a total of 78,916 asylum applications, of which 32,996 were recognized and 19,409 were resettled to a third country. From 1998 to 2002, the overall recognition rate fluctuated between 24 and 42 per cent, rising to 63 per cent in 2003. The marked increase in the recognition rate was linked to RO Cairo's decision to apply a wider interpretation of the Organization of African Unity (OAU) Convention definition in the RSD process. Presently, those accepted under the Refugee Convention are eligible for resettlement, while those accepted under the OAU Convention are settled in Egypt. At the end of 2005, there were 18,946 refugees registered with UNHCR in Egypt. The majority of the recognized refugees were from Sudan (71 per cent) and Somalia (21 per cent). The remaining 8 per cent was composed of some thirty-three other nationalities, mainly from Africa.

The gender ratio of the refugee population was 61 per cent male and 39 per cent female; 34 per cent were children under the age of eighteen. There were also 11,000 asylum seekers registered with RO Cairo (mainly of Sudanese origin), whose refugee status had yet to be determined.⁵

Egypt is state party to the 1951 Refugee Convention and its 1967 protocol as well as the OAU Convention of 1969. Despite Egypt's formal commitment to refugee protection, the country has no domestic refugee legislation for governing asylum and has essentially delegated RSD and the welfare of refugees to UNHCR. At the time of this study, applying for asylum in Cairo could take up to fourteen months, as the UNHCR was overburdened and underfunded.⁶ Currently, the whole process takes about three months, as RSD has been suspended for Sudanese. The suspension of RSD for Sudanese started in mid-2004, pending the outcome of the peace agreement. Presently, Sudanese applicants are registered and granted temporary protection.⁷

RO Cairo provides recognized refugees and Sudanese asylum seekers with medical care and educational grants for their children. Only the most vulnerable refugees and asylum seekers receive small monthly subsistence allowances. Refugees who meet the established resettlement criteria, such as the inability to integrate locally, extreme vulnerability, or protection problems that cannot be resolved in Egypt, are referred to one of RO Cairo's resettlement partners, which include the US, Australia, Canada, and Finland.⁸ As UNHCR recognition guarantees some level of assistance, protection, and the possibility of resettlement, it is not surprising that at the evaluation of a mental health workshop held in Cairo in 1999 for refugees and their caregivers (the catalyst for the workshop being the attempted suicide of a Sudanese man after being denied refugee status) that I helped organize and evaluate, refugees ranked application for RSD and resettlement to UNHCR and embassies as the most stressful experience facing them in Cairo. It exceeded even the daily struggle for livelihood.

In Egypt, refugees are not housed in camps, but live in rented apartments dispersed throughout the impoverished areas of Cairo where they join the host community in competing for limited services and jobs.⁹ However, refugees are unable to access subsistence, work, state education, and national health care on the same basis as nationals because of reservations entered by Egypt to the Refugee Convention.¹⁰ Furthermore, as Egyptian citizenship is granted by way of the patrilineal bloodline, refugees and their children, even if born in Egypt, are unable to attain citizenship.¹¹ Despite the passing of a ministerial degree in 1992 granting refugee and asylum-seeking children access to state schools, this has not been realized due to linguistic and cultural

differences, bureaucratic barriers, and absorptive capacity. Some 4,200 refugee children attend informal schools run primarily by churches. These schools are operating at full capacity and are unable to accommodate all refugee children. It is estimated that 1,200 refugee and asylum-seekers' children living in Cairo are not in school.¹²

Refugees can only secure jobs in the informal economy where they are often subject to exploitation. Most of their disposable income is used to cover rent costs, as refugees are charged high foreign rent rates, which leads to overcrowding and ultimately poor health.¹³ Refugees' UNHCR allowances combined with their income are still insufficient to meet their basic needs.¹⁴ Women are able to find work more easily than men. Many Sudanese women work as housemaids for Egyptian families, while their husbands stay at home looking after the children. Meanwhile, for the men, who are accustomed to being the breadwinners in Sudan, the reversal in gender roles has put severe strain on marital relations. Some women have had to resort to prostitution and the illegal brewing of alcohol in order to supplement the family's income in order to survive.¹⁵ In addition to these hardships, African refugees in Cairo are often subject to police checks and arrests, and for those with closed files there is the constant threat of being detained and the possibility of deportation back to Sudan.¹⁶

Owing to the vast cultural and religious differences between southern Sudanese and Egyptians the likelihood of their integrating into Egyptian society and attaining a sustainable livelihood is extremely low. For these reasons, the preferred durable solution for this group in the past was resettlement to a third country.¹⁷ In fact, in 2001, the US expanded its resettlement program in Cairo "primarily to address the needs of the southern Sudanese refugees in Egypt"¹⁸ However, heightened security checks in the aftermath of the attack of September 11, 2001, practically put on hold refugee resettlement from Cairo, which only resumed to previous levels after several years. Consequently, the already overstretched UNHCR had even more people to assist with the same amount of resources.¹⁹ The effects of the earlier 1997 UNHCR urban policy, which resulted in their becoming even more marginalized and impoverished, further compounded the situation of refugees.²⁰ The delay in resettlement also resulted in a larger, more visible refugee population in Cairo, which led to more frequent and intense police raids and detentions.

In 2003, the police became more overtly discriminatory; nearly two hundred Sudanese, most of them southerners, were picked up from the streets in a two-day roundup, referred to by the police officers involved as "Operation Track Down Blacks." Most of those arrested were under the protection of UNHCR.²¹ These raids were preceded by an

article written in an Egyptian newspaper the previous week entitled “The Flood of Africans and Asians Who Steal the Bread from the Mouths of Our Unemployed Youth.” The article claimed, “Most of them deal in drugs or practice immoral activities” and come to Egypt because it is “believed to be a secure place where there is no religious or racial discrimination.”²² Still, this article and the police raids must be examined against the backdrop of Egypt’s ailing economy, high unemployment rates, and spiraling population growth.²³ This situation was exacerbated by the refusal of Western nations to burden-share and open their doors to large numbers of refugees in the aftermath of the September 11 attack.²⁴

It was in this climate that my visit to Cairo in April 2003 took place, and during informal discussions with the Sudanese community, where the themes of marriage, RSD, and resettlement kept cropping up, I became increasingly aware of their interconnection. The impact that these processes were having on marital life became clear to me as I attended a school party and watched a play held there. Under the title “Who Can Be Added,” a group of Sudanese children acted out a series of sketches on how to “add” people to a UNHCR-recognized file. Each scene on how to “add” revolved around a marriage theme such as a hastily arranged marriage that included a payment for the privilege of marrying someone with a recognized file; a hastily arranged divorce that allowed a new marriage to someone accepted by the UNHCR; or the pretence that a second wife was a sister in order that she could also be resettled with the rest of the family. Hence the title and subject for my research study was born.

Courtship and Choice of Partner

Although the southern Sudanese are a wide ethnic mix of people, they share some similarities when it comes to choosing a marriage partner. The three common characteristics they share are exogamy, pre-arranged marriages, and polygamous marriages. As the southern Sudanese marry to build alliances and create social ties with other families, the parents and extended family are very much involved in the choosing of a suitable marriage partner for their children.²⁵ Although a few of the refugees I spoke with said that RSD and resettlement did not influence Sudanese refugees in Egypt when it came to choosing a partner, most of the interviewees believed that they were interconnected to a greater or lesser extent. The attitudes towards the scope and depth of the influence varied among the research participants. “To me it doesn’t matter if someone is accepted by UNHCR and will travel, but to others it really makes a difference,” one young refugee man told me. “In my experience only some families look to marry for this resettlement,” said another refugee woman.

The refugees I met with went on to tell me about the courtship strategies developed by some of the Sudanese youth in Cairo in relation to RSD and resettlement. Godfrey, a thirty-three-year-old single man who came to Cairo in 1989 to study medicine on an Egyptian scholarship for Sudanese, and was unable to return to Sudan due to war, described the courtship “policy” being adopted by some of his friends with closed files:

People like us [with closed files] who have been in Cairo for a long time and who are exhausted from the life here look for a girl who is UNHCR accepted. You approach a girl who has recently come from Sudan so as she does not get the impression that you are after her for her UNHCR status. You then try to start a relationship before she applies to the UNHCR. If she gets accepted then you can make the commitment and be added to her file and travel abroad. Not all do it this way, others they wait and find out who has been recently accepted and then they begin the courtship. But sometimes if the girl gets accepted she will get rid of you and add another. It depends on how much you have convinced her of your love.

However, single young women have also developed some strategies of their own in their quest to be “added.” Although pre-marital sexual relations and pregnancy bring shame and dishonour for a southern Sudanese girl and her family,²⁶ several of the interviewees said that this was happening more in Egypt than in Sudan. Pio, a thirty-seven-year-old married man whose teenage daughter works for an Egyptian employer, described the reasons for this behavioural change:

Some of our girls are alone here in Cairo, often their parents have been killed in the war. They experience many problems with the Egyptians they work for. They are often insulted and beaten. Even some of our girls have been raped and thrown from the balcony. The Egyptian family then claims she killed herself. If she has been denied status then she gets desperate and begins to look for a boy who will travel. If she fears the boy is not really serious she will get pregnant to make it a sure thing. The boy then feels obliged to add her to his file.

Nonetheless, it must be highlighted that the reverse can also happen. The refugees I spoke with explained that some Sudanese girls are intentionally getting pregnant by boys with closed files, and one refugee woman explained the rationale behind this practice:

Sometimes a girl is in love with a man, but he a closed file, and because the family of the girl is also rejected there is no way out for them. They try and force her to marry someone else who is

UNHCR accepted. Sometimes the girl will just get pregnant to the one she loves, and goes to his house to live without the permission of the family.

Several of the interviewees talked about how some of the youth are marrying in secret without their parents' consent. The refugees were split in their opinion of how valid these marriages were. Several of them told me that some of the youth are genuinely in love, but because the family opposes the match, they elope. Others said the marriages were conducted mainly for resettlement purposes. However, it must be highlighted that the majority of those interviewed did not question the validity of marriages that had taken place with the consent of the family, whether the resettlement process was involved or not. Ronald, a forty-five-year-old married man who is often called to mediate marriages in his capacity as a community leader, said, "The UNHCR these days are saying many of our marriages are not legal, but they are. The couple, the relatives, the leaders and the priest all witness them."

Indeed, when I interviewed the Resettlement and Family Unity Officers²⁷ at the UNHCR RO Cairo, they informed me that anecdotal statistics from a combined recollection of UNHCR staff from the year before showed that the number of marriages whereby both the man and women were recognized was only two. Both also commented on the high number of youth who "add on" a spouse after being referred for resettlement, and because of increasing concern about malfeasance in marriage practices around such unions, UNHCR Cairo had decided to stop adding spouses after a refugee had been recommended for resettlement. This policy undermines new spouses' entitlements to medical care, financial assistance, and vocational training opportunities.

Celsius, a thirty-two-year-old man who recently married after being referred to the American embassy for resettlement, summed up the many comments made by the refugees about the reasons for doing the "add on" after being referred for resettlement:

Well you finally have something to offer a girl. You have the prospect of supporting the needs of a wife and family. Sudanese parents will not allow their daughter to marry a man with no future prospects. The people abroad write back and advise our boys are to marry before traveling to America. If you go single you can't locate a wife there to marry. Besides, the income for one is very low and you need the income of two to live in America. Also, that society is not like our society where you can move from house the house for company. You need to marry someone from your own culture to understand you.

The parish priest of the Sacred Heart Church in Cairo,²⁸ who in the past was responsible for writing all southern Sudanese traditional and church marriage certificates in conjunction with community leaders, shed some more light on the issue:

UNHCR recognition does not make refugees decide to marry. The Sudanese are socially obliged to marry. It makes them decide to marry at that point in their life. Many marry here in Cairo before leaving, as a wife will help them to live better in the West. It depends on the way they conduct the marriage that is the point whether it is real or not. If they try to escape the traditional process then the marriage is questionable. Most are solid marriages if done in the traditional manner. To make a marriage true in Sudanese culture is not the reason, but the process. Going through the family and cultural procedure makes it real.

Cross-Cultural Marriage Partners

Inter-ethnic and inter-religious marriage is often an indication of the level of tolerance and integration that has been achieved between two ethnic groups.²⁹ Almost all of the refugees I interviewed said that marriage between southern Sudanese and Egyptians was impossible, due to their vast racial, cultural, and religious differences. However, Peter, a thirty-eight-year-old single man who also came to Cairo in the later 1980s on an educational scholarship, cited more economic and legal reasons for such marriages not taking place:

To marry an Egyptian girl you need to be able to buy a flat and pay for the *Shabka* [Arab dowry of gold jewelry]. We southern Sudanese do not have enough money this, and even if we wanted, we Christian men cannot marry Muslim girls, it's against the law in Egypt. Also if you marry an Egyptian you forfeit your right to be resettled, and although your wife is an Egyptian your children are refused the nationality.

In fact, Joanne, a thirty-year-old married woman with two children, was the only person interviewed who said she knew of a marriage between a southern Sudanese and an Egyptian:

I've heard only of one such marriage between the two groups. The case of a Dinka girl married with an Egyptian man. His family accepted and we were very surprised from this. Later on we heard she had been accepted for resettlement by the Australian embassy, and that the only reason he married her was to go overseas. The Australian embassy then told them to settle here in Cairo and now he has left her.

Joanne went on to tell me that almost every day when she goes to the bakery the men serving behind the counter ask

her if she knows any Sudanese girls that would marry them, so they can travel to the West. The rift between the Sudanese and the Egyptian host society is being further exacerbated by the fact that African refugees are able to be resettled to the West, and poor Egyptians are not given the same opportunity.³⁰

However, Godfrey remembers a time when relations were less strained between the two groups and some inter-marriage did take place:

You know in the 80's when students came to Cairo on scholarships to study at Egyptian universities inter-marriage was encouraged by the Egyptian government. They thought these will be the future intellectuals of Sudan, and if we encourage them to marry Egyptians then our interests will be looked after. You know the Nile water comes from the Sudan and the Egyptians are scared one day we will stop it. So at that time many northerners married Egyptians and even some southerners now that I recall. Now they no longer encourage marriage between us.

According to Fábos, prior to 1995, the Sudanese could enter Egypt without a visa, and were eligible for special status in residence, education, and employment laws. But since 1995, these rights have been slowly eroded. Marriage between northern Sudanese and Egyptians, previously a common occurrence, is now on the decline. This highlights how, in such a short space of time, inclusionary and exclusionary policies can affect intercultural relationships.³¹ It will be interesting to see if the Four Freedoms agreement is ever fully implemented whether intermarriage between the two groups recurs.

In addition to marriage with Egyptians, the refugees spoke about a new style of marriage that began emerging several years back, whereby Sudanese boys with UNHCR acceptance began marrying Ethiopian and Eritrean girls with closed files. Initially all of the refugees said that these were not genuine marriages, but “business” arrangements. Evidently, the girls paid for the privilege of being “added” to the file, and, once resettled, they divorced. Nonetheless, more than half of the participants at a later point in the interview said they knew of several that were “real” marriages. Most agreed that this practice has now died out, as the UNHCR and embassies have become very suspicious of such unions. “Some of the real marriages have fallen victim to false ones. I knew of one such couple that even had a child, but when they applied to the Australian embassy they were rejected,” one of the refugee women told me. In fact this has become a major problem for Pita, a twenty-one-year-old Christian girl who is about to be resettled to America:

I'm accepted and I will travel soon, but my boyfriend is from Ghana and a Muslim. My family will not agree to the marriage. It has become very difficult for me to make the marriage and add him to my file. Even some of my friends keep asking is it a real relationship and I say yes.

Transnational Marriage Partners

There are a number of Sudanese men who, once they have resettled and established in the West, return to Cairo to marry. The refugees I interviewed cited several reasons for this practice. The importance of preserving Sudanese culture and identity through marriage with one's own group was mentioned by several of the research participants. Another, more practical reason given was the shortage of single young Sudanese women found in the West. This indicates that Sudanese refugee flows to the West are typical of most refugee resettlement patterns worldwide—male dominated,³² despite the fact that 80 per cent of the world's refugees are women and children.³³

Besides the scarcity in numbers, the males interviewed went on to explain how Sudanese girls in Canada and America had been “spoiled” by Western ideals and culture and were no longer considered suitable marriage partners. Celsius told me:

There are problems with our girls there [in the West], they have become like the American girls. They are demanding and disrespectful. How much do you have in the bank they ask? Can you provide me with this and that and so on. Newcomers to America cannot meet all these demands. It is better to save and come back here to Cairo and find a wife who can balance your life, and that is why I chose one lady from Cairo to marry before traveling.

Lawrence, a twenty-seven-year-old man who had been resettled to America in 1998, returned to Cairo in June of 2003 to marry a “good girl” from his village, thereby reinforcing the community's perceptions. As he stood there in his American-style suit, adorned with gold rings (an alien concept to Sudanese men), speaking in a Texas accent, I heard him warn the men at his wedding reception: “Our girls have become too Americanized. In America the women have taken the role of the men, the men the women, and the children are the heads of the households.” He pointed to his wife and advised the guests to take an “obedient” village girl. It turned out that his new wife had never actually been to her village in southern Sudan. She had been born in a displaced camp in Khartoum, and had been in Cairo for several years working as a housemaid, where she had obviously had to learn some tough survival strategies in negotiating the complex urban environment of Cairo.

Lawrence failed to recognize that he himself had adopted certain aspects of the American identity, and also to realize that his wife is not quite the naive “village” girl he imagines.

Shandy’s study gave a similar account of how Nuer men in America feel the women are too “corrupted” to marry.³⁴ Yet, her study fails to incorporate the female perspective. This omission, as demonstrated by the female respondents in the present study, highlights the importance of incorporating gender roles and relations into our theoretical framework from the outset of our research.³⁵ One lady said:

We hear the girls there are refusing our men. They know their rights and how to work for themselves. The men know that the [Sudanese] girls in America are intelligent, they know the banking and law system, and men have become afraid of their power.

The majority of the women interviewed were of the opinion that Sudanese women in the West were setting their sights on marrying the *Kawaga* [white man] or other Africans who are more established than the Sudanese newcomers, who will allow them more decision-making powers in the marriage and treat them with greater respect.

While they find it difficult to locate a suitable wife in the West, it appears that resettled southern Sudanese men are highly sought after by single young girls and their families in Cairo, in particular those with closed files. As Celsius stressed:

If there is a boy here who is not accepted and wants to marry your daughter, and along comes one who is already resettled, of course the parents are influenced by this. They are sure the one coming from America will take their daughter to a better place, and from there the daughter will send money to help them survive here in Cairo. This is what you would call a blessing for them.

Nonetheless, most of the refugees did not think that giving preference to these men was particularly dishonest. Mourto, a thirty-year-old refugee woman with three teenage daughters who has a closed file with UNHCR, summed up the majority viewpoint:

Life here for our young girls is very difficult. Many as young as 12 or 13 are working as maids in Egyptians houses and this is very dangerous for them, they could be beaten or raped at any time. The parents are desperate and have no way out but to send them to Egyptian houses to work. I have daughters of my own and when I think of their future life I cry. As parents we want to make sure our daughters will be safe and happy. Marrying your daughter to someone coming from the West is a way of escape from the life here.

Dowry Payment and Marriage Ceremonies

The dowry is the most important component of the nuptial process for all southern Sudanese tribes. The payment of the bride wealth (traditionally paid in heads of cattle) by the bridegroom’s family to the bride’s family validates the marriage with the principal objective of establishing the legal paternity of the future children. The dowry must always be paid, even partially, to legalize the marriage.³⁶ Due to war, displacement, and dwindling cattle herds, Sudanese refugees, whether in America, Africa, or Egypt, have adapted to the new context by substituting money for cattle and adding cattle metaphors to their dowry calculations.³⁷

Most of the refugees interviewed believed that the dowry system in Egypt was being further transformed as a direct result of the asylum-seeking process and third-country resettlement. The general viewpoint is that the dowry amount will not be reduced, but rather that the bride’s parents will usually allow a boy who will be resettled to forgo paying the first instalment or to pay a token amount, with the promise of sending the remaining balance when he gets to the West.

The only occasion when the dowry is not paid is when the boy is marrying an Ethiopian or Eritrean girl. “Instead the girl will give money to the boy in order he adds her to his file. It’s business,” one lady told me. Nonetheless, she told me later on in the interview that “sometimes the couple might genuinely be in love and of course the girl will not pay in that case.” Peter went on to explain how the money from such transactions is normally spent:

The boy usually gives it to his family to help them live here in Cairo. Or some send it back to their relatives in the camps in Khartoum to help them buy food and pay school fees. Even some use it to send to their brothers in Sudan to help them pay the dowry.

This statement was validated at a cultural celebration I attended in a displaced camp in Khartoum in August 2003. Three boys performed a play where they were all competing to marry the same girl, but none had money to pay the dowry. Two of the boys sought remittances from relatives in America. The third boy requested money from his relative in Cairo. To my surprise, it was the relative in Cairo who sent the money to the boy who won the hand of the girl. Perhaps this is because refugees in Cairo, due to their proximity to their homeland, still feel obliged to conform to cultural demands?

When I asked the refugees why Sudanese boys did not make such “business” arrangements with their own girls, Celsius, who is an accountant by profession, told me, “it’s a matter of financial capital. Ethiopians are working with the dollar, and can earn \$300 to 400 a month, while Suda-

nese are paid much less in Egyptian pounds.” When I further probed as to why this was the case, Celsius, who is a relative newcomer to Cairo said, “I don’t exactly know why.” However, Peter, who has been in Cairo for many years, provided more insight into the reason behind this discrimination:

The Ethiopians have been here since 15 years and have built up a monopoly there in Maadi where the *Kawagas* [white men] live. They insisted on being paid in dollars from those *Kawagas* right from the very beginning. Also they have this system when one leaves they replace them with one of their own people. The Sudanese mostly work with the Egyptians who pay them much less.

There also appears to be a certain amount of racial discrimination involved in hiring Ethiopian refugees as opposed to their Sudanese counterparts. Pita related an incident that happened to her when she went for an interview with an Egyptian lady: “The lady told me in my face. You’re too black, I prefer an Ethiopian who has lighter skin. They are less frightening for to the children.” Pita went on to tell me how absurd this was, as “the lady of the house was one of those ones Upper Egyptians and she was as black as me.”

In fact, these claims are borne out by the results of a self-reliance study commissioned by the UNHCR in 2003 that showed that out of all of the refugee populations in Egypt, the Sudanese are paid the lowest salaries in relation to the amount of hours they work, while Ethiopians receive the highest income.³⁸ This is a classical example of the ways in which refugee migratory flows are sustained by the social and cultural capital developed by refugees themselves.³⁹

Conversely, if it is a single girl who has been accepted by UNHCR, the consensus among the interviewees is that the dowry price will be raised. One refugee man went on to give me an example of his conviction:

I know a Sudanese man who met the parents of the lady he wanted to marry and they agreed on the dowry payment. He then asked for a 2-week period in order to gather money from his family to pay the dowry. However, when he went back after 2 weeks to pay he discovered the figure had gone up. When the man asked why, they told him well now the lady has been accepted by UNHCR. So it really makes a difference because they say now the lady has the upper hand and she is the one that is going to travel and she is the one to add him to her file.

For this very reason, several of those interviewed in the study told me that a girl who is granted refugee status does not say anything to her family, as she knows they will demand a large dowry from the boy, and that if he can’t pay they will refuse

the match. Thus some are marrying in secret and traveling without paying the dowry. Interestingly, Baak, a fifty-six-year-old community leader whose daughter tried to be “added” and travel without his knowledge, informed me:

Those boys who escape with your daughter without paying the dowry know they will eventually have to pay. We have developed networks with our leaders all over the West, and even in smallest village in Finland we can corner him for the dowry.

Evidently, the dowry price is always raised for those men coming from the West to marry in Egypt. Still, the refugees I spoke with did not think this unjust. As one of the interviewees put it:

Once a man comes from America or Canada to marry, the people say the man of the Western world has come with lots of dollars. So now one cow can go up to \$100, so many families ask to be paid 100 cows. He has to pay 30 cows up front and the remaining 70 they write on papers. If you come from the Western world they charge you uniformly. Each cow is worth \$100. Here in Egypt we ask 100 Egyptian pounds for one cow, so it is much less, but still uniformed. It is difficult for with those with closed files to pay even the 100 Egyptian pounds.

As well as the increased financial gain made from such matches, several of the research participants believed that a certain amount of community competition is attached to sealing these unions. Joanne, who is married to a Dinka man, told me, “in Dinka they give the girl to the man who brings the most cows. Now this has been replaced with UNHCR recognition and resettlement.” Godfrey also remarked that even the man’s country of residence in the West plays an important role in the proceedings:

They want them to be from America because they think this is the top country. In America they know there is money and this has raised the dowry price for such matches to be too much. America is the country that matters. It has become like a competition. Somebody came from America and married my daughter for such and such an amount. So when somebody else comes from America at a later date some parents will try and marry their daughter for a larger sum. My daughter is better. This is the mentality.

Then again, several of the refugees remarked that it is not just the problem of getting your daughter out of this country, but also of finding a good person to marry her. “The parents need to know the family. Is this man going to treat our daughter and sister well? It’s not only about resettlement,” one woman added.

It must also be noted that marriage for competition to the highest bidder is not new to Sudanese culture. According to Deng, “bride wealth brings honor to the family, the greater level the cattle, the greater the honor.”⁴⁰ Furthermore, one of the main purposes for paying the marriage dowry is to establish social alliances that will create new avenues of assistance that can be used in the event of future shortages.⁴¹ Also, as the dowry is shared between the bride’s extended family, it is seen as a way of sharing wealth among the community.⁴² Thus, strategies employed by parents to marry their daughter to the highest bidder, and to the man that can provide the best future for her, are seen as a perfectly normal state of affairs for the southern Sudanese. Moreover, who is to say what is the more ethical, marrying for the greater good of the community, or marrying for individualistic gain, as some of the refugees I spoke to implied takes place in the West. Current ideologies of marriage in Western society equate love and romance with successful marriage, a perception obviously internalized by UNHCR Western staff and used when judging the authenticity of refugee marriage. Besides, can Western society really claim that economic factors do not come into play when it comes to choosing a marriage partner?

Nonetheless, when it comes to closed file cases, the community’s sense of fairness is not always so evident. The majority of those interviewed said it was practically impossible for a single young man with a closed file to get married. One refugee woman described to me some of the tactics used by the parents to discourage a marriage to a boy with a closed file:

If the boy is rejected they ask for a huge dowry. They also ask for a church wedding followed by a big party. Of course he cannot afford to pay for this. What this actually means is that they are saying no to that man, but not outright.

Hence, it is not coincidental that the four men with closed file cases who took part in this study are still unmarried. They all lamented about the many difficulties they have faced while trying to persuade Sudanese parents to accept their dowry offer, but to no avail. All of the refugees interviewed talked about how not being able to marry causes many psychosocial problems among the youth. Peter elaborated:

Some of our boys, especially those with closed files are becoming drunkards, they drink this Aragi [Sudanese beer], and some even takes drugs. They can see no way out. They can’t work, they can’t get an education, and when finally they are rejected for marriage, it brings depression and a sense of hopelessness. Many are very angry and fighting for very small things.

I witnessed this for myself in April of 2003 when attending a traditional wedding. During the ceremony itself, a knife fight broke out between two subsections of the Dinka tribe over the marriage. The next day, according to the community members I spoke with, the dispute had gone transnational. Through the mobile telephone and e-mail their groups were fighting in Kukuma refugee camp in Kenya, in the displaced camps in Khartoum, and in Chicago, where many members of the same clan had been resettled. While a body of literature highlights the positive effects of transnationalism, very rarely does it discuss its detrimental effects. More research on this topic would add an invaluable new dimension to the transnational discourse.

Marriage Ceremonies and Certificates

Through participating in a number of Sudanese wedding ceremonies, I began to realize that most of the church ceremonies were taking place between couples who had been married traditionally for many years. Furthermore, most of these ceremonies were conducted several days prior to the couple’s departure to the West. The majority of those interviewed believed that some of the couples genuinely wanted a “church blessing” to complete the union. The interviewees explained that in Sudan, the traditional ceremony is always carried out first, and the church marriage is conducted at a later date, when the entire dowry has been paid. In fact, the Sudanese refer to the church ceremony as the “the second part of the marriage.” However, the refugees I spoke with also added that the resettlement process was beginning to influence the timing of this event and making it more popular among the community.

It seems refugees in Cairo see the church ceremony as one of a series of religious, social, and cultural events that have become part of the ritual of resettlement developed by the Sudanese. One refugee man told me in a very emotional voice:

We have the church marriage here so as we can have an African style service with our brothers and sisters beside us. So when we are resettled we show our children our marriage video and say to them this is your people, this is what you are—you are Sudanese.

Ronald, who was about to be resettled to Finland, added:

The ideal time to have the church ceremony is right before resettlement because you can join the African way, and the Western way. Since you are going to the West, and this is the Western system you have to adopt it right here in Cairo.

In reality, my observations showed that the Sudanese seemed not only to have adopted African- and Western-styled marriage ceremonies and customs, but also some Arabic traditions, such as decorating their hands with henna for the ceremony [although I suspect they would vehemently deny it given their aversion to all things Arab, as a result of the long civil war in Sudan between the Arab north and the African south]—a classical example of a “borderzone of multiple contextual identities.”⁴³

I also suspect that the southern Sudanese use these many cultural events as instances of “resistance to exclusion and discrimination in a hostile environment.”⁴⁴

Although it is not legally the case, a few of the refugees were under the impression that a church marriage certificate was a UNHCR and embassy requirement. Without this document some believed they could not be resettled. Rumour also has it that a church marriage somehow helps refugees access employment, education, and social services in the resettlement country. One refugee lady remarked:

I believe the church marriage certificate helps you find jobs there, and also for us to admit our children into church schools, and for us to be accepted by the American and Canadian people as they are Christian countries.

By far the most talked-about stimulus for the church marriage is the refugees’ perceptions, based on hearsay from the Sudanese diaspora, of how resettlement in the West is impacting Sudanese marriages. “Some couples do not trust each other and think the other will leave them when they are resettled,” one man stated. This fear was voiced more by the male participants than the female ones. Celsius, who had recently married in church, summed up the many comments made by the male research participants concerning this subject:

Some [Sudanese] have the impression that when you go to the West having been married in church that it will bind your wife to you and prevent divorce. Sudanese men especially are afraid their wives will leave them because they hear that the Sudanese women in America have adapted quicker to the life there and that their husbands can no longer control them. There, if you just look at your wife in the wrong way she can dial 911 and the police come and take you away to prison. Our women are told this in the orientation classes here in Cairo. For these reasons, many of our men are insisting their wives marry them in church before leaving.

This emerging custom is a marked difference from traditional practice as, according to Deng:

Sudanese husbands feel it necessary to have a test period of married life before the marriage is confirmed with Christian celebrations. The wife, in turn, becomes insecure and apprehensive and tries to put pressure on the husband to marry in church.⁴⁵

Furthermore, some of the grievances voiced by most of the male respondents appear to be justified, given Duany’s findings regarding her experiences with southern Sudanese refugees in America. The study claims that cultural orientation for Sudanese being resettled to America is not accurate or helpful. Evidently, some Sudanese couples find it difficult to understand and cope with the new setting, and without the support of their families and leaders, some women call 911 asking for assistance to solve their marital disputes, and on occasion the police believe it is an abusive situation and take the husband to prison.⁴⁶ There is obviously a need to disseminate more accurate information to the refugee community in Cairo about UNHCR and embassy policy concerning marriage verification, and for the International Organization for Migration to ensure their cultural orientation curriculum is understood in the context of the resettlement country.

Marital Life and Children

Almost all of the refugees interviewed believed that RSD and resettlement procedures were causing many marital problems among the Sudanese refugee community in Egypt. As might be expected, most of the disputes seem to arise when a couple receives a denied result from the UNHCR. However, one of the refugees described how some of the marital discord emerging after rejection actually stems from the RSD application procedure:

Usually when newcomers arrive they go and take a form from the UNHCR office. The queue is very long and they only give out a set number of forms per day. After some days people get fed up waiting and because women are able to access the office more easily than men, often the women are the ones to collect the slips. So she becomes the main applicant, even if it is not her case. But when the result becomes negative, the husband accuses the wife of stealing his case and of being dull and of not talking well at the time of the interview. Each one starts to blame the other, some even insult each other and physically fight.

Attitudes regarding the severity and length of the marital conflict as a result of a negative decision varied among the interviewees. Deng, a 36-year-old married man with two children, reflected on his own marital experience on receiving a denied result:

As a human being you should always have hope when looking into the future. So when you get rejected and you realize you will have to stay in Cairo you begin to see the kind of life that is in front of your children you lose hope. Also your wife keeps blaming you for the rejection. She talks and talks about it until you become short sighted and this is when the anger and violence comes. You know in Sudan women don't talk, but here in Cairo they are talking more than enough when it comes to UNHCR rejection. Because of this constant talking, I reacted very strongly to my wife and we fought for many days after we were rejected. We abused each other verbally and even we beat each other too much. After some time we calmed down and we both apologized and now things are good, now we have been accepted by the Canadian embassy for resettlement.

In fact, in a few extreme cases some of the marital fights initiated by a denied result have resulted in serious injury to one of the parties involved. The refugees spoke about the case of a wife who stabbed her husband with a knife when he told her they had been rejected by the UNHCR. Several refugees also cited a more extreme incident wherein a Sudanese man killed his wife because she was about to leave him for someone who was UNHCR accepted.

While the refugees agreed that most couples reconcile and stay together, as was the case with all of the married refugees who took part in this study, there was growing concern among those interviewed about the increase in alcoholism, domestic violence, and in some cases spouses leaving their partner for someone with UNHCR acceptance in order to be resettled.

Several of the refugees (both men and women) lamented about how men who have been abandoned and left to take care of their children in Egypt are not given the same priority by the resettlement embassies as women who are in similar situations. In the words of one refugee man:

A close friend of mine his wife left him after their file was closed and now the man is left here just moving around from house to house with his children. To my mind these men are not given the same consideration by the UNHCR office and resettlement embassies as women in the same situation. You hear of many of these women being resettled under the special program at the Canadian and Australian embassies, but I know several men who did not even get a reply.

This corresponds to some of the more recent literature on gender that claims that so much attention had been given to the plight of women that men are often ignored as gender beings when it comes to UNHCR and NGO policy.⁴⁷

Finally, many of the interviewees were concerned about how the increased marital tension connected with RSD and

resettlement was affecting their children. Ganniko, a twenty-seven-year-old married man with one son, who teaches at one of the informal refugee schools, narrated a story that reflected many of the sentiments voiced by the refugees on this subject:

One day I was walking around the school compound and entered into a classroom where the teacher had not arrived. I listened into a conversation between some of the children. We are traveling next year to Canada one said, Oh we are going to be added to the file of so and so and travel another said. One girl in the group said, we have been rejected and began to cry. You know even the very small children in the kindergarten use this UNHCR street jargon, *Edafa* [addition], *Shakoushed* [hammered – a term used by the refugees to mean closed file]. Sometimes I ask the children where is your father. They say my father was added to another woman's file and traveled. It makes the children upset and stressed and sometimes they become psychologically ill from all of this UNHCR and resettlement talk.

Family Planning Decisions

Traditionally, the Sudanese believe the purpose of marriage and sexual relations is to beget children. The success of a Sudanese marriage is judged by the number of children a couple produces. Hence, Sudanese women are expected to become pregnant directly after marriage. If she fails to conceive the husband has the right to divorce her or take another wife.⁴⁸ According to Bates these Sudanese cultural values naturally oppose birth control.⁴⁹ Only two of the males interviewed said that RSD and resettlement had no influence on such decisions, it was according to the couples' own traditional and religious beliefs. Still, it is important to note that these men are single and have little insight into the family planning strategies of Sudanese couples. In fact, most of the refugees I interviewed agreed that RSD and resettlement processes were playing a significant role in altering family planning practices among Sudanese in Egypt. It seems couples can make quite radical family planning decisions based on their understanding of how RSD and resettlement operate. "There is a rumor that the American INS lawyers favor married couples with children and this is the very reason why my cousin got pregnant," Joanne told me. Godfrey, in his capacity as a medical doctor, gave quite an extreme example of how such rumours can sway a couple's decision:

I know of a girl who came from the Sudan and applied to the UNHCR. In the meantime she got married and became pregnant. The community advised her not to inform the UNHCR she was pregnant. The people [Sudanese] told her your husband

was rejected by the UNHCR a long time ago. If you tell UNHCR the truth, and they discover your husband has a closed file, they will reject you. You know the people say it is better for a girl to be single, you can be accepted under this single women category. So they came to me for medical advice, and as much as I tried to dispel this belief, they went to a clinic and they aborted the child. Luckily she was ok as this is a dangerous procedure here in Cairo. Later she was accepted by the UNHCR and added the husband and they traveled.

The general consensus among the interviewees was that those with closed file cases are postponing having children, while those with UNHCR recognition continue to have as many children as they want. However, there are some exceptions to the rule, as one refugee lady pointed out:

If the woman is the one working and it is her case they were accepted under then she can refuse to have more children, even if the husband wants to continue. He cannot insist. He is afraid she will get angry and ask him to leave the house and then what will he do without any money? She might even decide to divorce him and add someone else to her file. So he keeps quiet.

Achol, a 42-year-old married woman who works as a health practitioner at one of the refugee health clinics in Cairo, also suggests that the timing of a pregnancy is an important aspect for those being resettled:

A pregnancy can delay the resettlement process as you have to take time to make the new addition to your file so some couples are reluctant to have children near the scheduled departure date. I had a lady in my clinic that was kept here in Cairo for nearly 3 years because of all the delays caused by the 11th of September attack. In the meantime, she got pregnant and this further delayed the process. The husband was so angry because the pregnancy delayed them even more that he beat her.

Evidently this is a marked change from traditional Sudanese values, whereby it is considered a disgrace for a man to beat his wife because of her reproductive importance.⁵⁰

Undoubtedly, family planning becomes more of a concern to those without UNHCR recognition. Baak, who is often called upon in his capacity as a community leader to mediate in marital disputes about family planning, summed up the many comments made by the refugees concerning birth control in relation to closed file cases:

Some couples who are wise will stop having children because in Egypt the women are the ones working, while the men stay home looking after the children. We already struggle to pay the

rent and feed our children. Bringing another child will only bring more financial problems. Also men can't look after small babies. The husband sometimes has little say in the marriage now, because it is the women who are making the money and they have a much stronger voice in family planning matters. Also, the health clinic only helps those with closed files for one pregnancy, after that no more assistance. It's the China policy. That's why we men are forced to accept contraception, especially if there are no prospects of resettlement."

Still, a few of the refugees remarked how the decision to use birth control was not always an amicable one. Joanne described her own experience on receiving a denied result:

When we got rejected, I wanted to use contraceptives, but my husband refused for religious reasons. So I said to him you go to the other bedroom then, and he agreed to this. But not all men accept such things. Some of our men are still refusing to practice family planning even though they have a closed file. You know they went there to the clinic and fought with the medical staff. They said to them you are the ones giving our wives pills and we don't want these things.

What's more, Mourto once again talked about the concerns she had for the future of her children and highlighted that the decision not to have children is not entirely based on financial needs:

Every day the Egyptians are shouting *Bonga* [name given to a chimpanzee in an Egyptian TV program] and *Samara* [Black] and spitting at our children on the street. There is no safe place for them to play. There is no future for their education. Some leave school at a very young age to work in Egyptian homes where they can be treated badly. If we complain to the police they do nothing about these cases. Instead they take you to prison for not having the legal residency. Even the police take our children from the streets. In January of this year [reference to Operation Track Down Blacks] they took women and children from the street and some stayed in prison for two weeks before being released. Our children are psychologically damaged from all of this bad treatment. I said to my husband when we got rejected, it's better not to bring more children. I can't watch them suffer like this.

Divorce and Remarriage

Apparently, divorce among the southern Sudanese is a very rare occurrence, as marriage is seen as a political institution and not a function of romance or sexual desire.⁵¹ However, many of the refugees interviewed said that divorce was on the increase among the Sudanese refugee community in Egypt. Although a closed file and all the hardships that

accompany it can eventually lead a couple to divorce, another catalyst for divorce among the refugee population appears to be the refusal of Western countries to resettle refugees who are in polygamous marriages. As one refugee man succinctly put it:

The resettlements embassies run along Western lines. The one-man one-wife concept prevails. Men are forced to choose only one wife to add to their file, and are obliged to divorce the others in order to be resettled. For sure this causes many families to break-up.

There seems to be no set pattern as to which wife the husband chooses to “add” to his file. Some take the youngest wife, while others choose the eldest wife. Apparently others add the one they have the most affection for. The refugees I interviewed described the different strategies adopted by the family to try to get the other wives added to file in order that they can be resettled with the rest of the family. Some men register the elder wife as their legal spouse and the younger as a daughter. Others try to add their wives as dependent sisters. As this approach is not always so successful, some will divorce and the wives will open their own file at the UNHCR and the embassies. The refugees were aware that these strategies were dishonest, but in their opinion they had no option but to lie, given the harsh living conditions and high levels of racism encountered on an almost daily basis on the streets of Cairo.

As might be expected, the question of which wife and children to “add” becomes a contentious issue. Achol, who regularly counsels women in the health clinic that she works at, described the factors that come into play when making such a decision:

It’s a problem for the man as he has to do what is best for the family long term, and at the same time he feels accountable for the other wives and children left behind. Sometimes he takes the elder wife, sometimes the youngest one. Some of the wives fight of course, but they usually agree for the sake of the children. The relatives and community leaders start getting involved and make the wives agree. What the community recommends is that all the children from all of the wives be added to the file. You know it is our custom for the father to have custody of the children. Sometimes there are too many children and the UNHCR will become suspicious so in that case some of the younger children stay with the mother while the older ones go as they can work there and send money back.

Several of the refugee women who spoke with me added a new aspect to the community leaders’ role in “persuading” the wives to conform. They claimed that in the dis-

placed camps in Khartoum they were often called to participate in the community councils to solve marriage disputes, but now in Cairo they have been excluded. The reason given by the women for this change in custom was that most of the community leaders have more than one wife and they don’t want the women to be party to the discussions and decisions made in the community councils in Cairo lest it jeopardize their resettlement chances. In the setting of Khartoum, resettlement was not an option, and it was in the man’s best interests to stay married to all his wives because of their combined earning potential. These findings tie in with Abdulrahim’s study, which showed how in the new context of Berlin, Palestinian women were returned to a more conservative way of life, in contrast to the freedom of movement and voice they had left behind in the refugee camps in Lebanon. What’s more, the practice of polygamy, which had virtually died out in the camps in Lebanon, became more common in the context of Berlin where Palestinian men began to take German women as second wives in order to guarantee citizenship.⁵²

While most of the interviewees said that the husband and wives will finally come to an agreement regarding who is to be “added,” a few mentioned that some women will go to the UNHCR and embassies to complain, as happened in Natalina’s case:

My husband chose to add me to his file and we were supposed to travel to Finland, but the other wife became mad from this and caused many fights in the house. She went to the UNHCR office and sabotaged the whole case and we were told to settle here in Cairo. But now she regrets this when she sees the suffering of her children.

In the meantime, Natalina’s husband divorced her and she applied to the UNHCR and was denied status, but has since been accepted by the Australian embassy for resettlement under its single women at risk program. It must be stressed, however, that this process can take several more years, and not all of these women are fortunate enough to be resettled.

The refugees I met with talked at great length about the difficulties that the wives left behind face living on their own in Cairo. Ironically, Natalina, who complained bitterly to me about the other wife “sabotaging” her case, went on to describe the many problems these women have to contend with:

Because the husbands did not add them to their files they don’t get any money from UNHCR. Most work as day maids with Egyptians, but the salary is very little and many of these husbands are not sending money back. If they don’t have any

relatives in Cairo she has to lock the children in the apartment and go to work. This is very dangerous for the children and many have had accidents. I know one eight year old girl who was left caring for a baby and she tried to heat milk to feed the baby and it fell on the baby and burnt it very badly.

Several of the research participants said that most of these women take the oldest girl out of school to take care of the younger children as they do not have time and money to send all the children to school. This corresponds to Dingemans's study that linked poor attendance of Sudanese refugee children from one-parent families with poor school attendance.⁵³

The physical and psychological effects of leaving children unsupervised were discussed at great length by the interviewees. One refugee man revealed how being locked inside for long periods of time can affect child development:

One woman I know locked her children inside every day for a year. These children were psychologically disturbed, misbehaving and crying all the time and throwing themselves on the floor and urinating on the floor. I witnessed this myself and it was disturbing to see.

Achol also cited another more extreme example of a child who presented at her health care in urgent need of emergency medical treatment:

One woman in Ain Shams [district of Cairo] who was left here with her children while the husband traveled to America with the other wife was locking her children inside when going to work. One day two Egyptians came and asked the children to open the door. They sent the oldest boy to get them something from the shop and when he went they raped the girl and she was only 8 years old. The mother could not go to the police as she has no legal papers and they might deport her or put her in the prison. The Sudanese know the police will do nothing about these cases.

Some of these women eventually have to resort to prostitution or the selling of *aragi* [Sudanese beer] in order to make a living. Still, brewing illegal alcohol is not without problems. In the words of one refugee woman: "Some of these drunkards who come to buy *aragi* can beat the women and her children. The Egyptian police ask for tips and sometimes sexual favors from the women, and if they refuse, they take them to prison." Nearly all the interviewees spoke about the rape of two Sudanese women, one of whom was four months pregnant, by a gang of Egyptian men, which had taken place in an apartment in Cairo in 2002. Apparently, these women were brewing and selling alcohol

and the men were able to enter their apartment on the pretext of wanting to buy beer. Because these women were closed files with no legal residency they did not report the incident to the police. Seemingly, many of the women left behind eventually remarry for protection reasons.

According to the refugees interviewed, a good number of these women are eventually resettled under the humanitarian program, often under the women-at-risk category of one of the resettlement embassies. Moreover, most of these cases have been processed twice at great financial cost to the UNHCR and resettlement partners. However, the biggest cost has been the human suffering borne by the refugees themselves, in particular women and children. Interestingly, some of these women are eventually reunited with their husbands and continue to live in a polygamous marriage in the West whether it is legal or not.

Concluding Remarks

The findings of this study show that RSD and third-country resettlement have played a significant role in influencing the marriage practices of the southern Sudanese refugee community in Cairo. Lack of local integration prospects and the increasing insecurity of the city of Cairo for refugees have caused many Sudanese to resort to extreme measures, even fraud, in order to be added to a UNHCR-recognized file through marriage to qualify for resettlement. Although these measures have allowed some refugees to escape to a better life in the West, they have also negatively impacted marital and family relations. There is an urgent need for Egypt to withdraw its reservations to the Refugee Convention to allow refugees to be able to attain a greater level of socio-economic integration into Egyptian society.

Furthermore, UNHCR and resettlement embassies in Cairo should realize that:

fraud occurs because of lack of opportunities for refugees. If local integration were a real possibility for a larger number of the world's refugees, we would expect to see less fraud around resettlement. Resettlement is not just an option—it is an urgent escape route to safety and dignity.⁵⁴

The findings highlight yet again the extreme vulnerability of urban refugees, and in particular those with closed files cases. The study also shows how refugees' perceptions and understandings of how the RSD and resettlement processes operate, based on hearsay and rumour, can drastically alter the behaviour of some couples. There is an obvious need for the UNHCR to disseminate clear and accurate information concerning its operations to the refugee community. The refusal of Western embassies to accept refugees for resettlement who are in polygamous marriages is

another policy that needs revising, especially given the fact that many of the women left behind in Cairo from polygamous marriages eventually end up being resettled to countries where the practice of polygamy continues, whether it be among the recently arrived refugee community, or among Mormon citizens as is the case in America.

In addition, this research gives many examples of the different needs and vulnerabilities of both southern Sudanese refugee men and women in the context of Cairo. This underlines not only the importance of incorporating a gender dimension into research studies from the outset, but also the necessity for a proper gender analysis of the context and situation, in order to ensure that the RSD process and assistance programs are gender sensitive. Indeed, Obi and Crisp in their study of urban refugees in New Delhi recommended that the new urban policy be based on the principles of "People Orientated Planning."⁵⁵ Nonetheless, it must be highlighted that the actual design of the POP gender training and analytical framework must be examined in relation to gender discrimination in the RSD process and assistance programs. According to March *et al.* one of the main downfalls of the POP framework is that it looks at what men and women do separately, rather than concentrating on the relationship between them—ignoring men as gender beings.⁵⁶ If this is the case, it might be better for a more appropriate gender analysis tool to be designed and adopted by UNHCR and NGOs.

More extensive studies that incorporate the different transnational experiences of refugees living in the displaced camps in Khartoum, the urban environment of Cairo, and those resettled in the West would provide a more in-depth comprehensive picture of the extent of the influence that RSD and third-country resettlement are having on southern Sudanese marriage practices. Furthermore, studies that look at both the positive and negative aspects of transnationalism in relation to marriage would also add further insight into the debate and complement existing refugee literature.

Postscript

In the last quarter of 2005, some three thousand Sudanese refugees and asylum seekers began a three-month long sit-in at a public park near the UNHCR office in Cairo. The protestors rejected voluntary repatriation and local reintegration as durable solutions on the grounds of the continuing political instability in Sudan, in particular Darfur, and their inability to attain a sustainable livelihood and access to basic services in Egypt, and sought resettlement to a Western country. On December 30, 2005, the protest was ended by the forcible removal of the protestors by five thousand Egyptian riot police. During the evacuation of the park

twenty-seven persons were killed (including twelve children) and many more were injured.

Notes

1. Refugees in Cairo do not enjoy many socio-economic rights provided for by the Refugee Convention partly due to Egypt's reservations to some of the key provisions of the Convention, namely Articles 12 (1) (Personal Status), 20 (Rationing), 22 (1) (Public Education), 23 (Public Relief) and 24 (Labour Legislation and Social Security). A refugee's right to work is regulated by Egypt's foreign employment law. Employers must obtain a work permit to legally employ a refugee, as for any foreigner. A permit is very expensive and is only granted if no Egyptian is found to fill the post. As Egypt's unemployment rate is running at 20 per cent, it is practically impossible for a refugee to find work in the formal sector and be granted a work permit. In my ten years' experience of working with refugees in Cairo, I only ever met one refugee who was granted a work permit.
2. The January 9, 2005, peace deal between the Sudanese government and the Sudan People's Liberation Army ended Africa's longest-running civil war and created high hopes for refugees from southern Sudan living in neighbouring countries to return. The continuing instability and lack of infrastructure in southern Sudan and the present violence in Darfur have meant refugees have been reluctant to return. The number of refugees repatriated from Egypt to Sudan in 2005 was only sixty-five.
3. A "recognized refugee" is a person who has been accepted by UNHCR or a government to meet the refugee definition. "Asylum seekers" are persons applying for recognition of their status as refugees. "Closed file" or "rejected file" refers to asylum seekers whose applications have been denied refugee status by UNHCR at the first instance interview and on appeal and are therefore no longer considered under the protection of UNHCR. At the time of this study, the refugee community perceived UNHCR recognition as being linked to resettlement, as RO Cairo mainly used the 1951 definition of a refugee in its RSD process. Thus most of those recognized as refugees were eligible for resettlement. In April 2003, UNHCR decided to apply a wider interpretation of the OUA Convention definition. Now, those accepted under the Refugee Convention definition are eligible for referral to a resettlement partner, while those accepted under the OUA definition are locally resettled, as the resettlement countries are not parties to the OAU Convention and do not accept refugees who fall under this Convention for resettlement.
4. Snowball and opportunistic sampling were used to select research participants. Some elements of quota sampling in terms of age range, gender division, tribe, and marital and UNHCR status were also introduced. The in-depth interviews lasted on average ninety minutes and were conducted in English, Sudanese colloquial Arabic, Juba Arabic, and Balandi. Of the twenty-two research participants, fourteen were men and eight were women (from different tribes and religions). Also,

- thirteen were married, five were single, four were divorced, and three were in polygamous marriages. As well, eleven were recognized refugees, five were asylum seekers, and six were closed file cases. It is important to note that findings in qualitative studies cannot be generalized to other populations or even to the wider population from which the sample is drawn, but as displacement is a shared experience, it is feasible to make some valid observations about the impact RSD and resettlement are having on southern Sudanese marriage practices.
5. UNHCR Egypt Statistical and Country Reports 2005. These figures do not include the seventy thousand Palestinian refugees who are registered with the Egyptian authorities and are of concern to UNHCR.
 6. S. Sperl, "Evaluation of UNHCR's Policy on Refugees in Urban Areas: A Case Study Review of Cairo," Geneva: UNHCR Evaluation and Policy Analysis Unit, 2001/07, 1–59, <www.unhcr.ch> (accessed March 2, 2003).
 7. UNHCR Cairo Country Report 2005.
 8. "Information Booklet for Asylum Seekers and Refugees in Egypt," (UNHCR, 2003), 1–15.
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 11. H. Fábos, "Marriage, Sudanese-Style: Transnational Practices of Citizenship and Gender-Making for Sudanese Nationals in Egypt," *North East African Studies* (New Series) 8, no. 2 (2001): 277–301. Up until 2004, Egyptian citizenship was a gendered phenomenon. Fathers alone had the right to transfer citizenship. Now Egyptian women can pass on their citizenship to their children.
 12. UNHCR Egypt Country Report 2005.
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 14. "Information Booklet for Asylum Seekers and Refugees in Egypt," 4.
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Transnational Somali Families in Cairo

MULKI AL-SHARMANI

Abstract

In this article, I examine how diasporic Somalis in Cairo experience being part of transnational families. I analyze two practices through which transnational family relations are maintained, experienced, and negotiated: (1) living arrangements of relatives and management of family affairs and (2) the use of the Internet and videotapes. I argue that transnational families make collective decisions about which family members live together, where, and what their family obligations should be. However, although maintaining interdependent transnational families is crucial for the survival of family members, it has its tensions and challenges because of the competing interests and dreams of individual members. I examine these tensions and how they are negotiated by family members who live together in Cairo but share resources and family obligations with relatives living elsewhere. In short, this way of being and living in which individuals and families partake as they are physically separated in different nation-states has its uneven consequences and challenges for different Somalis depending on their legal statuses, education, gender, and identity claims.

Résumé

Dans cet article, j'examine la façon dont les membres de la diaspora somalienne du Caire vivent l'expérience de leur appartenance à des familles transnationales. J'analyse deux pratiques par lesquelles les relations familiales transnationales sont maintenues, vécues et gérées : (1) les conditions de logement des parents proches et l'administration des affaires familiales ; et (2) l'utilisation de l'Internet et des vidéocassettes. Je soutiens que les familles transnationales prennent des décisions collectives quant aux membres de la famille qui doivent vivre ensemble, le lieu où ils doivent vivre et ce que doivent être leurs obligations familiales. Cependant, malgré le fait que le maintien de familles transnationales interdépendantes soit

crucial pour la survie des membres de ces familles, cela comporte des tensions et des défis à cause des intérêts divergents et des aspirations individuelles de chaque membre. J'examine ces tensions et la manière dont ils sont gérés par les membres de la famille vivant ensemble au Caire, mais partageant des ressources et des obligations familiales avec des proches parents vivant ailleurs. En bref, cette façon d'être et de vivre où les individus et les familles vivent en partage, tout en étant physiquement séparés et éparpillés dans différents états nations, a des conséquences et présente des défis qui sont différents pour chaque Somalien selon son statut juridique, son niveau d'éducation, son genre et ses revendications identitaires.

Introduction

With the advent of the civil war in 1991 and the collapse of the Somali state, a large number of refugees fled to Cairo from the homeland as well as from neighbouring Gulf countries. Most of those refugees and their families resettled in North America, Europe, and Australia by the mid-nineties. Since the late nineties, Cairo has attracted again a diverse group of Somali refugees from neighbouring countries such as Libya, Saudi Arabia, and Yemen as well refugees from Kenya and Somalia. Refugees who arrived from other host societies fled the homeland either in the late eighties or in the early nineties with the collapse of the state. Currently, the number of these refugees is 3,609 including recognized refugees and asylum seekers.¹ The main reasons that were given by the refugees who left other Middle Eastern countries to come to Cairo were lack of a legal residence status, fears of deportation, and experiences of harassment and racism in daily encounters with government officials, employers, and other members of host societies. Moreover, many of these refugees were attracted to Cairo because of a shared perception that the office in the city of the United Nations High Commissioner of Refugees (UNHCR) resettled many Somalis in Western countries.

The reasons that many Somali refugees pursue resettlement in the West can be partially explained by the dreams

of legal citizenship, employment, and a better standard of living—something that many migrants to Western countries aspire to. But seeking resettlement in the West for Somali refugees can be better understood if we also examine how these refugees are an integral part of a network of transnational interlinked families and communities whose members pool resources, debate, and make collective decisions about the future of different members living in different nation-states. Refugees in Cairo depend on their transnational families and communities for livelihood and securing a better future for themselves and their relatives. They invest in this transnational support system by sharing a variety of resources (e.g., money, housing, information about different host societies, and family obligations such as taking care of children, elderly relatives, or invalid family members).

The advantages and the limitations of what resettlement in the West has to offer are ever more real for the refugees in Cairo as they share the city with an increasing number of Somali families who are citizens of Western countries and who have moved to Egypt since the late nineties. Although there is no official number of this latter group of Somali émigrés, my count, which is based on tallying individual families between 2001 and 2003, indicates that the number is a little over two hundred families. Refugees aspire to the benefits of the status of this higher class of diasporic Somalis who are holders of Western passports that ensure them mobility and eligibility for residence in different nation-states. On the one hand, refugees desire the advantages of Western citizenship as they observe Somali Americans or Europeans obtain and renew residence in Cairo as Western nationals and rent or buy apartments in new middle-class neighbourhoods with the economic assets that they acquired from employment in the West and running small trading businesses in the Middle East. On the other hand, the limitations of Western citizenship, which have not helped Somalis in Western countries escape the lives of racialized and economically marginalized immigrants, are stories that are recounted again and again to refugees by their fellow Somalis who moved from the West.²

Transnational Families: Family Support and Tensions

Almost all Somalis in Cairo are part of families whose members live in different nation-states, but who are interdependent for their livelihood and well-being. In addition to sending and receiving remittance money to and from one another, family members are involved in each other's lives in significant ways. For example, the living arrangements of most refugee and émigré families demonstrate a mechanism

through which family members in Cairo and elsewhere are interconnected through ties of obligations and expectations. By making collective decisions about who lives with whom and where, relatives across nation-states share the burdens of securing livelihood, the rearing of children and younger siblings, and providing care for the elderly and the invalid in the family. Yet these transnational practices of maintaining families create tensions between different family members who have to negotiate their individual needs and aspirations as well as what they deem to be in the best interest of the family. In what follows, I will present ethnographic examples of practices of maintaining transnational families and their inherent tensions.

Nuriya is a thirty-year-old unmarried refugee woman who moved to Cairo from Somalia four years ago. Since her arrival, she has been living with her aunt and cousins. Her aunt is an émigré who has recently moved from Canada with her three small children, while her husband and an older daughter live and work in Toronto. Before Nuriya's arrival in Cairo, her parents made arrangements with her aunt to provide a home for Nuriya during her stay in Cairo to pursue refugee status and resettlement possibilities in the West. Her aunt agreed. In fact, she considers her taking care of Nuriya as her familial obligation. She is also grateful that her brother, Nuriya's father, has been taking care of their elderly mother and younger siblings in Somalia. Nuriya's aunt relies on her to do the housework and child care, especially during her frequent trips to North America and other Middle Eastern countries. Nuriya does not get paid for the housework and childcare, which both she and her aunt perceive as the familial duty of a younger dependent relative towards her older relative and guardian. However, Nuriya receives from her aunt a monthly allowance of 50 Egyptian pounds (LE) for her personal expenses (e.g., Internet costs, transportation fare, etc.). Her aunt also pays for her weekly Arabic and English classes, which cost LE 40 a month.

While Nuriya, her aunt, and their family members in Somalia and in the West depend on one another for their livelihood and well-being, there are tensions that are felt by some family members who feel that they are giving a lot more than others and who resent that their individual needs and aspirations are being sacrificed because of their obligations towards their transnational families. Nuriya voices such feelings. She appreciates that her aunt supports her and even helps her pursue some education, but she feels that her aunt benefits a great deal more from the free long hours of housekeeping and child-care services which Nuriya provides for her family. Moreover, since she has been rejected by the UNHCR for resettlement in the West, Nuriya has been unsuccessfully soliciting support from her

aunt and other family members in the West and Gulf countries to finance the costs of her being smuggled to Europe. Her aunt refuses to contribute to her travel costs, and argues that it is a risky endeavour and is not the right time because there are a lot of family in Somalia who need her financial support. Nuriya's parents as well as two other aunts who live in Dubai are also not supportive of funding Nuriya's travel to the West. Nuriya, however, argues that her being trapped in Egypt with no future is detrimental not only to her future but also to that of her family. If she resettles in the West, she argues that she will be able to work and remit money to the family.

Nuriya also complains that because most of her time is spent in caring for her aunt's family she is unable to work as a domestic worker, which would help her save money. She has looked into the possibility of moving out of her aunt's place and sharing an apartment with three female friends who work as domestic workers. Nonetheless, Nuriya is fearful of angering her aunt and the rest of the family. She is not sure either how much she can save even if she finds work as a domestic worker since she will be expected then to remit some of her income to her family in Somalia. She is also concerned about the stigma attached to the job of a domestic worker. She says that, although living with her aunt is not helpful to her in the long term, at least she perceives herself and is perceived by others as living with her own family in a nice house:

My heart feels sad when I run out of money to buy women's pads [sanitation pads]. I do not see future for myself. When I go to the English or Arabic class I think of my life. I don't work. I have no money. I have no future, no husband. I am stuck here. But my friends who work [as maids] have difficult life. They have to work for other people and feel humiliated. Their life is not better. I have no future. But I live with my family. I don't work for someone else. People will not look bad at me.

Nuriya's aunt, on the other hand, while appreciative of her niece's help with the housework and child care, feels that she, too, is carrying a big share of the family's burden by supporting Nuriya as well as remitting money to her extended family in Somalia. She has to juggle her obligations towards her extended family and those towards her husband and children. The aunt feels that her extended family often does not appreciate her support and financial sacrifices. Carrying out these responsibilities towards her extended family often creates tension between herself and her husband, who wants her to put their children as a priority. He continues to remind her that they have not been able to purchase an apartment in Cairo, unlike some *émigré* families, because she shares their income (from his

job and her trade business) with her extended family. Thus while maintaining interdependent relations with family members within and across different nation-states is seen by Nuriya and her aunt as both a familial duty and a necessary livelihood strategy, both are conscious of the tensions and challenges that arise from competing interests and aspirations of different family members.

The practices of sharing residences and familial obligations between relatives in Cairo and in other countries also have their mixed consequences for refugee families. This is illustrated in the case of Abdullahi and Adan, two young male refugees in their early twenties. When they first arrived in Cairo from Somalia five years ago, they moved in with their married female cousin and her five children. Family members who were sending money to the brothers and the married cousin were involved in making these living arrangements for their relatives in Cairo so that they could consolidate family resources. The two young men's sister remitted them US\$100 a month from Holland, while the cousin's daughters send her and their younger siblings US\$200 from Saudi Arabia. The young men and their cousin shared rent and food expenses. Meanwhile, the cousin provided her younger relatives with food and house care. Financially, the living arrangement worked well for the young men and their relative. After paying their share of the rent, the brothers had some money left to spend on the Internet and in coffee shops. The married cousin also benefited from the financial assistance. Also, this living arrangement helped relatives in England and the United States to share other familial responsibilities such as sending remittance money to extended family in Somalia.

However, the brothers eventually differed with their older cousin on how to spend some of the money that was remitted to them. On the one hand, Abdullahi and Adan felt that paying LE 50 a month on renting a television was important to improve the quality of their daily life in which they had no jobs or opportunities for pursuing formal education. On the other hand, the young men's cousin thought that they were squandering a considerable sum of money on a useless pastime instead of looking for work as tutors. Eventually, the disagreement resulted in the two brothers' moving out and rooming with six male friends. Yet, this conflict did not merely arise from the brothers' and their relative's different notions of how to make use of family resources. It was also related to a larger issue that had to do with the young men's frustrations with how family members in different nation-states (such as their sister in Holland, their maternal uncle and aunt in England, and other relatives in Somalia) were excluding them from decisions that impacted their lives because they did not contribute to the financial support of the family. For example, it was their

relatives who decided who they should live with and how much money they needed. When Abdullahi and Adan moved out of their cousin's house, their sister was so unhappy that she decreased their remittance money to US\$50. Most of all, the relatives repeatedly turned down Abdullahi's request for financial assistance to pay for the costs of his clandestine travel arrangements to Italy via the Libyan borders.

In the course of the last two years Abdullahi met a Somali woman from Denmark on the Internet and they got engaged. His fiancée sent him US\$3,000, which he used to travel to Italy via Libya. After short imprisonment in Libya and a frightening sea journey in a small boat that took him from the Libyan to the Italian coast, Abdullahi managed to enter Italy. A few months later, he moved to Holland. He is currently applying for asylum in Holland where he is staying with his sister. His fiancée has also come to visit him. Despite their disagreements, Abdullahi still maintains close ties with his family. In addition to living with his sister in Holland for the time being, he e-mails his cousin in Cairo. Last year he sent money to both his brother and his cousin's family on the occasion of the holy month of Ramadan.

Again Abdullahi's and Adan's relations with their family illustrate both the significance and the challenges of being part of an interdependent transnational family. On the one hand, families become an important support system for sustenance and for sharing familial obligations. On the other hand, some family members feel that their own needs and dreams are undermined in decisions that are made by more powerful members about family resources and movement of relatives.

In short, examples of such practices of maintaining interdependent transnational families are numerous in the lives of both refugee and émigré families. For instance, a young divorced mother who works in England sent her child to Cairo to be taken care of by her elderly mother and young cousin who arrived from Somalia. The mother remits money to her family in Egypt and in Somalia including her cousin's mother. Another mother lives in Cairo with her children and her mentally ill twenty-year-old brother. While her husband, who lives in Saudi Arabia, does not send her any money since he married a second wife, her brother and older sister who also live in Saudi Arabia remit her a monthly sum of US\$100. The siblings feel obligated to support their sister, and are appreciative that she has undertaken the responsibility of taking care of their sick brother after the death of their parents. In other words, through practices of sharing particular living arrangements, resources, family obligations (e.g., child rearing and caring for the sick and the elderly) within and across nation-states Somalis in Cairo reproduce their ties with their

transnational families and share resources with other family members.

Yet the practices of maintaining and making claims to transnational familial ties are not free from tensions and conflict among different family members as their needs, dreams, and desire for decision-making powers clash. It is often those family members who are most vulnerable because of their financial dependence and their unmarried status that feel these tensions. Many of the single men and women who depend on remittances from other family members for their livelihood feel marginalized in the decision-making processes that take place within their families. Furthermore, their unmarried status often contributes to their undermined status in the family since they are seen as inexperienced and lacking major family responsibilities such as child rearing. Ironically, most of these single individuals (particularly the women) do a lot of child care for family members with whom they live. Their pursuit of individual dreams such as travelling and starting their own families are seen by some family members as selfish acts that negatively impact the collective efforts of family members to remit money to those relatives who are most in need or to care for the sick and the elderly in the family.

It is often these marginalized family members who (more than others) see the Internet as a medium that enables them to fulfill several important needs. First, they use the Internet as a communication tool through which they negotiate their relations with different family members. Second, daily on-line chatting with fellow Somalis all over the world enables them to become part of a larger community of Somalis in which they feel they have more freedom and more voice, and in which their dreams seem more possible. In what follows, I examine the use of the Internet for family affairs and arrangement of marriages.

Managing Family Affairs through the Internet

Maintaining a transnational family is a necessity and a challenge for Somalis in Cairo. On the one hand, a transnational family life is a decision that more and more are opting for in order to maximize the well-being and strength of the family by pulling together the resources of different family members such as financial capital (e.g., income), legal status (permanent residence and citizenship), and social capital (e.g., education). On the other hand, the transnational lives of these families create tensions among individual members who face different problems and may have different goals. Decisions have to be made about the use of family resources and the wishes and goals of various members need to be prioritized in accordance with what is deemed as the good of the family. Understandably this results in differences and tensions among different family members.

For most families in Cairo the Internet provides an inexpensive and highly effective audiovisual mechanism through which relatives in different parts of the world exchange their news, have discussions, resolve conflicts, and make or influence decisions about use of family resources. In Ard il Liwa and Nasr City neighbourhoods where most Somali refugees live, there are dozens of Internet cafes that sell affordable Internet time to local residents at a rate of LE 2 per hour.³ Since Somalis settled in these two neighbourhoods, these Internet cafes have been attracting a large number of Somali customers.

E-mail and on-line chatting become important means through which different family members have discussions, air disagreements, and make the case for their plans and dreams. The most popular use of on-line capabilities is to have interactive audio communications in which family members in Cairo, the West, and other regions of the world talk to one another back and forth about family affairs. While this technology is particularly attractive to Somalis who are semi-illiterate or find difficulty with using the keyboard, even literate and well-educated Somalis like using the audio services of the Internet in order to have more spontaneous communication. Therefore, communications of Somalis on the Internet are combinations of written and oral interactions.

Parents, children, siblings, and extended family members routinely send and receive e-mails and pictures to and from one another. Communications among families focus on the well-being of different family members, the rearing of children, the use of financial resources that are pooled from different members, and important family decisions such as marriages and relocation in different host societies. Family disagreements are also aired in these on-line communications. For example, some older children are scolded for rushing into marriages before attending to family obligations such as helping with the relocation of a parent, remitters are criticized for being late with sending remittance money, children who dropped out of school or failed to find employment are reprimanded, and husbands are chastised for taking second wives.

One of the fundamental links that tie many transnational Somali families is the monthly remittance money that is sent from the West or Gulf countries to relatives in Cairo and the homeland. Recipients of remittance money, particularly single men and women, often feel pressure from their family providers to show that they are spending money wisely and are involved in planning for their future and that of the family. The Internet has become an important mechanism through which these family members resolve their conflicts with family members, demonstrate

their commitment to the family, and seek support from financially able family members.

Laila, a twenty-one-year old Somali single woman who lives with three female roommates, is a typical example of a young diasporic Somali who is part of a transnational family with whom she has strong financial and emotional ties as well as tensions because of their expectations and her individual dreams and plans for the future. Through regular e-mails, Laila maintains ties with her family: she shares her news and demonstrates her wise use of money and time in Cairo. Moreover, she participates in discussions about family resources and problems and negotiates for financial support for her future plans. Laila is supported by her maternal aunt who lives in Australia with her husband and children. Her aunt works as a housekeeper and remits US\$100 to Laila as well as another US\$100 to her elderly mother who lives with Laila's mother, father, and siblings in Somalia.

Since her arrival in Cairo from Somalia four years ago, Laila has been sending regular e-mails and often has interactive communications on the Internet simultaneously with her aunt and her parents and siblings. During her first six months in Cairo, Laila lived with her great-aunt and her children. Feeling that she would be more comfortable with young Somali women whom she has befriended, Laila decided to move out of her relative's house where she was not paying any rent but was doing a lot of housework. At first her aunt in Australia and her parents were not happy with her decision because of the financial costs and the lack of familial supervision in her new place. But Laila was adamant that living with her friends would give her time to study and find work.

Not wanting to alienate her family, Laila intensified her e-mail discussions with her relatives in Australia and Somalia. She regularly talked to them through the on-line chat services to explain and defend her decision. Shortly after moving in with her friends, she was able to enrol in free English classes for Somali refugees and obtain a part-time job as a babysitter for an American expatriate family. Her aunt and parents were reassured that she was being responsible and was able to pay her rent. Laila's e-mails to her family also had attached digital pictures of herself and her roommates in their apartment and in her English class to demonstrate to her family that she was leading a responsible and productive life in Egypt. Laila's aunt continues to remit US\$50 to her niece since the latter's job is not permanent.

While Laila has strong ties with her family and maintains regular communications with them, she feels that she is unable to pursue her individual plans and future because of her limited resources. This has created tensions between her and other family members. Like many young Somalis

in Cairo, Laila feels that there is no future for her in Cairo. She wants to resettle in the West where she believes she can build a future for herself with the benefits of citizenship, education, and employment opportunities. For the first two years after her arrival in Cairo, she relentlessly tried to persuade her aunt and her brother who live in the West to finance smuggling her into Denmark where her brother lives. Laila's family, however, feels that Laila should focus on pursuing resettlement through the UNHCR office in Cairo despite the high rejection rate among Somali applicants at the time (in 2001 and 2002). The family's decision not to support Laila's individual efforts to resettle in the West is influenced by other family obligations, concerns, and desires.

For instance, Laila's older brother who is living in Denmark wants to focus on resettling his wife and son, who have been living in Ethiopia for the past few years. Also, Laila's parents believe that financing the travel of her younger sister from Somalia to Cairo is a higher family priority since she is being repeatedly harassed by armed militia men in the market where she sells tea and cigarettes. Laila's aunt and main provider has also become disillusioned and hesitant about helping a family member resettle in the West after her twenty-year-old son quit school and became estranged from the family. However, Laila feels that her family cannot appreciate the difficulties of living in Cairo where she has no long-term opportunities and has to depend on remittance money and the occasional income earned from housekeeping and babysitting. Although Laila has been recently recognized as a refugee by the UNHCR office in Cairo, she is not eligible for their educational grant because she is more than fifteen years old. She is still waiting to go through a series of resettlement interviews with the UNHCR.

Love and Marriage on the Internet

The Internet is the main mechanism through which Laila and her family maintain and negotiate their ties. Laila regularly goes to Internet cafés to send e-mails and chat on-line with her family. She has even obtained permission from her American employers to use the computer at their residence when their children are taking a nap. But for Laila and many other Somalis who feel trapped in Cairo, the Internet is not only a means of connecting with family. It is also a way of imagining and aspiring to different diasporic lives as these Somalis debate their past and present and discuss their future with fellow Somalis living all over the world. Seeking marriage partners is one popular way through which many single Somalis plan for a different future.

For many who live in Cairo, the most desirable partners are those living in the West because marriages with such

partners provide opportunities for resettlement and a better future. One of Laila's roommates has "met" a Somali man living in Holland on the Internet, and they are planning to get married once he obtains his Dutch passport in few months. Marriage seekers in the West, on the other hand, are attracted to potential partners in the Middle East for two main reasons. Some believe that Somali spouses from the Middle East are more family-oriented and less individualistic than those who have lived in the West for a long time. Also some of the single people in the West work long hours and lack the social networks that can help them find suitable partners in their immediate environments, and thus they seek them instead on the Internet or in wedding videotapes sent by friends and family members from Cairo.

Young men and women who are seeking romantic relationships and potential marriage partners often use the following strategies: They log in to different chat rooms in which they engage in discussions with different male and female interlocutors about different topics. The topics vary but the most common ones focus on relationships between Somali men and women, family relationships, clan relations, and life for Somalis in different nation-states. Then if the person finds a potential partner among the participants in the discussion, he or she communicates with them separately. While by far this is the most common strategy used by many in seeking marriage partners, some Somalis (men and women) also post personal marriage advertisements in the matrimony section in Somalinet.com. There are also people who are set up by family or mutual friends and then establish a pre-engagement on-line relationship in order to get to know one another.

Although such matches may appear to be convenience marriages, it is simplistic to reduce them to relationships that are solely motivated by material interests.

While many young men and women seeking partners recognize that suitors living in the West provide them with much needed opportunities for a secure and better future, marriage seekers from Cairo stress the importance of many other requirements in potential spouses, which also reflect their opinions on pertinent issues to Somalis in Diaspora. For example, there are those who are interested in finding spouses who belong to the same clan. This is mostly true of those who belong to minority clans. Some marriage seekers are also interested in partners who are religious. Women are particularly keen on finding Somali men who take their family responsibilities seriously and do not use religion as a justification to take more than one wife. In what follows, I will give ethnographic examples of romantic and marriage relationships that have been established through the Internet. These examples demonstrate the challenges of single

men and women because of their transnational family lives in which they lack decision-making power, more access to family resources, and higher status within the family. Thus on-line courting, through which romantic relationships are established with desirable marriage partners, becomes a way for these young men and women to dream and (sometimes) realize a life in which they have financial independence and become more valued members of their families.

Abdi, a twenty-eight-year-old Rahanweyn man, was seeking to marry a religious Rahanweyn woman who lived and had legal status in Australia where his parents and younger sisters live. On the Internet, he met Rahma, a twenty-six-year-old Rahanweyn divorcee with two children who lived in Melbourne. Abdi feels that he has fewer doubts than he first did now that he has been having an eleven-month on-line relationship with his fiancée. He is also encouraged by the reports of his parents and younger siblings who visited Rahma in Melbourne. Although his parents would have liked him not to marry a divorcee, they reported to him that they felt better about the match because Rahma is from their clan and she made a favourable impression on them during the visit. Abdi admits that he sometimes worries that his future wife may have too much power in their marriage because of the legal security and the rights she enjoys as an Australian national. He says it bothers him a little bit when his friends tease him that Somali wives in the West have too much power. One of his friends told him that "if he does not behave, Rahma will call the police to take him away." However Abdi reassures himself that Rahma is "religious and humble as most Rahanweyn wives are." Abdi is also hopeful that his college degree and his good English skills will help him get a job quickly so that he will not feel dependent on his future wife.

However, not all Internet couples who are compatible manage to establish successful marriage relationships. Some relationships fail because of the lengthy period of paperwork that is necessary before the couple can be united in the West. Mahmoud and Khadra met on-line. She lives in Cairo while he lives in England. They are compatible in many ways and had a four-year-long relationship. They are both in their mid-twenties. Both are interested in pursuing their education. Khadra has been working hard to get a high school degree at an Al-Azhar school for foreign adult learners and has been taking English courses. Mahmoud works part-time and goes to college in England. Mahmoud's parents, who are working in Dubai, blessed the relationship and even sent an invitation visa to Khadra so that she could visit them. During her one-month visit to Dubai, Khadra and Mahmoud got married. When she returned to Cairo, they continued communicating via e-mail and by tele-

phone. Mahmoud started the paperwork with the British Immigration Department for his new wife's immigration. Meanwhile, he remitted her US\$100 every month. However, the paperwork dragged on for four years during which Mahmoud met another Somali woman in London. He wrote to Khadra and told her that he decided to marry this woman. Since he could not have two legal wives in England, he gave Khadra the option of staying in the marriage if she agreed to continue living in Cairo where he would visit her once or twice a year. Khadra opted for divorce. She said, "I want a real marriage not a man who sends me money and visits me once in a while." She felt bitter that she wasted four years of her life in this relationship.

In addition to using the Internet as a way of negotiating family tensions and seeking marriage partners, young men and women also use it as a window to a larger *Somali* world in which they can feel less dependent and less trapped. Ilham, a twenty year old, and her two female roommates go to the Internet cafés almost every day. Ilham and her sister live on US\$50 that is remitted to them by a brother living in Seattle. Their parents and the rest of their siblings in Somalia also depend on remittances sent by other siblings in Saudi Arabia. Ilham and her sister are often criticized by their siblings for not being able to live on US\$50, which the girls believe is insufficient. Ilham's sister recently got a job as a nanny for a Somali family from England in order to supplement their monthly income. The girls are not sure whether to tell their relatives about their new source of income.

Both Ilham and her sister explain that they feel trapped and helpless in Cairo without possibilities of pursuing education or planning for a future. That is why going on-line is a way for Ilham to become part of a larger and more open diasporic world. Ilham says that she enjoys learning about the lives of Somalis who live in different parts of the world. She reads posted pieces written by the visitors of *Somalinet.com* and *Paltalk.com* about different issues such as marriage, rearing children, work, and education opportunities in different host societies, and the lives of diasporic Somalis in various nation-states. She enjoys frequenting chat rooms where people talk about a wide range of issues such as clan divisions, the ongoing civil war, the latest in Somali music, gender relations, etc. Her hours on the Internet enable Ilham to inhabit a larger world of diasporic Somalis where different kinds of lives are possible. She says she is not necessarily focused on meeting a desirable marriage partner on the Internet, but rather uses the Internet to get more information about life in the West where she wants to resettle and to learn more about diasporic Somalis. She says:

It (the Internet) is a big world of Somalis. There are bad things but a lot of good things. There are some people who only get on-line for the sexual things or to insult other clans. I like to listen to different Somalis. They talk about education, work, the war, religion, marriage. I can now understand how Somalis in the West live and think. Some are educated and good. Others are bad and still think of clanism. Sometimes I learn things about Somalis in Cairo. I saw a picture of a woman who was very sick and needed help for her heart operation. I did not know that she lived in Ard il Liwa like me.

Ilham and many like her use the Internet to escape their feelings of frustration with their hard and limited life in Cairo and their lack of power and autonomy within their own families. The Internet becomes for them an accessible and effective means through which they imagine and experience a more open diasporic life in which they can connect with others who have made it to the West, and learn about the opportunities and the problems of Somalis in different nation-states.

In addition to learning about different aspects of diasporic lives that are possible for Somalis living elsewhere, some of these young people use this virtual space to assume different identities. Some males and females lie about their diasporic experiences, their legal status, and educational skills when they engage in on-line chatting with other potential romantic partners. Understandably the most commonly used trick is to claim falsely that one is living or has lived in the West and has a citizenship status there. Men and women explain that these kinds of lies make them more desirable marriage partners. Some of those who lie about their diasporic experiences admit that these kinds of lies cannot be maintained and argue that they are motivated by a desire to experience a romantic relationship in which they feel that they are desirable partners even if such relationships do not last. Others say that they hope that by the time they have to reveal the truth to their on-line romantic partners, they will have formed a relationship of love that will make it easy for their partners to forgive them. But there is an interesting group of people who say that they pretend to be what they are not as a way of imagining lives that they would like to have but cannot at the moment. For these people, it is not so much lasting romantic relationships that they are seeking but imagining different kinds of diasporic lives.

Thus, the Internet provides a mechanism through which individuals can discuss important family issues and resolve conflicts. It also creates opportunities for establishing romantic relationships with potential marriage partners in the West. This is particularly significant for young men and women who cannot get married in Cairo due to their financial and legal conditions.⁴ The Internet also creates a

more inclusive world for individuals who feel marginalized within their families and their current diasporic environment.

It has been well-documented that many diasporas use the Internet in communicating and maintaining ties with families and communities across the globe.⁵ In their ethnography of Internet use among Trinidadians in Diaspora and the homeland, Miller and Slater show that their informants succeed—through the Internet—in creating a transnational space that is distinctly Trinidadian.⁶ Extended families reconnect through e-mails and in on-line chats. Romantic relationships with other Trinidadians are pursued. Moreover, the religious beliefs and rituals of particular Trinidadian religious groups such as followers of the Apostolic Church and the Catholic Church are reaffirmed on-line. That is, the authors show how Trinidadians from different social classes and ethnic groups use a global resource such as the Internet to construct a Trinidadian identity to be shared with fellow compatriots.

Kadende-Kaiser and Kaiser also argue that Burundians in different nation-states make use of Burundinet, an Internet Web site established by diasporic Burundians, to create a transnational Burundi identity which Burundians, of different ethnic groups, can make claims to.⁷ The authors explain that diasporic Burundians who engage in on-line debates about this issue believe that the reformulation of such a collective Burundi identity is more viable on a transnational space in which people can have distance from divisive ethnic identities.

Somalis' uses of the Internet are similar in many ways to those of other diasporic communities. Through the Internet, Somalis in Cairo create a space in which they and their transnational families and fellow Somalis elsewhere in Diaspora become part of the same world. Inhabiting this common world enables Somalis to maintain family ties, negotiate tensions, impact family decisions, pursue new ties through marriage, and participate in the construction of a transnational community of Somalis. Moreover, the oral communications that take place between family members and among fellow Somalis in the chat rooms make this virtual Somali world more real.

Family Videotapes: Managing Family Affairs and Starting New Families

In addition to the Internet, videotapes are important means through which Somalis in Cairo interconnect with their families. Videotapes are being used by more Somalis to send and receive news from other family members, to share information about life in different nation-states in order to make informed decisions about relocation, and to arrange new marriages.

Videotapes of wedding parties are one example of how this technology is used to fulfill some of the above-mentioned purposes. There are two kinds of wedding videotapes. There are tapes that record wedding parties held by family members living in Cairo for couples who got married and are living in the West. To save on expensive costs of wedding parties, the newlyweds send money to their families in Cairo to have a wedding party for them. The families hold a party in Cairo and videotape it. The videotape is then sent to the couple who watch it with other friends and family members. Couples who finance their transnational wedding parties point out this practice not only appeases their relatives in Cairo but also demonstrates to their new spouses their strong ties with their families, a quality that is respected and valued by most Somalis. Such wedding parties are attended by many single women who hope to attract the interest of potential suitors among the friends of the couples. Many single men in the West also watch such videotapes to look for potential wives.

Some newlyweds and their families in the West also send videotapes of their wedding parties which were held in their host societies. These tapes are viewed by their family members in Cairo along with their friends and neighbours who might be looking for potential partners for themselves or their single relatives. In fact, a sizable number of marriages have been arranged between men and women living in Cairo and in the West by family members and friends who have shared videotapes of weddings in Egypt and the West.

In addition to recording wedding parties, families videotape different aspects of their daily lives to share their news with relatives living elsewhere, and in some cases to provide these relatives with information about life in a host society to which the relatives want to move. For example, some of the families in the West who want to move to Cairo to pursue better education opportunities for their children or to improve their socio-economic conditions send one of the parents or older children to Cairo on a fact-finding mission. The visiting relative videotapes his or her visit in Cairo, which includes encounters and conversations with different relatives, friends, clan members, and fellow Somalis who offer their perspectives on living in Cairo. The videotape also features different neighbourhoods where Somalis live and the area where the family will probably live. Such tapes are viewed by the families back in the West along with friends and other families who are interested in moving to Cairo.

For example, before Mohamed, a forty-year-old married man who works for a Somali *hawala* (an office that provides money-transfer services) in Sweden, moved his wife and children to Cairo, he visited the city in late 2002 to collect information from his relatives and friends. Using a video

camera, Mohamed spent three weeks in the city recording visits with relatives and Somalis living in Ard il Liwa and Nasr City. He recorded hours of conversations with his relatives and some of the Somalis he met in Cairo in which they discussed the benefits and challenges of living in the city. The tape showed people's homes, neighbourhoods, their friends, and daily aspects of their lives such as men gathering in coffee shops, women buying groceries, other women selling homemade food to Somali families, and children receiving tutorials in the Quran. Some of Mohamed's family members who live in Cairo took advantage of the opportunity and videotaped messages and requests to other family members living in Sweden and other European countries. I was informed by Mohamed's wife, who moved to Cairo with her children six months later, that the tape was viewed by herself and a wide circle of relatives on both her side and Mohamed's side of the family as well as friends and neighbours living in Sweden, Denmark, and the US. Mohamed's wife pointed out that the video was useful in giving her a vivid picture of life in Cairo. Videotapes such Mohamed's are very common and are sometimes made by relatives who are already living in Cairo and then sent to family members in the West who are considering moving to Egypt.

Another kind of family videotape that is shared by family members records the daily lives of new arrivals in the West. These tapes show the new apartments, neighbourhoods, workplaces, and schools of relatives who have settled in various towns in North America and Europe. The tapes are sent to family members in Cairo so that they can get a better idea of the lives of their families in Western countries. Such tapes are important means for family members in the West to convey to relatives in Cairo their success stories or to highlight their numerous responsibilities and share their concerns about the future of the children they are raising. Thus the tapes become a tool through which the senders attempt to convey particular messages to the recipients and influence family decisions about remittance money and movement of family members from one host society to the other. The recipients of these videotapes, on the other hand, make use of them not only as family communications but also as materials which they share with friends and neighbours to show off their family-based resources and to debate the benefits and challenges of living in the West and in Cairo.

Conclusion

I have argued that the living arrangements of most families in Cairo are planned practices through which family members in Egypt and elsewhere share resources (e.g., money, housing, benefits of legal status) and obligations (e.g., child

rearing and caring for elderly and sick family members). While sharing resources and obligations across nation-states creates and reproduces interdependent transnational families, family members have uneven access to resources and decision-making power. Financially dependent single men and women are those who feel most marginalized within their families. Thus such individuals have to negotiate conflicts and tensions arising from the same transnational practices that enable them and families to secure livelihood and share resources.

Transnational family ties are not only reproduced through the sharing of resources and obligations but also through sustained communication among family members. The Internet becomes an effective audiovisual communication tool through which families exchange news and debate family affairs. Unlike long-distance telephone calls, the Internet is an inexpensive daily tool of communication that is available to Somalis in neighbourhood Internet cafés. For single men and women, in particular, the Internet becomes useful in several ways. First, it enables them to engage in family debates to resolve disagreements with other family members, and to negotiate family support for individual plans and dreams. Second, these Somalis pursue on-line romantic relationships with desirable marriage partners (who live in the West). In fact, some of them succeed in entering into such marriages. While these on-line marriage arrangements cannot be reduced to mere relationships of convenience, they have their various limitations and challenges. Third, the Internet enables these young men and women to enter a space where they can imagine alternative diasporic lives that are more desirable than the ones they live. Through on-line discussions with fellow Somalis living in the West and elsewhere, they learn about how other diasporic Somalis live, what opportunities and challenges they face in different nation-states, and the common concerns of diasporic Somali communities in different parts of the world.

Thus the Internet is a world in which those refugees who feel marginalized within their families and in their current diasporic environment become part of a freer and more open world. It is interesting that this world remains one that is very much *Somali*, albeit heterogeneous. In other words, because the diasporic trajectories of these single men and women are shaped by those of their families and local communities, even when they seek (on-line) a way out of the limitations of their world, they do so within a space that does not escape the identity discourses that shape their ethnic diasporic world.

Videotapes are also widely used and effective in the management of family affairs across nation-states. Videotapes of family events such as weddings and daily lives in

new host societies are used by family members living in Cairo and elsewhere (particularly the West) to share family news, to arrange marriages for single relatives and friends, and to gather information in order to make decisions.

Brazier and Mannur argue for an important distinction between transnationalism and diasporas. They define transnationalism as the “flow of people, goods, ideas, and capital across national territories in a way that undermines nationality and nationalism as discrete categories of identification, economic organization, and political constitution.”⁸ Diaspora, on the other hand, according to them refers to the actual experiences of movement of people. That is, Diaspora is a “human phenomenon,” unlike the impersonal larger processes of transnationalism. I think this kind of distinction between transnationalism and diasporas overlooks the transnational practices that are the essence of most contemporary diasporic lives. In fact, a typical feature of diasporic lives is extensive and regular transnational networking and ties that often become necessary not only for the financial sustenance but also for the social and cultural survival of families and communities. Therefore, I think transnationalism is a relevant concept in the study of diasporic communities because it allows us to highlight the conscious and planned practices of family members in different nation-states to secure livelihood, maximize legal capital (for example by pursuing citizenship in Western countries through physical separation from other family members), and maintain social capital (e.g., by raising “committed” and “dependable” children).

In conclusion, Somali refugees and Somali Western nationals who live in Cairo are diasporic individuals who make use of transnational practices to secure livelihood for their families, to acquire social capital within their communities, and to resist marginalization by host societies and some of their ethnic communities. Yet, this way of being and living in which individuals and families partake as they are physically separated in different nation-states has its uneven consequences and challenges for different Somalis depending on their legal statuses, education, gender, and identity claims.

Notes

1. See *2004 Global Refugee Trends: Statistical Overview of Populations of Refugees, Asylum Seekers, Internally Displaced Persons, Stateless Persons, and Other Persons of Concern to UNHCR* (Geneva: UNHCR, 2005).
2. For in-depth analysis of the diasporic lives of Somali refugees and émigrés in Cairo see Mulki Al-Sharmani, “Refugees and Citizens: The Somali Diaspora in Cairo” (doctoral thesis, Johns Hopkins University, Baltimore, MD, 2004).
3. One US dollar is 5.8 Egyptian pounds.

4. Those who get married in Cairo live separately and hide their marriages from their families.
5. See M. Grang, P. Grang, and J. May, eds., *Virtual Geographies* (London: Routledge, 1999); C. Ho, *Salt-Water Trinis: Afro-Trinidadian Immigrant Networks and Non-Assimilation in Los Angeles* (New York: AMS Press, 1991); A. Markham, *Life Online* (New York: Sage, 1998); A. Rai, "India Online: Electronic Bulletin Boards and the Construction of a Diasporic Hindu Identity," *Diaspora* 4 (1995): 31–57.
6. See Daniel Miller and Don Slater, *The Internet: An Ethnographic Approach* (Oxford and New York: Berg, 2000).
7. See Rose Kadende-Kaiser and Paul Kaiser, "Identity, Citizenship, and Transnationalism: Ismailis in Tanzania and Burundians in the Diaspora," *Africa Today* 45, no. 4 (1998): 461–479.
8. Jan Evans Braziel and Anita Mannur, eds., *Theorizing Diaspora* (Malden, MA: Blackwell Publishing, 2003), 8.

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Refugees in Cities: The Politics of Knowledge

ELLEN LAMMERS

Abstract

Forced migration studies is a politically charged field of study. The phenomenon of forced migration challenges its researchers to tackle complex questions about the limits of gathering knowledge in the face of political interests and human suffering. However, explicit critical reflection on the politics of knowledge inherent in individual refugee research has been very scant. This article addresses some of the relevant issues, that is, questions of perspective and positionality, truth and representation.

Résumé

Les études sur la migration forcée représentent un champ d'étude politiquement sensible. Le phénomène de migration forcée présente à ses chercheurs le défi de s'attaquer aux questions complexes concernant les limites du rassemblement de la connaissance face aux intérêts politiques et à la souffrance humaine. Cependant, la réflexion critique explicite sur la politique de la connaissance inhérente à la recherche sur les réfugiés individuels a été très peu abondante. Cet article traite de quelques problèmes pertinents, c'est-à-dire les questions de perspective et d'angle de vue, de vérité et de représentation.

Perhaps more than other (sub)disciplines of the social and political sciences, forced migration studies enjoys a widely shared political engagement on the part of a great number of its academic practitioners. Many refugee researchers appear motivated by their political or moral principles. They aim at a critical evaluation of the controversial representations and dubious policies that define today's refugee regime, and endorse the notion that research into other people's suffering can only be justified if alleviating that suffering is an explicit objective.¹ While this exem-

plary politically engaged scholarship is something that refugee studies as a field can be proud of, what strikes me is that it barely goes hand-in-hand with an explicit critical reflection on the politics of knowledge and representation *inherent in individual research*. This is especially peculiar given that such issues have long been prominent in the social sciences and humanities. The workshop in Cairo that this Special Issue is based on brought out very clearly the host of ethical and methodological issues that complicate the practice of research in urban areas. Only three papers, though, addressed the thorny epistemological issues that accompany every search for knowledge—what can be known, who can know, how do we convey our knowledge?—and that acquire particular relevance in the politically charged context in which the creation, production, and dissemination of knowledge about forced migrants takes place.

I spent two and one-half years in Uganda (1998–2001), working with young men who fled war, insecurity, and the absence of future prospects in southern Sudan, the Democratic Republic of Congo, Ethiopia, and Eritrea. They had ended up living in Kampala and were thus labelled “urban refugees.” When I first went to Uganda, the literature on urban refugees was much scarcer than it is today. I decided on an exploratory study, looking at why young refugees came to Kampala, and how they secured their basic needs of food, shelter, and medical care. My primary focus, though, was to be on these young men's non-material or emotional well-being; on how their experiences of war, flight, and exile affected their identities and ambitions. At an early stage in my research, I learned that a major preoccupation of the young refugees was with the question “Who am I?” Their existential query became the main focus of my study.

In this article I will discuss some aspects of the “politics of knowledge” as encountered by me throughout the research process as well as during the writing-up.

Political Contexts and Political Narratives

I was admitted to Nsambya Hospital on 11/07/99. At my own request, I was discharged on 16/07/99. An Ethiopian friend warned me that those who had attacked me could bribe nurses to effectively poison me when they administered injections to me. It was for this reason that I chose to be discharged.

While forced migration is a humanitarian issue, it is first of all a political one. The politics involved are not something abstract or external, but rather pervade people's daily lives. Refugees unwittingly find themselves in a political minefield, and at the same time contribute to its construction. For one thing this is manifested in the nature of people's relationships—with other refugees, with Ugandan citizens, and with government, humanitarian, and UN officials. The statement at the start of this section is taken from an account by an Ethiopian young man relating the details of an assault he suffered close to his home in a Kampala slum. It is just one out of numerous illustrations which show that suspicion and distrust invariably were people's daily companions. Notably, people would always be extremely evasive about what they were doing or where they were headed (an infectious attitude: I soon caught myself answering in terms of "Oh, I'm just going down the road"). So-called friends would share very little information about themselves and it often struck me how little people who lived together in one house or room knew about each other. I remember talking to a group of Congolese girls who all lived together in one house on the outskirts of town and discovering that they did not know who among them still had parents alive in Congo and who did not. Of course one could positively conclude that, among friends, privacy was the accepted and valued norm. To a certain extent I think it was as simple as that: people were aware of the pain, and painful secrets that each of them carried, and wanted to avoid making friends feel uncomfortable by asking too many questions. Yet the silence about private issues was also caused by fear and trauma. Many refugees adamantly questioned the actions and motives of others, and incessantly expressed their concern that "others" were after them, that is, after their lives. I came across several instances where people were attacked on the streets (by both known and unknown assailants), robbed in their houses, threatened by security agents, arbitrarily arrested and detained by the police or, in the case of defectors from the Sudan Peoples Liberation Army (SPLA), spotted in town by their former commanders. But the fear and distrust were not necessarily or for all related to Kampala's "objective" security situation. I think of what Carolyn Nordstrom writes about Mozambique: "Worlds are destroyed in war ... Not just worlds of home, family, community, and

economy but *worlds of definition*, both personal and cultural."² For the young men, and especially for those who had just arrived in Kampala, things were no longer what they seemed: their memories of war, their insecurity, fear, and loneliness all fed a way of looking at things which from my Dutch point of view at times seemed hard to grasp, but which was in fact a normal response to so much existential confusion. Both the actual insecurity and the ever-tangible atmosphere of suspicion meant that for most people Kampala, their place of refuge, provided anything but the quiet and peaceful environment where they could get their breath back.

People were not only distrustful of other refugees or Ugandan neighbours, but also very outspokenly so of the UNHCR and the Ugandan government. As for the latter, both the Congolese and Sudanese refugees questioned the ability and willingness of the Ugandan government to protect them. Uganda's long-term involvement with the SPLA in southern Sudan, the very army that most of the Sudanese boys and young men in Kampala had fled or deserted, was a widely shared source of concern. Similarly, with the Ugandan army so heavily involved in the civil war in the Democratic Republic of Congo, many Congolese refugees articulated that they were "sleeping with the enemy." Yet on a daily level, more unsettling than the government of Uganda seemed to be people's contentious relationships with UNHCR and its implementing agency, InterAid. A great deal can be said about this relationship, from both parties' points of view, and it was a popular topic of conversation in Kampala. For most refugees, the way they were treated at the UNHCR and InterAid offices reflected a very negative, not to say deeply humiliating, experience. One young Ethiopian man, telling me about the school he had just joined, said:

I especially like my fine art. I'm improving my drawing. I'm not interested in graphics, I want to draw real life people, cartoons and colours. I need it to express myself. Some things you can't express in words. Like the situation at InterAid. But I can draw the police guard with his Kalashnikov.

The fact that people were time and again subjected to an environment of indifference and an attitude of disbelief fed on the atmosphere of suspicion that people were already living in. Disbelief by UNHCR officials was responded to with an even stronger suspicion, bordering on resentment, on the part of the refugees. People felt betrayed and several individuals suggested to me that they wanted to go and ceremonially return their "Protection Letter" to UNHCR because they refused to any longer carry what they regarded an empty promise.

As will happen in most offices around the world where refugees or immigrants are interviewed, in Kampala refugees are frequently accused of “telling the same story as everyone else,” or in short of “telling lies.” The issue at stake—the contestability of people’s accounts—can only be meaningfully considered when taking into account the context of the encounter between interviewer and interviewee. Firstly, since government or UN officials interviewing refugees in urban areas operate within an institutional context uneasy with and outspokenly discouraging of the very presence of urban refugees, the questions posed during interviews are often not quite objective or disinterested. Secondly, the person interviewed is often hampered by feelings of guilt, shame, or confusion, and the power structure of the interview situation does little to relieve this. Thirdly, neurological studies show that as a consequence of having experienced seriously traumatizing events people often cannot recall—let alone narrate—events in chronological sequence, cannot even recall certain episodes at all. Indeed, few interviewees voice objective, disinterested accounts. One would have to try really hard to think of a setting in which communication reflects a neutral exchange of words and gestures. Exile certainly does not provide such a setting. The stakes are high: in exile it is often hard to survive without a good story. Narratives become a precious possession with which to position oneself *vis-à-vis* fellow countrymen, a means of protection against nosy neighbours or the piercing questions during a police interview. Even though as researchers we need not be concerned with issues of credibility in the same way that those responsible for asylum procedures are, in the context of exile one cannot escape questions about the value or truthfulness of the knowledge one intends to gain. People’s minds are occupied with memories of wartime violence and with worries about their future. Personal relationships are volatile. For many refugees fear is part of daily life. This research context is politically charged not only in the way that we generally use the word “political,” but also in a way that every action by every individual—including the researcher—becomes imbued with political meaning. I believe it is hard to overestimate how intricately sensitive everything—every appearance, every comment, every visit—is in a situation such as that in Kampala. It is my task and challenge as a researcher to keep fine-tuning my awareness of this sensitiveness.

Questions of Truth and Ways of Knowing

Refugee situations make for difficult research settings. Conducting research among refugees in towns and cities may be even more challenging than studying life in refugee camps. The situation in cities is less orderly and transparent, the

refugee population more diverse in terms of their backgrounds and specific concerns, and their legal status often undetermined. People with serious security concerns frequently decide to come to town because of the anonymity it offers—but to do research one needs to see people, to find them, to talk to them. Moreover, as researchers we want to know and understand the very histories that people may desire to forget or need to hide. What does all this imply for the knowledge we set out to gain and the understanding we hope to reach? During my years in Kampala I often felt I could not get much grip on the reality I was studying, not only because I was extraneous to the situation, but also because I was constantly confronted with its disparities and controversies, its silences, the hidden tales. The combination of my curiosity, empathy, and imagination were not sufficient to bring to light the twists and turns of the reality I was studying. I had discarded the concept of truth with a capital T before starting my research. Nevertheless the ambiguity I encountered, and the fact that truth in Kampala had so many faces, made me feel uncomfortable.

Whose Knowledge?

Whose knowledge are researchers looking for and do they aim to represent? This question may seem superfluous. My automatic answer would be that I aimed to portray the lives of young, male refugees in the city of Kampala. But how do we go about our representations? To start with, researchers are no neutral observers, nor are research subjects neutral or passive informers.³ To be able to answer the question “Whose knowledge?” we first need to know “Who are we?” The insight that the relationship between researcher and researched is essentially a power relationship was put on the agenda several decades ago by feminists and post-colonial scholars. Indeed, no one doing research among urban refugees, or any group of refugees for that matter, can possibly escape the inequalities and concomitant power differences that pervade the research field. In Uganda, I found this inequality most aptly summarized with the word “security.” The position from which I as a foreign researcher operated (visa in hand, research approved by the Uganda National Council for Science and Technology, comfortable home, free to leave whenever I should wish to) could not have been in starker contrast with the situation of the majority of refugees who, in addition to a constant worry about food and shelter, went without a valid ID and thus lacked the minimum condition for being safe. This unequal situation raised questions about the responsibilities entailed in the everyday research encounters. I can write to UNHCR on this man’s behalf, but should I not rather accompany him on his afternoon mission to see a protection officer... but really, I’m so busy, shall I tell him to look for someone else this

time? And since back in Amsterdam: another e-mail, what shall I reply, do I *want* to reply? Do I go to Western Union today or do I have other priorities and shall I go tomorrow, or next week? It never ceases to feel uncomfortable that I can make these choices, and that they are always, to some extent, arbitrary. Most confusing is that the choices I make concern people of my age, whose histories and troubles I know, and some of whom I have come to know quite intimately.

Anthropologists who have reflected on the “power issue” have done so not so much in terms of the dilemmas of giving financial or material assistance,⁴ but rather in terms of “giving voice.” Unilaterally considering themselves “powerful” *vis-à-vis* the people they studied, anthropologists from the West reasoned their scholarly work entailed a specific responsibility: to “make heard” the voices of those who lacked power, the people who were silenced. Soon, however, post-colonial scholars responded by characterizing much of, also feminist, work as reflecting the arrogance of white scholars: “giving a voice” to “Third World” citizens in fact meant appropriating these people’s voices for their own (scholarly) purposes.⁵ They emphasized that we cannot see ourselves as “innocent” individuals but that we are part of larger histories. In my case this view would point to the complexities of a young, white, female, European, middle-class researcher doing research among young, black, male, African, mostly poor refugees. Feminist researchers re-examined their emancipatory projects and concluded that “making heard the voices of the marginalized” or “seeing from below” were indeed no self-evident or easy strategies.⁶ Furthermore, it was “discovered,” the research subjects have “a voice of their own.”

The issues of voice and giving voice are pertinent political matters and the way in which some anthropologists deal with these calls for a critical note. I thought Amina Mama, founding editor of *Feminist Africa*, summed it up poignantly: “Giving a voice is not the issue, it is deafness that is the model: who can afford to be deaf?”⁷

Indeed, anthropologists still too often make it sound as if “they”—their informants—are passive victims, while “we” have all negotiation power on our side. I do not believe this to be so. Ultimately, people decide what to tell, how to tell it, what to hide, or when to be quiet. I ally with Nencil who, reflecting on her research among prostitutes in Lima, writes:

A good anthropologist always tries to protect the group participating in her project... However, because the research group is envisioned as vulnerable, it is often assumed they find it difficult to protect themselves, overlooking the fact that most vulnerable people are continuously protecting themselves and usually more experienced in this area than the anthropologist.⁸

She concludes: “Why does the projection of power relations in the field reflect a nearly binary opposition between the powerful and the powerless instead of as in other areas departing from a notion of difference and the multipositioned subject?” There indeed appears to be a conceptual difficulty: not to equate the fact that people’s rights are being violated and their living conditions appalling with the perception of these people as helpless individuals. Refugees are especially affected by this discourse of powerlessness, and it is often overlooked that power springs from many sources: power that comes with wealth or status, physical power, creative power, the power of personality, intellectual power, the power (or ability) to have rewarding relationships with others, to love and be loved. In discussions concerning fieldwork relationships it is usually only the power of wealth and status that is taken into account.

There are different levels on which I can look at the relationships between the young men in Kampala and myself, and I can distinguish between things that I as an individual share with the young men of my study and things that actually set us apart. This provides a more differentiated starting point from which to address the questions posed: what are the positions from which we know and understand? (Or: Can I as a foreign researcher become an insider in Kampala’s urban refugee milieu or will I always remain outside? And if I remain an outsider, can I come to know anything at all?) In Kampala several things connected the young men and me. Like me, many of them were (former) students, ascribing great value and finding great pleasure in getting on with our talents and interests. We were all in our twenties and shared questions about friendship and love, politics and justice, the world’s future and ours. The fact that we approached these questions coming from different backgrounds and experiences made this the more interesting. We set up (and continue to run) the art centre Yolé!Africa together—the most powerful factor in connecting us: we shared a vision. Lastly, none of us were at home and we shared some of our feelings of being a foreigner. At the same time, their experiences of war, poverty, and insecurity as opposed to my “uneventful” life, in that respect, placed us far apart. However, the wars that disrupted these young people’s lives are not something “exotic” happening “out there.” As a white European woman I am part of the same violent world history and present situation as individuals who have been forcibly uprooted in the Great Lakes region. I cannot study the recurrent violence that people of my age are faced with in Central Africa as a phenomenon disconnected from who I am: I must examine my own “roots” and “identities” and “histories” while I study theirs.

However, though we all take up semi-fixed positions in this politico-historical field, all of us are also individuals with our own personal histories and idiosyncrasies. And since it is anything but easy to see from another person's perspective, my research findings are to a large extent shaped and coloured by me. What I as a researcher see or do not see about people's lives or identities depends considerably on my personal experiences and outlook on life or even my state of mind. Some days I am convinced that the young men in Kampala are without exception incredible achievers. On other days, rummaging through the images in my mind, I see the chaos of people thrust in many directions. War cut them loose from their backgrounds and dropped them in places they had hardly heard about—Kampala, Nakivale refugee settlement, Houston, Perth, Winnipeg. But how can I truly know what *they* see? Observing their lives from the outside I see chaos, but they, within, may see change. And which of the two would they prefer to share with me? In other words, my research experience in Kampala reconfirmed my opinion that the role of the researcher as central in the construction of ethnographic knowledge remains underestimated. It is the researcher *as a person* (identities, prejudices, soft spots, character, and interests), raised in a certain intellectual and political tradition, and in interaction with other persons, who shapes the research project as well as its outcome. Academics are interested in the genealogy of theories and concepts, yet I would argue that a genealogy of why and how a research project came into being is similarly interesting and relevant. We need to reflect on the position of our research projects (and the knowledge produced by it) *vis-à-vis* the larger context of both current and historical scientific and political discourses. Knowledge is never sought or used just for its own sake but always linked to more or less explicit political goals. This has been very true for the discipline of anthropology,⁹ and this is currently true for the field of forced migration studies. I believe that all refugee researchers should be trained to constantly retain a critical stance towards themselves and their research, and that they should keep asking themselves—and make explicit in their writing—the questions: Why do I do my research? What is the knowledge I want to gain? For what purpose? For what audience? And along with this we must confront the fact that what we as researchers will ultimately get at is not objective, disinterested knowledge, but a collection of political, partial truths.

Ways of knowing and telling

No Madonna and Child could touch
Her tenderness for a son

She soon would have to forget...
The air was heavy with odors of diarrhoea,
Of unwashed children with washed-out ribs
And dried up bottoms waddling in labored steps
Behind blown bellies. Other mothers there
Had long ceased to care, but not this one:
She held a ghost-smile between her teeth,
And in her eyes the memory
Of a mother's pride... She had bathed him
And rubbed him down with bare palms.
She took from their bundle of possessions
A broken comb and combed
The rust-colored hair left on his skull
And then—humming in her eyes—began to part it.
In their former life this was perhaps
A little daily act of no consequence
Before his breakfast and school; now she did it
Like putting flowers on a tiny grave.

This poem by Chinua Achebe is called "A Mother in a Refugee Camp." On first reading it evoked the material images of refugee camps, with bare-bottomed crying babies and all. Reading it twice, I felt the mother come alive. And now as I read it again, I feel it captures Life. Does this poem perhaps convey more meaning and truthfulness than extended academic analysis would? My years in Uganda brought home to me more strongly than ever before the blatant inequalities in the world we live in. Global acts of exclusion and injustice are connected to the superficial and ahistorical images people have of themselves and of others. As an anthropologist I am in the business of building up images of other people. How do I portray the young men in Kampala, these individuals who have been forced to leave behind all that was dear to them, who are frustrated, angry, and hurt, but are also looking towards the future? What words do I use to capture their experiences? I came to doubt that I could write this book in the reductionist language of science *only*. If my work is about the lives (tragedies, celebrations, labours, deaths, dreams, songs, flights, nights, fights...) of real people (young, black, exiled, talented, hopeless, hopeful, hungry, proud, confused, determined...) interacting with a living anthropologist (young, white, educated, curious, bewildered, trustful...) how can I write truthfully in a language that asks me to divorce my rational from my emotional capacities?

Research among refugees means research with people who are traumatized, people who bear the marks of violence, have witnessed or been actively involved in it, or both. Many of the young men in my research had not long before I met them spent their days and nights at the front lines in southern Sudan. The epistemological dilemmas

implied in the processes of knowledge creation in general—what can we know, who are the knowers, what is truth?—become highly pertinent when writing about a life-and-death subject, which wartime violence is. Robben, researching the historical reconstruction of the 1970s political violence in Argentina, wonders after interviewing key figures of the military junta: how can we establish intersubjective understanding with a person who has violated the very humanity we are trying to understand? The same question, Feldman responds, can be asked about those who have been subjected to the extremities of violence: how can they be understood and depicted if they dwell on the other side of the border of conventional or known bodily sensory and moral experience?¹⁰ The issue at stake is a dual one. On the one hand, even though pain and suffering are among the universal features of the human condition, for people who have gone through extreme experiences of loss and violence these are often difficult to communicate. Elaine Scarry, in her seminal study about pain and the difficulties of effectively conveying its subjective quality, concludes that “pain defies language.”¹¹ This is not only because the physical sensations felt defy words, but also because those inhabiting the “pain-full world” speak their own language.¹² This explains why—as several studies in medical anthropology show—chronic pain patients unable to communicate what they feel often deeply suffer from not being taken seriously: it is the contestability of the pain’s existence as a direct consequence of the lack of any intersubjective measurement of it.¹³ Or as Scarry puts it: “To have great pain is to have certainty; to hear that another person has pain is to have doubt”—a statement that resonates with the culture of disbelief that so often surrounds refugees’ suffering.

This brings me to the other side of the issue: can we, as listeners, understand what people are saying when they talk about grief, loss, pain, and fear? Understanding other people’s social and mental processes is directly related to one’s personal experiences, both cognitive and emotional. For instance, if I did not know fear, would I be able to learn about or understand it? And related to this is the question of *how* we come to understand. A great deal of the knowledge and understanding I gained during my three years in Kampala was not through my rational or analytic capacities, but by being alert to non-verbal modes of communication. Essential to my learning about the fear and despair of the young men was not just their telling me how and why and when they were scared, but looking into their eyes and, when sitting next to them or shaking hands, physically feeling something of the strong emotions they carried. In other words, I do not believe that I can grasp the situation of the young men in Kampala if I try to do so purely

rationally: their way of surviving is often literally beyond my comprehension. I can only comprehend something about the lives of the young refugees by mentally placing myself in their world and then searching myself for my passion, my uncertainties, and my beliefs. I can only grasp something of the choice made by a fifteen-year-old boy to go and fight at the front lines in southern Sudan if I try to imagine what the feelings of dead-end, despair, revenge, or youthful idealism would stir up in me. As the American philosopher Martha Nussbaum argues, in her *Upheavals of Thought*, emotions are not animal energies or impulses, but “essential elements of human intelligence.”¹⁴ Emotions are highly discriminating responses to what is of value and importance. As much as the skill of reasoning one thus needs empathy and an awareness and understanding of one’s own inner motives in order to be able to get to know anything at all. As Peter Kloos wrote twenty-five years ago: “apart from pen and paper, ‘sympathy and compassion’ are still the most important tools for studying other societies.”¹⁵

My research aimed at understanding the ways in which young people who had lived through violence made sense of their world. If knowing and understanding are dependent on both rationality and feeling/intuition/imagination, it stands to reason that these different ways of knowing are also to be used in the conveyance of anthropological knowledge. In the field of feminist scholarship alternatives of subjective, embodied, and experiential knowledge have been put forward and several scholars have paid attention to issues of emotion, sensation, intuition, creativity, and spirituality in both research and writing.¹⁶ In my search for alternative ways of conveying knowledge, I wondered whether artistic devices would help me bring across the emotion, imagination, and intuition that I saw as an inherent part of my research process and outcome. I wished to explore the boundary between science and art in order to discover the different language I envisaged—“critical, engaged, exciting and true-to-life.”¹⁷ I do not take the above discussion lightly. I agree with the editors of *After Writing Culture* that “styles of ethnographic writing go beyond the question of personal preference, training or skill and instead provide us with a means of connecting our epistemological standpoints with our mode of representation.”¹⁸

As an anthropologist I must keep in mind *why* I would experiment with writing styles. Much of postmodern writing is couched in veiled language, abstract jargon, and too-long sentences. I do not see whom that serves: expressing the complex qualities of people’s lives does not require complex styles of writing. Furthermore, when immersing myself in my research data and the gut-wrenching narratives I collected, I ask myself: will an approach that brings

together science and art run the risk of romanticizing violence, or making it poetic? That, of course, is not what I aim at. The purpose of my experimentation would be to come to a better conveyance of “the real world”—and ultimately to making a difference in that real world. Ideally, I would learn to be witness, scholar, advocate, and artist all at the same time.

Concluding Remarks on Representation

This article discussed some of the dilemmas of gaining knowledge in the politically charged field of forced migration studies. In a world still full of prejudice, the issue of conveying this knowledge is just as tricky. Refugees pre-eminently are stereotyped and subjected to discrimination. Not only have people in the West generally interiorized a national consciousness which makes them consider it normal that there are foreigners, “people who do not have the same rights as we do,”¹⁹ fantasies about what these foreigners are like also abound. Much of this imagination must be placed in the historical discourses on Africa and Africans, in the field of both fiction and academic writing.²⁰ Much of it, ultimately, must be placed in the long-standing histories of racism.²¹

Public and political discourses shape and rationalize the actions of individuals, organizations, and governments. And thus, while the researchers at the Cairo workshop shared the incredulity expressed by one of the participants as to how it is possible that refugee policies continue to ignore a population movement trend—*i.e.* urbanization—which has been going on for so long, this *is* the very context within which we write. At the same time, this situation poses challenges that researchers can capitalize on. I believe that the study of individuals who seek refuge in the towns and cities of various African countries (or in Europe or America for that matter) can be of great value in counteracting at least some of the reductionist images that exist of refugees. The young men I met in Kampala shared the experience of being forcibly uprooted, but otherwise constituted a remarkably diverse crowd of individuals. There were men and women, of different nationalities and walks of life, illiterates and university graduates, artists, farmers and journalists, mental patients, orphans and widows, Muslims and Seventh Day Adventists, former SPLA commanders, child soldiers, introverts and streetwise kids. In general, a high proportion of the refugees in urban areas are risk-takers and entrepreneurs—a potent illustration of what is implied when we speak of “agents of change.” Bringing this to the fore requires a focus on the individual, which has not been anthropologists’ *forte*.²² I have always felt that this was a shortcoming, which was reconfirmed in Kampala. Not only was it evident that the young men had

many different ways of interpreting and responding to the events that had befallen them, I also observed that the human desire *to be seen to* respond, think, and act differently strongly prevailed among the refugees. I saw this as an antidote to what most humanitarian and political practices and discourses do: confirm their essential sameness. A focus on the individual will bring to the fore a notion of diversity that goes beyond differences in terms of gender, age, ethnicity, or educational background. It will illuminate refugees not as mere icons of our time but as *individuals*—individuals who fight to be granted their right to a secure, fulfilling, and dignified life.

Yet this approach has its own challenges. If researchers argue that urban refugees form an extremely mixed group of people, this may be taken to show that people seek refuge in towns and cities for diverse reasons and that not all of them have fled persecution or imminent danger *per se*. While to any well-informed person this should neither be an unexpected nor an alarming revelation, the question is how to convey facts like these without confirming the existing prejudices. The message needs to be gotten across that reality is complex and complicated, but that this is no reason to propagate a relativist, disinterested stance. Conflicting stories, interpretations, and views are at the heart of all accounts of war and flight, but for researchers born and bred in the tradition of Western science this is often difficult to deal with. Nevertheless, truths *are* partial, and generalizations that make other people seem more coherent—which in the case of refugees may in some ways be a good thing—at the same time make them more self-contained, which in turn fixes boundaries between “us” and a different “other.”²³ As Foucault argued, the problem of generalizations is that they form part of and constitute a language of power, and thus we must be wary of them. The tension that remains poses a serious challenge to researchers in the field of forced migration studies. In Donna Haraway’s words, the dilemma is “how to have *simultaneously* an account of radical historical contingency for all knowledge claims and knowing subjects, a critical practice for recognising our own ‘semiotic technologies’ for making meanings, *and* a no-nonsense commitment to faithful accounts of a ‘real world’?”²⁴ In forced migration studies neutral research is no option. And thus, paradoxically, the political character of refugee research on the one hand requires that we analyze the partiality of our knowledge and truths, while on the other hand the national and global politics that force people into exile indeed call for a “no-nonsense commitment to faithful accounts of a real world,” or, as Wole Soyinka puts it, require that we “enthron[e], once and for all, the desirable goals of Truth.”²⁵

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Restricted Access: The Role of Social Capital in Mitigating Absolute Homelessness among Immigrants and Refugees in the GVRD

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Abstract

The housing patterns of newcomers mark a primary indicator for their successful integration. However, different groups of people have varied access to the stock of housing in Canada. The purpose of this paper is to examine the role that social capital plays in housing trajectories of immigrants with particular attention to the experiences of refugee claimants. In this paper we draw upon the results of a 2004–2005 study on the profile of absolute and relative homelessness among immigrants, refugees, and refugee claimants in the Greater Vancouver Regional District (GVRD). We highlight the importance of social networks in the housing careers of newcomers, and argue that access to social networks varies according to the mode of entry for immigrants (e.g., skilled immigrants vs. refugees). We find that refugee claimants are particularly vulnerable, given their combination of uncertain legal status, lack of official language ability, and unfamiliarity with Canadian society. They are the most likely of all newcomers to “fall between the cracks” of the housing system. We discuss the benefits of social capital for immigrants and refugees, especially the key role that social capital plays in the integration process.

Résumé

Les préférences des nouveaux arrivants en matière de logement constituent un indicateur primaire pour la réussite de leur intégration. Cependant, l'accès au parc de logements au Canada varie selon les groupes. Le but de cet article est d'examiner le rôle que le capital social joue dans les trajectoires des immigrants en matière de logement, avec une attention particulière pour l'expérience de demandeurs du statut de réfugié. Dans cet article nous puisons à partir des résultats d'une étude entreprise en 2004-2005 sur le profil du sans abris absolu et relatif parmi les immigrants, les réfugiés et les demandeurs de statut de réfugié dans le District Régional du Grand Vancouver (DRGV). Nous soulignons l'importance des réseaux sociaux dans le parcours de nouveaux arrivants en matière de logement et soutenons que l'accès aux réseaux sociaux varie selon le mode d'entrée des immigrants (par ex., les immigrants qualifiés à l'opposé des réfugiés). Nous constatons que les demandeurs de statut de réfugié sont particulièrement vulnérables, étant donné qu'ils combinent en eux-mêmes l'incertitude du statut juridique, des faiblesses par rapport aux langues officielles, et le manque de familiarité avec la société canadienne. De tous les nouveaux arrivants, ils sont les plus susceptibles de passer entre les mailles du filet du système de logement. Nous traitons des avantages du capital social pour les immigrants et les réfugiés, surtout le rôle clé que joue le capital social dans le processus d'intégration.

Introduction

“Vancouver Housing Least Affordable” pronounces a recent headline.¹ According to a Royal Bank of Canada report, housing costs for the average detached bungalow now account for 57.5 per cent of average pre-tax household income in Vancouver.² Rapidly rising prices in the housing market are having a predictable impact, placing a higher proportion of the population at risk of homelessness.³ The severe challenges faced by the Canadian-born population in gaining access to affordable housing are compounded for newcomers. This paper will draw from a 2004–2005 study on the profile of absolute and relative homelessness among immigrants, refugees, and refugee claimants in the Greater Vancouver Regional District (GVRD).⁴ We examine the connections between (relative and absolute) homelessness and immigrant settlement. We concentrate on the important issue of social capital, and how it can be used to help newcomers settle into Canada. However, we also argue that newcomers have variable access to social networks (and therefore social capital). Given the combination of uncertain legal status, lack of official language ability, and unfamiliarity with Canadian society, refugee claimants are the most likely of all newcomers to “fall between the cracks” in terms of access to relevant social networks, and have limited means to offset barriers to finding housing. This latter point is often overlooked in the literature on social capital and immigrant settlement. We aim here to understand the dynamics of in-group systems of support, and highlight both the positive features of social capital and also the limitations faced by those lacking it. In the process, we reveal an important weakness in theories of social capital.

GVRD Study on Homelessness

This research is based on a study that incorporated qualitative and quantitative methods to explore three key issues (see Appendix A for a brief explanation of the methodology). We investigated the degree of absolute homelessness of newcomers through a survey of homeless shelters; we investigated relative homelessness through an analysis of the housing trajectories (retrospective) of successful refugee claimants (SRCs); and we investigated both relative and absolute homelessness using a survey of immigrants that asked them to itemize the level of in-group support that they were either providing or receiving (we refer to this part of our study as the Immigrant and Refugee Housing Survey, or IRHS).

Our principal objective is to consider the ways in which social capital mitigates against the most serious forms of homelessness. We employ a broad definition of homelessness that includes a range of circumstances from being without permanent shelter (*i.e.*, “rooflessness”), through

various forms of relative homelessness, such as “sofa surfing” and crowding. The former definition refers to those people who live without shelter and therefore reside on the streets or rely on public facilities such as emergency shelters (often defined as *absolute homelessness*); while the latter refers to those people who possess shelter, but are subject to substandard, unsafe, and/or temporary conditions.⁵

The Economic Position of Newcomers

Authors point to the increasing evidence that immigrants do not fare as well economically as their Canadian-born counterparts.⁶ The *economic assimilation model* has dominated the general understanding of immigrant integration, and asserts that although immigrants earn less than the average Canadian-born person, this gap narrows over time. This long-standing theory of economic incorporation has recently been challenged. Garnett Picot reports that immigrants entering Canada during the 1970s have nearly reached economic parity with the average Canadian-born citizen.⁷ After spending more than twenty years in Canada, the 1970s male cohort earned 97 per cent of the earnings of the “like” Canadian (adjusting for age, education, etc.). Immigrants arriving during the 1980s earned approximately 85 per cent of incomes earned by their Canadian-born counterparts after sixteen to twenty years in Canada. Finally, the 1990s cohort earned 70 per cent of the average Canadian-born income, after six to ten years in Canada. These findings are roughly consistent for both men and women immigrants entering during the same time period. Therefore, more recent cohorts have experienced both a lower relative income upon entering Canada (compared with earlier cohorts), and a delayed catch-up period. Further, the same research shows that even well-educated immigrants share this economic disadvantage. Picot explains that educated immigrant males arriving during the 1970s entered the Canadian labour market earning 82 per cent of the earnings of the average male Canadian. By the 1990s, new immigrant males earned only 50 per cent of their like counterparts.⁸ The trend for educated women is similar. These financial setbacks translate into difficulty accessing affordable and adequate housing.

Picot also shows that between 1980 and 2000, the proportion of immigrant family incomes that fell below the low-income cut-off (LICO) has risen considerably.⁹ In 1980, 24.6 per cent of immigrant families were classified in the low-income category, but this was the case for 31.3 per cent in 1990, and by 2000 the proportion had risen to 35.8 per cent. In contrast, corresponding figures for the Canadian-born declined from 17.2 per cent in 1980 to 14.3 per cent in 2000. Reil and Harvey concentrate on the Toronto case, showing that visible minority immigrants have expe-

rienced the greatest increase in poverty levels there, from 20.9 per cent below LICO in 1991 to 32.5 per cent in 1996.¹⁰ Recent economic changes have therefore had uneven social consequences, and have been especially hard on immigrants.

Pendakur and Pendakur extend the general story of income dynamics into the labour market, and show that recent immigrants earn wages well below the Canadian average.¹¹ In Vancouver, the average Canadian-born earned \$26,213 in 1991, compared with \$18,208 for immigrants who had been in Canada less than ten years. In addition, 42 per cent of this group of immigrants in Vancouver lived below the LICO, almost triple the poverty rate for the Canadian-born. As a result of below-average earnings, housing and rent affordability is a critical issue for new Canadians. In 1996, 21 per cent of immigrant households suffered from “core housing need,” which refers to a combination of poor housing quality and problems with affordability. Ley further reports that poverty tends to be highest for immigrants who have less than high school education, are females, do not speak English at home, or are of non-European ethnicity.¹²

On this latter point, Hiebert and Ley show that European groups earned average incomes 34 per cent higher than non-European groups.¹³ They interpret this financial gap as the result of a combination of factors including human capital discrepancies, ethnocultural clustering, and labour market discrimination. According to David Ley, poverty underscores the visibility of immigrant groups and may lead to both alienation among newcomers and antipathy among the Canadian-born.¹⁴ In light of these trends, immigrants and refugees can be expected to fare poorly in accessing affordable and adequate housing. At the extremes this may involve a total inability to access housing.

Introducing the Problem: The Shelter Dilemma

Despite high levels of economic disadvantage revealed in the literature on the economic incorporation of immigrants, we found that immigrants and refugees are disproportionately under-represented in the GVRDs emergency shelter system. While 38 per cent of the population in the GVRD in 2001 was foreign-born, immigrants and refugees accounted for less than 18 per cent of the clients who were registered in our shelter survey. When the results from a refugee-specific shelter are removed, this number drops to 13 per cent or, effectively, one-third the level that would be expected if immigrants had the same economic characteristics as the general population. The question then arises: How are immigrants able to avoid the use of shelters, in general? More particularly, what alternate forms of help are they receiving?

Social Capital

Our study shows that the answer to this question, at least in part, is related to social capital. French sociologist Pierre Bourdieu was one of the first to produce a theoretical analysis of social capital, and defines the term as:

The aggregate of the actual or potential resources which are linked to possession of a durable network of more or less institutionalized relationships of mutual acquaintance and recognition—or in other words, to membership in a group which provides each of its members with the backing of the collectivity owned capital, a ‘credential’ which entitles them to credit, in various senses of the word.¹⁵

Since then, many scholars have added to the debate on social capital including Loury, Coleman, Putnam, and Portes.¹⁶ More recently, a definition was put forward by the Policy Research Initiative, a special research initiative of the Canadian government.¹⁷ They recognize social capital as: the networks of social relations that can provide people and groups with (the access to) resources and support. According to Granovetter, these social relations can be understood as strong ties made up of family and close friends, and weak ties that are comprised of networks of acquaintances (or, using another terminology, *bonding* and *bridging* resources).¹⁸ Most people find themselves part of a dense social group, made up of family and close friends, as well as part of a circle of acquaintances. Each acquaintance will have his or her own unique circle of close family and friends. Granovetter argues that the existence of one’s circle of acquaintances (weak ties) is crucial in bridging two or more densely knit groups of close friends and family.¹⁹

The idea of social capital has appeared in the literature on housing and immigrants. Family members and friends are seen to be instrumental in housing searches for newcomers. Drawing on the work of Granovetter, Brian Ray discusses the importance of social networks in the housing choices of immigrants in Toronto and Montreal.²⁰ The strength of bonding resources is usually related to the time people spend together, and the level of trust and reciprocity that has been generated between them. Strong ties are characterized by intense relationships, namely those between relatives and friends. Weak ties are less intense and are limited to acquaintances, and are believed to link various social networks together. The scale of one’s social network is directly related to one’s length of time in Canada. Both strong and weak networks have been shown to be influential in providing newcomers with practical assistance and knowledge surrounding the housing market. However, Ray reports that recent immigrants to Toronto and Montreal have an inadequate support base, especially

of weak ties.²¹ Consequently, he suggests that newcomers, particularly those who have been in Canada for five year or less, are required to make decisions based on limited knowledge.

“Taking Care of Their Own”—Findings from the Shelter Study

As we have already noted, immigrants and refugees are under-represented in the shelter system.²² Anecdotal evidence from the other sub-studies and discussions with key informants suggests that our finding is valid; that is, immigrants and refugees do not use shelters to the same extent as the Canadian-born population. One key informant on the Advisory Committee of this study, who is an immigrant him/herself, went so far as to say “it is not in our culture.” Instead, it appears that immigrants and refugees are helping one another in their various ethnocultural and religious communities. When facing a lack of secure housing, it was suggested that members of established ethnocultural and/or religious groups stay with family or other acquaintances, instead of relying on mainstream emergency shelters.

In addition to the member of the Advisory Committee just mentioned, several of the key informants consulted in this study offered explanations that help explain why newcomers, especially refugees, are not using shelters as much as the Canadian-born population. Undocumented immigrants and refugee claimants, for example, may believe there is a risk of being detected by authorities and subsequently deported if they access shelters. Newcomers may react differently to circumstances that might lead individuals who were born in Canada, or who have lived in Canada long enough to know their legal rights, to seek shelters—the issue of spousal violence comes to mind. Others credited the low level of shelter use to a combination of two factors: a general lack of trust of formal institutions and the state, on the one hand, and the widespread ideology of “taking care of their own” within newcomer communities. On the latter point, both strong (*i.e.*, family) and weak (*i.e.*, acquaintances) networks have been shown to provide newcomers with practical assistance and knowledge about housing markets.²³ It is also worth noting that settlement service organizations are well aware of this propensity for mutual aid within communities and frequently attempt to link isolated individuals with pre-existing community networks, which can then be tapped to provide temporary accommodations.

Living on the Edge—Findings from the Housing Survey

Results from our Immigrant and Refugee Housing Survey highlight the existence of these networks. While most of the

individuals surveyed were taking care of themselves (*i.e.*, neither extending nor receiving help), 28 per cent of all respondents reported receiving help; and 15 per cent of those respondents not receiving help reported providing help.²⁴ In the analysis phase of this project, we realized that we committed a methodological error in the IRHS that likely leads us to underestimate the degree of mutual aid in housing. When an individual respondent answered that they were extending help to another person, we skipped over the question that asked if they were also receiving help. Anecdotal evidence that we heard after collecting the data in the survey suggests that many people extend and receive help at the same time. Given the methodological choice we made at the outset of the project, we were unable to capture this dynamic. In any case, almost one-quarter of those receiving help were staying with friends and family.

Significantly, those providing assistance often do so despite living in precarious situations themselves. Over 61 per cent of those providing help in our survey, for example, are “in core housing need” (defined as spending 31 to 50 per cent of monthly household income on rent); while over one-quarter are in critical housing need (spending 51 per cent or more of monthly household income on rent). The findings of the IRHS underscore the importance of in-group networks that bring about mutual aid, such that coping mechanisms are found and homelessness among immigrants and refugees remains largely hidden. Interestingly, the number of people who have provided assistance decreases as the percentage of income spent on housing increases.

The Assumptions of Social Capital

The literature on social capital differentiates between *bonding*, *bridging*, and *linking*.²⁵ In this respect, people will generally begin building social capital with the *bonds* that they have with close friends and family. Social networks will begin to disperse throughout larger society as people move to *bridging* with others of different ethnicity and/or class, for example. This leads to *linking* with public services and supportive institutions. Although our two studies have so far illustrated that social capital, in the form of in-group systems of support, has worked to mitigate absolute homelessness for newcomers, we have also found a slippage between theories of social capital and the ability for some to utilize these resources. To date, however, much of the literature that surrounds social capital underestimates the range of access to social capital. While social capital literatures acknowledge that not all individuals have the same ability to attain and/or access social capital, our findings suggest that access to social capital may be differentiated according to a person’s category of entry (*e.g.*, skilled worker *vs.* refugee).

In particular, we argue that refugee claimants are a group who frequently lack access to social capital. In fact, while many new immigrants rely on social networks in order to access both information and resources to find adequate housing, refugee claimants are subject to initial bouts of (hidden) homelessness owing to circumstances that are directly related to their status as refugee claimants.²⁶ Research undertaken by Robert Murdie on the pathways to housing of refugees and refugee claimants in Toronto, Brian Ray on the housing experiences of refugees in Toronto and Montreal, and Damaris Rose and Brian Ray in Montreal has forwarded similar arguments about the differential ability of some groups to access social capital.²⁷ Our research contributes to the overall literature by adding another piece of the puzzle, namely the housing experiences of immigrants, refugees, and refugee claimants in Vancouver. The following section will focus on the findings of claimant study in order to open up discussions surrounding access to social capital.

Falling through the Cracks—Findings from the Refugee Claimant Study

In this paper we argue that, although social networks (made up of both strong and weak ties) have worked to help newcomers settle and integrate into Canadian society, the availability of networks are not equal across populations. Given the combination of uncertain legal status, lack of official language ability, and unfamiliarity with Canadian society, refugee claimants are the most likely of all newcomers to “fall between the cracks” of both ethnocultural communities and the welfare and housing provisions of the state. All but one of the thirty-six successful refugee claimants who were interviewed arrived in Canada without any pre-existing social networks (*i.e.*, family and friends). Although the claimants did not have anyone to assist them in the first few days after arrival, some did manage to tap into broader ethnic networks. One settlement councillor noted that

[Claimants] will turn to people that seem familiar to them. Familiarity. If they speak their language then they will approach them ... people who look like their group ... they are looking for a face or words that will lead them to a place.

For many newcomers, economic integration is a constant battle, a finding that is particularly salient for SRCs. Thirty-two of the thirty-six SRCs interviewed in this study relied upon government aid for at least the initial stages of settlement, which for a single employable person consisted of \$510 per month.²⁸ Note, however, that according to the National Council of Welfare, the poverty line (measured by LICO) is \$19,795 for a single employable person living in British Columbia. Therefore, we could say that there is a

poverty gap of \$13,351 per year for single recipients.²⁹ As well, the average bachelor apartment in the Vancouver Census Metropolitan Area (CMA) was \$654 in 2003.³⁰ For SRCs in particular, low incomes and high housing costs are exacerbated by their relative social isolation. In the absence of social networks, SRCs are often unaware of the location of less expensive housing in the GVRD. Adding to the story, discrimination based on their level and source of income (*e.g.*, welfare), and their legal status (especially while their case is pending), means that SRCs often found themselves settling for whatever housing was made available to them.

With such limited circles of family and friends, many claimants in this study found themselves relying on the advice of strangers when they first arrived. A thirty-two-year-old man from Cameroon was able to find housing by networking with other refugees and African migrants. He said,

I met this friend from Liberia. Then I spoke to him that I was looking for accommodations. In fact I was with one African guy that just came at the same time. So we were both looking for accommodation, so we happen to meet this guy who is from Liberia, then that's when he invited me to meet [a settlement worker] at church with the possibility of how I can get accommodation.

A twenty-nine-year-old female from Sri Lanka recounted that she felt most comfortable approaching someone from her own ethnic group.

On bus I met some Sri Lankan Singhalese lady, my language. She said do you know about Inland Refugee Society, they help refugees. Go and talk to them...then I go and I try to find them but it was difficult. We don't know any information, especially BC housing, we don't know anything.

In both these cases as with all of the others in this study, SRCs were only able to access information on housing after their arrival in Canada. In some cases these weak ties took some time to establish. As a result some found themselves without a place to reside and without even basic information on shelters. One respondent from Nigeria arrived in Vancouver in 2003. She was eight months pregnant and was accompanied by two children, aged one and four. She recalled her experience with the immigration officer:

...they said that I had to go...I said where do you want me to go? [The officer] said anywhere...[I said] I don't know anywhere...you have to tell me. I [asked], if I can sleep on the floor. She said yes. So I slept on the floor ... I am pregnant.

Another women from Congo had a similar experience. On her first night in Vancouver, at eight months pregnant, she said, "I had to sleep on the chair because I don't know where I am." A thirty-five-year-old single mother from Mexico succinctly stated,

No one explained any services...no information what you can get as an immigrant, where to get money, how to get a home; I didn't know about community centres. I feel totally isolated, no language, no family, no hope to go back, no money, no house.

These three women speak of the additional plight that claimant women have faced upon arrival. As single expectant mothers there was no information provided to them about even basic services. The bridging process had occurred only after these women had spent several days or weeks in Canada.

The successful refugee claimants who have come from China tell an important and unique story regarding the lack of access to social networks upon arrival. Six of the seven claimants from China found their first accommodations in Chinatown, and all six still reside in this area of the Downtown Eastside. As newcomers to the country, they arrived alone, without any financial resources or English language skills. Without any knowledge of the housing market, all six found themselves wandering the streets. When asked about how they came to know about Vancouver's Chinatown, several Chinese claimants stated that they relied on the advice of strangers, which led them to seek housing there. Lacking pre-established networks of family and friends, these refugees were funnelled into a precarious housing situation based on their perceived racial/ethnic affiliation. Five Chinese refugee claimants found themselves in similar rundown accommodations that are geared towards newcomers from China. The interpreter/settlement worker acknowledged one specific hotel as a place that nearly all of her refugee clients from China find themselves. According to these six participants, the conditions were nothing short of horrendous. A male claimant aged forty-nine from China gave these details:

Things there are in a mess...there were cockroaches everywhere. But the rent was cheap. There were a lot of seniors living there; they are dirty and have a lot of personal belongings, so things are in a mess. A lot of cockroaches. Dirty, stinky.

The detailed description of crowding varied slightly between respondents, but the basic image remained the same. Four of the claimants noted how this site for Chinese refugees allots one washroom and a small kitchen area for twenty to thirty people. Electricity and heating work sporadically at

best. Each participant provided a similar list of unhealthy and unsanitary conditions, which include dirty, smelly, and infested rooms. For these refugee claimants the inability to access information about housing in Vancouver played a key role in where they settled. Given their lack of knowledge of housing prices in the GVRD, the refugee claimants from China were all charged \$325 per month and all were restricted to the same welfare allowance of \$510 per month.

In the Downtown Eastside location, safety is also a major factor. A female claimant from China, age sixty-five, became very emotional during the interview as she discussed her first reaction to living in Chinatown.

First it's very noisy, second there is drug trading inside the hotel and some people using drugs and there is different mixture of people living there like refugee claimants, those very low-income people, or long term residents and there is a gambling room for people to go gambling....

Although this woman stated how unsafe she felt in an environment where there was rampant drug use and dealing as well as illegal gambling, she still resides in Chinatown five years after her arrival.

In the case of Chinatown we can see that weak ties, based loosely on ethnic affiliation, do not always provide opportunities that help newcomers establish a trajectory of upward mobility. On the contrary, these claimants, who generally lacked initial social networks, all found themselves in a state of relative homelessness where they lived in precarious situations and spent a high proportion of their income on rent.

The lack of initial social capital that is prevalent amongst refugee claimants places this group at a tremendous disadvantage and is associated with extreme vulnerability to homelessness. The situation is quite different for those immigrants and refugees who have access to social networks and support systems

Implications of Research for Our Understanding of Social Capital, the Role of Government, and Policy

Certainly, critics could argue that highlighting the importance of social capital will only prompt the government to divert its resources away from the need for public support and social housing, claiming that these services are no longer needed since (social) resources within the community are substantial in assisting the integration of newcomers. After all, why provide something at a cost which is already being provided for free? On the contrary, the findings of the Policy and Research Initiative study acknowledge the key role that social capital plays in assisting community development but

at the same time this research notes that government is needed in order to facilitate social capital.³¹ The research found that the government of Canada already facilitates the growth of social capital through direct and indirect forms of support. Policies with indirect effects include providing access to public transport, housing, daycare, and recreation. All three levels of government have mounted programs to promote the development of social capital, which is done through efforts to build individual or community capacity. This is enhanced through efforts aimed at mobilizing networks of social support, intra-/inter-community bonds, and linkages to institutions. Researchers report that there are at least two key ways that policy can assist in facilitating social capital within the wider community.³² First, policies and programs that build social capital should be designed in order to have the goal of community building at the fore. In the case of immigrant newcomers, we suggest that this includes focusing on bringing newcomers together while they are accessing information from service agencies. At the same time the role of government entails ensuring that settlement agencies are continually linked to each other's services. Second, the report suggests that government should support in the investment of its individuals and communities in their development of social capital. This idea originates from Anthony Giddens' social investment state, which views social expenditures as an investment in the human capital of citizens.³³ Although this seems to be a proper step in community building we emphasize the stipulation of being a *citizen* in being able to access services that are designed to assist in social network building. Many refugee claimants are left to settle without access to social resources and without permanent citizen status.

Conclusions and Future Challenges

Housing affordability continues to be a pressing concern in Canada, and particularly in British Columbia.³⁴ Yet, the high levels of economic disadvantage revealed in the literature on the economic incorporation of immigrants are not reflected in the GVRDs emergency shelter usage. Rather, we found that immigrants and refugees are disproportionately under-represented in the GVRDs shelter population. We argue that the social capital of particular ethnocultural groups is a key factor in the relative absence of immigrants and refugees in the shelter population.³⁵ That is, individuals belonging to a group share resources, whether these are access to employment, knowledge about host society norms and expectations, or the tangible benefits of housing provision. Social capital, then, may mitigate against the worst forms of absolute homelessness.

These systems of reciprocity, however, do not include everyone. Refugee claimants, given the combination of

their uncertain legal status, lack of language facility, and lack of familiarity with Canadian society, are the most likely of all newcomers to "fall between the cracks" of both ethnocultural communities and the welfare and housing provisions of the state. We have found that refugee claimants tend to be socially isolated and generally lack established social networks prior to arrival. The individuals in our sample group, for example, do not typically have elaborate social linkages to draw upon (despite the fact that these participants were recruited from settlement service and advocacy organizations). Only one of the SRCs interviewed was able to rely on the assistance of family members or friends (*i.e.*, strong ties) upon arrival in Canada. In contrast, a number of respondents did discuss the importance of acquaintances and friendships (*i.e.*, weak ties) that were formed after arrival. This is most prevalent in the case study that discussed the experiences of SRCs from China. In the absence of strong ties (family and close friends), some of the Chinese respondents, as well as other respondents, said that they had no other option upon arrival but to roam around the streets and look for a familiar face, someone who shared their cultural background.

This significance of social capital in integration, as well as the unequal access of groups and/or individuals, has previously been examined in the context of both Toronto and Montreal.³⁶ Our research contributes to the existing literature by looking at the housing experiences of immigrants and refugees in the Vancouver context.

Current literature and policy research both stipulate that there exists a need for all scales of government to facilitate in the development of social capital among newcomers. The finding that not all groups have equal access to social resources (*i.e.*, social capital) upon arrival has implications for future policy development. For newcomers, access to social capital does not always commence with networks of family and friends. In the case of refugee claimants we see that bridging with members of society occurs after arrival and precedes the bonding that occurs with close family and friends. Those without access to social capital (*e.g.*, refugee claimants) are most likely to end up in precarious housing situations.

Appendix A: Methodology

In approaching this research, and in light of the complexities in defining and enumerating homelessness, we adopted an evidence-based, multiple points of contact study combining qualitative and quantitative approaches. The project was composed of three sub-studies, each of which focuses on a particular aspect of homelessness.

1. Sought to examine those experiencing absolute homelessness by developing a portrait of the immigrant and refugee populations using emergency shelters and transition houses. This sub-study involved twelve semi-structured interviews with key informants from emergency shelters and second stage transition houses in the GVRD, and the compilation and analysis of data collected by shelter personnel over seven 24-hour periods between October and December, 2004. In total, we received 261 completed shelter data collection forms.
 2. Sought to explore the housing situation of refugee claimants who have recently received a positive decision enabling them to stay in Canada. Thirty-six individual interviews were conducted with SRCs in the GVRD. The interviews were semi-structured and explored the housing situation of claimants both before learning of the positive decision, and in the first six months since receiving it. In addition, four interviews were conducted with settlement workers.
 3. Sought to examine the profile and extent of relative homelessness among immigrants, refugees, and refugee claimants. In so doing, we hoped to generate a basic estimate of the "sofa surfing" or "camping out" population among recent immigrants, as well as to identify in-group systems of support through questions about the provision or receipt of housing assistance. This sub-study is mainly focused on the Immigrant and Refugee Housing Survey (IRHS), which was conducted on October 4–8, 2004. In total, we received 554 completed surveys.
- Notes**
1. "Vancouver Housing Least Affordable," *CBC News Online*, March 29, 2006, <<http://www.cbc.ca>> (accessed 29 March 2006).
 2. This compares to 42.7 per cent in Toronto, 35.6 per cent in Calgary, 34.1 per cent in Montreal, and 33.1 per cent in Ottawa.
 3. See J. Woodward & Associates Inc., Eberle Planning and Research, Deborah Kraus Consulting, J. Graves, and May Communications, *Research Project on Homelessness in Greater Vancouver* (Prepared for the Greater Vancouver Regional District, 2002), <<http://www.hvl.ihpr.ubc.ca/pdf/WoodwardGVRD2002.pdf>> (accessed May 2004).
 4. See D. Hiebert, S. D'Addario, and K. Sherrell, *The Profile of Absolute and Relative Homelessness among Immigrants, Refugees, and Refugee Claimants in the GVRD* (Vancouver: Multilingual Orientation Service Association for Immigrant Communities, 2005), <http://www.mosaicbc.com/The_Profile_of_Absolute_and_Relative_Homelessness.pdf> (accessed May 2005).
 5. T. Peressini, L. McDonald, and D. Hulchanski, *Estimating Homelessness: Towards a Methodology for Counting the Homeless in Canada* (Canadian Mortgage and Housing Corporation, 1991), <http://www.cmhc-schl.gc.ca/en/imquaf/ho/ho_005.cfm> (accessed March 2005). Defining homelessness has always proved to be contentious, and the particular definition adopted in a study will influence results, especially in terms of the number of people included in the category of homeless. Further, the definition chosen will affect policy, since the scope of provisions and assistance is directly linked to the scale of homelessness that is identified. See also: G. Valentine, *Social Geographies: Space and Society* (Harlow, England: Prentice Hall, 2001); and A. Veness, "Neither Homed nor Homeless: Contested Definitions and the Personal Words of the Poor," *Political Geography* 12, no. 4 (1993): 319–40.
 6. D. Hiebert, "Winning, Losing, and Still Playing the Game: The Political Economy of Immigration in Canada," *Tijdschrift voor Economische en Sociale Geografie* 97 (2006): 38–48.
 7. G. Picot, "The Deteriorating Economic Welfare of Canadian Immigrants," *Canadian Journal of Urban Research* 13, no. 1 (2004): 25–45.
 8. *Ibid.*
 9. *Ibid.*
 10. K. Reil and E. Harvey, *An Analysis of Socioeconomic Situation by Ethnocultural Groups, Periods of Immigration, and Gender for Canada and Toronto CMA: 1986, 1991 and 1996 Compared* [Toronto: Joint Centre of Excellence for Research on Immigration and Settlement (CERIS), 2000].
 11. K. Pendakur and R. Pendakur, *The Colour of Money*, RIIM No., 96–03 (Vancouver: Joint Centre of Excellence for Research on Immigration and Settlement, 1996).
 12. D. Ley, "Myths and Meanings of Immigration and the Metropolis" [Wiley Lecture], *Canadian Geographer* 43 no.1 (1999): 2–19.
 13. D. Hiebert and D. Ley, "Assimilation, Cultural Pluralism and Social Exclusion among Ethno-Cultural Groups in Vancouver," *Urban Geography* 24 (2003): 16–44.
 14. Ley.
 15. P. Bourdieu, "The Forms of Capital," in *Handbook of Theory and Research for the Sociology of Education*, ed. J. Richardson (New York: Greenwood 1986), 248–49.
 16. G. Loury, "Why Should We Care about Group Inequality," *Social Philosophy and Policy* 5, no. 1 (1987), 257–71; J. Coleman, "Social Capital in the Creation of Human Capital," *American Journal of Sociology*, 94 (1994):95–120; J. Coleman, *Foundations of Social Theory* (Cambridge, MA: Belknap Press of Harvard University Press, 1990); R. Putnam, "Bowling Alone: America's Declining Social Capital," *Journal of Democracy* 6 (1995): 65–78; R. Putnam, *Making Democracy Work* (Princeton, NJ: Princeton University Press, 1993); and A. Portes, "Social Capital: Its Origins and Applications in Modern Sociology," *Annual Review of Sociology* 24 (1998):1–24. For a thorough analysis of social capital and its debates see M. Woolcock, "Social Capital and Economic De-

- velopment: Toward a Theoretical Synthesis and Policy Framework,” *Theory and Society* 27, no. 2 (1998): 151–208.
17. *Social Capital as a Public Policy Tool Project Report* (Policy and Research Initiative, 2005), <http://policyresearch.gc.ca/doclib/SC_Synthesis_E.pdf> (accessed February 2005).
 18. M. Granovetter, *Getting a Job* (Chicago: University of Chicago Press, 1994); M. Granovetter, “The Strength of Weak Ties,” *American Journal of Sociology* 78, no. 6 (1973): 1360–80.
 19. M. Granovetter, “The Strength of Weak Ties: A Network Theory Revisited,” *Sociological Theory* 1 (1983): 201–33.
 20. B. Ray, *A Comparative Study of Immigrant Housing, Neighbourhoods and Social Networks in Toronto and Montreal* (Ottawa: Canadian Housing and Mortgage Corporation, 1998).
 21. *Ibid.*
 22. In some cases, respondents provided anecdotal evidence of shelters sending immigrants and refugees to other (*i.e.*, more appropriate) shelters, while one particular shelter frequently refers immigrants and refugees to another facility within their organization that does not require Ministry of Human Resources (MHR) vouchers. Both refugee claimants and those lacking proper documentation are populations that may be particularly affected by these requirements. The inability of some newcomers to qualify under the MHR mandate was seen to prevent some immigrants and refugees from accessing the system.
 23. Ray.
 24. For our purposes, “help” was defined as being informal (*i.e.* not government or NGO), temporally variable (*e.g.*, for some this help could last a few hours or days, for others a few months), and could involve a range of activities including helping scan the newspaper, accompanying people when they view potential places to live, or in some cases providing subsidized—or free—accommodations.
 25. For a more detailed discussion see Woolcock; also Putnam, “Bowling Alone: America’s Declining Social Capital.”
 26. S. D’Addario, “Sleeping on the Margins: The Role of Social Capital in the Housing Patterns of Refugee Claimants in the Greater Vancouver Regional District (master’s thesis, University of British Columbia, 2005).
 27. R. Murdie, “Pathways to Housing: The Experiences of Sponsored Refugees and Refugee Claimants in Accessing Permanent Housing in Toronto” (working paper, CERIS, York University, Toronto, 2005); D. Rose and B. Ray, “The Housing Situation of Refugees in Montreal Three Years after Arrival,” *Journal of International Migration and Integration* 2, no. 4 (2001): 493–527; Ray.
 28. See National Council of Welfare Reports, “Welfare Incomes 2003. Spring, Volume 121. Canada.” (2004), <<http://www.ncwcnbes.net>> (accessed February 2005).
 29. *Ibid.*
 30. See *Rental Market Report 2003 Survey—British Columbia* (Canadian Housing and Mortgage Corporation, 2003, <<http://www.cmhc.ca>> (accessed January 2004).
 31. Policy Research Initiative, 2005, <http://policyresearch.gc.ca/doclib/SC_Synthesis_E.pdf> (accessed February 2005).
 32. Policy Research Initiative, 2005.
 33. Anthony Giddens, *The Third Way: The Renewal of Social Democracy*. (Cambridge: Polity Press, 1998).
 34. T. Grant, “Housing Affordability Deteriorates,” *Globe and Mail* (Toronto), May 18, 2006, <<http://www.theglobeandmail.com>> (accessed 18 May 2006).
 35. The term “social capital” is invoked to provide an understanding of the advantages that derive from membership in an ethnocultural group, but with a greater emphasis on the presence of reciprocity and trust. This is particularly the case for large, well-organized ethnocultural communities that have developed a degree of institutional completeness that includes help for those in need, such as the Chinese-Canadian population in Greater Vancouver.
 36. Murdie; Rose and Ray; and Ray.

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De la campagne à la ville à la recherche de protection : Le cas colombien du déplacement forcé

FLOR EDILMA OSORIO PÉREZ

Résumé

Le présent article traite de quelques dynamiques du déplacement forcé interne, présent de façon importante en Colombie pendant la dernière décennie à cause de la guerre interne que connaît ce pays. Suivant le flux rural-urbain, les paysans fuient leur domicile pour aller vers la ville. L'imaginaire de sécurité des villes, comme par exemple Bogotá où sont présents le gouvernement et toutes les institutions publiques, est en train de produire une urbanisation accélérée face à une déruralisation qui transforme l'ensemble du pays. La rencontre avec d'autres déplacés dans les mêmes circonstances que soi permet de tisser de nouvelles sociabilités improvisées, fragmentées et ambiguës et rend possible de trouver quelques réponses à leur situation. Malgré une précarité quotidienne, les *desplazados* (déplacés) soutiennent l'attente d'un futur meilleur, à défaut d'autres horizons et au sein d'une lassitude provoquée par l'instabilité et l'incertitude.

Abstract

This article discusses some dynamics of internal forced displacement, which has occurred at a high level in Colombia over the last decade as a result of the civil war which the country is going through. Influenced by the rural-urban population flow, peasants flee from their homes to the imagined safety and security of the cities. Bogotá, for example, the seat of government and of all public institutions, is experiencing rapid urbanization, as distinct from a deruralization process which is transforming the whole country. When displaced people are able to meet with others in similar circumstances they are able to establish new improvised ties of sociability, fragmented and ambiguous as they are, and enables them to find some solutions to

*their circumstances. Despite the precariousness that each day brings, the *desplazados* (displaced) live in expectation of a better future, despite having no other place to go and being surrounded by a weariness caused by instability and uncertainty.*

*J'ai vu la fumée et les flammes monter jusqu'au ciel.
« Mi gente » fuir de leurs maisons. Cris, horreur, pleurs et deuil.
La mort est en liberté. Ta vie est en jeu, ton sang est le pari.
Ils viennent avec des armes à feu, la mort est en liberté. Colombie est en jeu.
Dans cette guerre maudite, autant de pauvres autant de morts.
Je veux retourner au bord de ma rivière, je veux retourner à mon village.
Aidez-nous mon Dieu à éteindre cet enfer¹.*

En Colombie, près de quatre millions de personnes ont du fuir leur domicile pour échapper aux groupes armés et à la violence d'une guerre de plus en plus présente et complexe² qui laisse sur son passage mort, désolation, déracinement et douleur. Les expulsions, déplacement forcé de la population, sont devenues une expression quotidienne dramatiquement banale de la violence armée. Elles marquent une rupture brutale et radicale avec la communauté et le territoire d'origine; elles traduisent une privation violente des repères matériels et symboliques qui fondent l'identité des individus et des familles qui en sont victimes. Pour les *desplazados* (déplacés), écartelés entre un présent amer, déjà inscrit dans le passé, et un futur incertain, le désespoir est absolu. Alors, où chercher protection? Les villes et centres peuplés, surtout les plus importants, sont les élus. L'imaginaire de sécurité dans les villes, où sont présents le gouvernement et toutes les institutions publiques, est en train de produire une urbanisation accélérée face à une déruralisation qui transforme l'ensemble du pays.

Ces réflexions suivent une partie de ma thèse doctorale qui a étudiée la situation générale du déplacement en Colombie, en accordant une importance particulière à la rup-

ture et la reconstruction du territoire, des référents identitaires et de l'action collective³. Le texte se divise en quatre parties. Nous montrons d'abord le processus de déruralisation et d'urbanisation. Nous exposons ensuite quelques dynamiques du déplacement orienté vers Bogotá, la ville capitale, d'après les témoignages des déplacés. Nous abordons ensuite la catégorie *desplazado* qui tend à devenir substantielle et stigmatisée. Enfin, nous nous penchons sur les expressions de solidarité, d'organisation et de résistance des déplacés dans les villes.

1. Processus accélérés de déruralisation et d'urbanisation

En Colombie les campagnes ont occupé dans la guerre un espace privilégié, bien que non exclusif, pendant les cinquante dernières années au moins, espace qui garde une forte relation avec la subordination et l'exclusion des campagnes. C'est pourquoi le déplacement forcé concerne essentiellement les habitants ruraux. Guerre et déplacement sont en train de produire une déruralisation dont la contrepartie est une urbanisation accélérée, avec en arrière-plan une modernisation apparente, fragmentée et appauvrissante.

Le développement de la guerre dans les territoires ruraux obéit aux intérêts militaires, sociopolitiques et économiques des différents acteurs armés alliés aux acteurs non armés. Dans cette guerre complexe qu'est en train de vivre le pays le rapport de cause à effet devient diffus, à tel point qu'il est difficile d'établir d'une manière générale s'il y a des *desplazados* parce qu'il y a une guerre, ou s'il y a une guerre pour qu'il y ait des *desplazados*⁴. Au milieu des dynamiques régionales, la guerre généralisée recrée peu à peu ses particularités. Cependant, qu'environ 70 % des foyers déplacés ont un rapport à la terre (à travers la résidence, l'emploi et/ou la propriété de la terre) demeure significatif. Avec le déplacement forcé des familles, près de quatre millions d'hectares se sont vus « désertés » et réinvestis. Le déplacement sert ainsi un double objectif : homogénéiser la population pour faciliter le contrôle du territoire et, en même temps, réordonner la propriété de la terre en fonction des intérêts des groupes armés.

La guerre en Colombie est en train de provoquer d'une manière accélérée et arbitraire une transformation du système social et économique de la campagne et des villes. Près de mille paysans entrent chaque jour dans un processus de transit forcé vers des centres urbains sans possibilité de retour, tout au moins à moyen terme. Au milieu d'une espèce de nomadisme temporaire, les foyers et les personnes en déplacement s'orientent vers les centres urbains qui voient s'accélérer ces dynamiques d'urbanisation. Plongés dans l'ambiguïté constante, les *desplazados* vivent dans la

rupture et l'articulation forcée de deux logiques qui semblent s'inscrire de manière schématique entre tradition et modernité⁵, que l'on peut comparer avec la dichotomie campagne-ville. Cette polarisation théorique est cependant erronée. Dans la réalité, elle entretient constamment des articulations, des superpositions et des frontières diffuses.

Se déplacer suppose un changement forcé du territoire, qui rend obligatoire la construction de relations avec d'autres lieux, d'autres acteurs et d'autres groupes sociaux. Partir, sous la menace des armes, entraîne aussi une modification radicale de l'image que l'on a de soi-même et donc la construction d'une identité nouvelle. La guerre bouleverse donc les référents territoriaux de la population et, par-là, elle touche directement les dynamiques de construction identitaire. La terreur, les persécutions, les menaces modifient les représentations de l'espace et des objets ainsi que de la place qu'y occupent les individus et les groupes sociaux.

L'itinéraire campagne-ville paraît être le plus fréquent dans la dynamique du *desplazamiento* (déplacement) forcé⁶. Dans le cas colombien, les paysans partent en direction des centres urbains, qui ne sont pas uniquement les grandes villes mais n'importe quel périmètre urbain voisin, à la recherche de protection. Cependant, les centres urbains ne constituent pas automatiquement des espaces de plus grande sécurité physique par rapport à l'isolement et au manque de protection des campagnes. Dans certains cas, la garantie qu'ils offrent n'est pas plus grande. Voyons quelques manifestations de cette relation ambiguë du milieu urbain comme lieu sûr et comme alternative à la guerre :

1. Les centres urbains, même petits, confèrent un certain pouvoir d'action collective face aux demandes d'aide, de sorte que les distances et la solitude des campagnes restreignent la possibilité de donner et de recevoir de l'aide en cas d'agression. Cependant, rien n'est moins sûr, du fait que les actions violentes dans les petites municipalités se sont multipliées sans que leurs habitants aient pu y faire quoi que ce soit⁷. En même temps, dans les centres peuplés, il peut être plus facile d'établir des accords avec les acteurs armés de façon à éviter des irruptions violentes au sein des populations et des communautés⁸.
2. Les centres urbains peuvent garantir la défense de leurs citoyens grâce à la présence d'autorités telles les forces de l'ordre, habituellement présentes pour assurer cette tâche. Or, ceci est un imaginaire incertain, car les « prises de villages » sont fréquentes de la part des guérillas et des paramilitaires, sans qu'une plus grande protection soit offerte⁹. D'autre part, la présence de paramilitaires et de la guérilla dans le contrôle politique et militaire des populations rurales paraît indiquer

qu'un autre élément empêche l'exercice de la protection de la population¹⁰. Même dans les villes de moyenne et de grande taille, les persécutions sélectives perpétrées sur des leaders et sur des personnes se maintiennent.

3. Les villes sont des lieux où peuvent se produire des rapports de force avec le gouvernement. Dans certains cas, on a vu des *desplazamientos* massifs dont le but était de faire pression sur le gouvernement et sur l'opinion publique, justement pour qu'ils s'orientent vers des villes stratégiques au niveau de l'économie et de la sécurité de la région¹¹. Cependant, ce mécanisme a souvent échoué dans la mesure où à la suite de grands efforts et de privations de la population qui se déplace, ainsi que de la part de celle qui, par la force, héberge la première, l'exercice du retour des *desplazados* constitue un jeu de promesses non tenues. Ceci a pour effet de produire lassitude et incrédulité au sein de la population paysanne qui ne voit ni les résultats, ni les actions institutionnelles tant de développement socio-économique que de sécurité et de protection de leurs personnes.

La valorisation des espaces qui offrent ou non protection est en étroite relation avec la polarité campagne-ville, bien que ce soit seulement l'imaginaire de la population. L'occupation et le contrôle de territoires par les groupes armés, bien que couvrant les centres urbains stratégiques, a son siège privilégié dans les zones rurales et d'accès difficile¹². Le flux rural-urbain qui suit le *desplazamiento* forcé interne reproduit en bonne partie les circuits migratoires traditionnels. Le rôle de la guerre dans les années 90 comme accélérateur de l'urbanisation¹³ dans l'ensemble du pays ne peut pas être valorisé avec suffisamment de précision. Cependant, à partir de perspectives locales, ces processus paraissent se confirmer.

Le milieu rural est synonyme d'espace dangereux, de sorte que la ville est identifiée comme un espace de protection et d'aide. Ceci renforce un processus d'urbanisation galopante, au milieu d'une dévalorisation économique, sociale et politique des campagnes qui se concrétise en politiques de découragement envers l'économie paysanne et agricole, insoutenable en conditions de conflit armé. Par cette voie, les guerres intestines imposent, dans des cas comme le cas colombien, ce que nous pourrions appeler une modernisation forcée, incomplète et excluante; aussi appelée modernisation négative ou modernisation armée¹⁴.

2. Bogotá : une forêt tout en ciment

Bogotá, la capitale de la Colombie, aborde le XXI^e siècle avec plus de sept millions d'habitants, soit environ 15 % de la population totale du pays. En tant que district capital, son territoire n'a pas toujours été le même. En effet, celui-ci s'est

étendu pour intégrer peu à peu des municipalités de la périphérie, comme en 1954 quand la ville a annexé six municipalités¹⁵ qui ont formé le District Spécial.

Fondée le 6 août 1538, la ville est devenue le centre politique et administratif du pays. Au début du XX^e siècle, elle comptait une population de 100 000 habitants¹⁶ et dans la première moitié du siècle elle sut maintenir un rythme de croissance inférieur à celui de villes telles que Medellín, Cali ou Barranquilla, qui ensemble constituent ce que Gouëset (1998) a appelé la « quadricéphalie¹⁷ » colombienne. Vers le milieu du XX^e siècle, la suprématie urbaine de Bogotá s'affirma¹⁸, tendance qui s'est maintenue malgré le peu de distance qui la sépare des autres villes¹⁹. Actuellement, elle abrite un peu plus du cinquième de la population urbaine totale du pays, ce qui confirme sa tendance à la concentration de la population et la différencie d'autres capitales latino-américaines telles que Mexico ou São Paulo.

Il faut rappeler que tout en étant toujours conforme à une tendance à la baisse, dans les cinq dernières années Bogotá a accueilli entre un tiers et un cinquième de la population déplacée de tout le pays. Entre 80 % et 95 % des familles arrivant à Bogotá ont des liens avec le milieu rural, ceci est le reflet d'un changement énorme survenu en termes d'espace habité par la grande majorité des personnes déplacées. Plus la fracture territoriale est grande, plus le « bannissement » s'intensifie et plus les processus de reterritorialisation deviennent lents et incertains.

La capitale colombienne apparaît comme un lieu offrant de plus grandes possibilités de survie. Elle se caractérise par une moindre capacité d'action des acteurs armés et par une plus grande concentration des ressources que peut offrir l'État au niveau de soutien. La plus grande densité de population offre la protection de l'anonymat et sa dynamique économique rend possible la rencontre d'espaces de travail qui permettent de tout recommencer à zéro. De même que dans les migrations économiques, la participation de Bogotá comme terre d'arrivée a décliné, d'autres villes capitales et chefs lieux régionaux tendant à prendre le relais.

L'arrivée dans une ville inconnue pour la grande majorité des gens, signifie une rupture territoriale importante. Mais, quels sont les critères qui pèsent lors du choix de Bogotá comme destination d'exil? Le choix d'une destination est marqué tant par les décisions des autres que par les réseaux d'amitié et de parenté qui facilitent l'intégration. Parents et entourage qui offrent une aide au cœur d'une ville inconnue, pour commencer, sont des raisons suffisantes. Pour Pedro, il est clair qu'« on vient à Bogotá, le plus loin, pour être un peu plus sûrs. Ce n'est pas pour l'argent, ni parce qu'ici, comme disent certains, il y a du travail. C'est pour la sécurité. C'est plus éloigné de tous ces problèmes, plus éloigné de la mort. »

Mais la perception de la sécurité qu'offre la ville est relative pour d'autres comme Sandra. « Ici, on n'est pas en sécurité, mais on ressent comme un peu plus de tranquillité. Là-bas, la peur, c'était de rester chez soi et qu'ils en finissent avec toute la famille ». Pour Emilia, cela a été une frustration : « en ce moment même, on pense que arrivée à la capitale, on va obtenir plus d'aide, de travail, les choses plus faciles mais ici, tout est difficile. Je connaissais déjà Bogotá mais cela fait longtemps. Quand j'avais 15 ans, je suis venue travailler ici un an, mais je ne m'y suis pas plu et je suis retournée d'où je venais ».

La vie de quartier peut amener des retrouvailles avec la violence ou encore d'autres formes de violence, de la part d'autres acteurs ou peut-être des mêmes. D'une part, la délinquance commune entretient un climat d'insécurité et impose des relations différentes avec le logement, qui doit être maintenu fermé tout le temps. D'autre part, la violence à orientation politique reste très présente. C'est le cas des assassinats sélectifs, particulièrement des assassinats de jeunes²⁰, perpétrés par le commando paramilitaire *Bloque Capital* (Bloc capital), qui bénéficie du soutien des habitants, particulièrement des commerçants locaux²¹. Les groupes font du porte à porte pour offrir des services de surveillance et les gens qui acceptent doivent payer une cotisation mensuelle²². En dehors de la fonction d'ordre et de sécurité qu'ils s'arrogent en tant que milice privée, *para*-étatique, les paramilitaires cherchent à éradiquer toute relation existante entre les groupes guérilleros et les milices populaires. Ainsi voit-on la ville devenir le domaine privilégié des paramilitaires pour reproduire le modèle de dispute territoriale existant dans les zones rurales marginales qui désormais s'étendent aux zones de la frontière rurale-urbaine marquées par la misère.

Le nouvel espace confronte les déplacés à la précarité extrême mais aussi à l'invention de mécanismes mis en place par les femmes pour aller chercher fruits et légumes à la centrale d'approvisionnement. Virgelina explique ce qu'est cette activité : « Je vais à Abastos récupérer de la nourriture. On nous y traite très mal. On nous dit : "Va travailler!" J'y vais tous les huit jours avec une autre voisine. On part à cinq heures du matin. Il y a plein de choses jetées. Parfois, on les ramasse et ils vous les reprennent. Parfois, on nous offre des fruits. Il faut avoir de la patience. On récupère oignons, tomates, pommes de terre, légumes, fruits, bananes ».

Des stratégies de survie culturelle permettent aussi d'assurer une continuité à ces pratiques sociales de rencontre, de fête, de célébration et de jeu. Comme dit Delgado, « entretenir des conduites culturelles singularisées a été essentiel pour que les immigrants parviennent à affronter les cadres d'exploitation et de marginalisation qu'ils ont eu

si souvent à endurer. Ainsi les mécanismes de reconnaissance mutuelle entre les immigrants d'une même provenance leur a toujours donné la possibilité d'activer un réseau d'entraide et de solidarité très utile²³ ». Dans le cadre d'une dynamique de continuité et de fragmentation des pratiques culturelles des *desplazados* afro-colombiens à Bogotá, on trouve diverses attitudes et différentes conduites. Carmen, par exemple, a maintenu certaines coutumes : « J'ai quelques amis et quelques personnes que je connais, que j'ai connu ici, d'autres endroits. On joue au bingo et aux dominos, comme là-bas. Spécialement les femmes. Les hommes, pendant la semaine, quand ils n'ont rien à faire, se réunissent et jouent au billard ou aux cartes. Et le week-end, ils vont boire, parler entre hommes. » Profitant des possibilités, certains cherchent à recréer leur milieu rural dans le quartier comme c'est le cas pour Pedro et Julieta : « Ici, nous avons quelques lapins, des poules, un couple de canards et même une chèvre. » Les restrictions en termes d'espaces sont grandes; par conséquent, cette pratique n'est possible que lorsqu'on est propriétaire d'un lot.

Le passage de rural à urbain marque des ruptures au niveau du savoir-faire. Ainsi, une partie de l'offre institutionnelle est destinée à la formation. Une partie de celle-ci vise la réorientation professionnelle par le biais de cours pour élaborer des projets productifs, qui comprennent des matières telles que l'agriculture en climat froid, la comptabilité, le maniement de l'ordinateur, la gestion de projet, la création d'entreprise. D'autres cours visent la formation sociale, tels que les ateliers pour les parents ou pour les premiers secours. « J'aime bien assister aux ateliers. Ici, c'est super parce que j'ai eu la possibilité d'apprendre toutes ces choses, tandis que là-bas, on n'avait pas cette possibilité. »

La différence d'environnement rend plus profonde la nostalgie de ce que l'on a laissé. Le mythe d'Ulysse, à savoir le rêve d'un retour vers un royaume d'Itaque magnifié,²⁴ est très fort et trouve son reflet tant dans la comparaison quotidienne de coutumes, de paysages et de jouissances, que dans les possibles articulations entre l'espace actuel et l'espace antérieur, entre Bogotá et quelque endroit rural. Le quotidien de la survie remet en mémoire avec d'autant plus de douleur et un regard idéalisé le patrimoine qu'ils possédaient et dont ils ne jouissent plus. Leurs fermes, leurs villages sont reconnus comme un territoire prodigue en ressources. Pedro insiste sur le contraste : « Regarde la situation que nous vivons. Sur nos terres, on va à la *sementera* [plantation], on cueille les bananes, on va avec son chien, et on chasse un animal. On revient à la maison, on vend les bananes et on vend la viande de l'animal. Ici, il faut payer le billet de transport. Là-bas on n'a rien à payer sous prétexte qu'on va d'un endroit à un autre en marchant ».

La dépendance monétaire propre à la ville fait contraste avec le territoire qu'on a quitté où il y avait toujours du travail sur les terres, et toujours de la nourriture. La ville sous-entend un emploi, rare et mal payé, ne pouvant pas garantir la survie familiale. La rupture des espaces reproductifs et productifs dans la ville affecte tout spécialement les femmes. « Là-bas, je cherchais de l'or, dans les fermes, je coupais des bananes. On est habitués à travailler. Mais ici, c'est très difficile de faire garder ses enfants. Là-bas, on les avait avec nous, à la ferme », explique Emilia.

Presque tous possédaient une maison — ou un *ranchito* comme ils l'appellent — où vivre avec leur famille. Cependant, ici, le travail initial, c'est trouver où vivre. On regrette non seulement le paysage, le climat et les coutumes différentes, mais aussi la carence et la misère présentes qui sont mises en face à la relative abondance et diversité dont ils disposaient dans leurs régions. Ses logements ruraux, humbles mais spacieux et adaptés sont devenus désormais des chambres louées, très petites, pas assez grandes pour permettre aux enfants de jouer. Les travaux domestiques, centrés pour les femmes sur la préparation de la nourriture et le lavage du linge, dans des contextes urbains marginaux où l'eau est rare, deviennent beaucoup plus durs. « On allait savonner, mais c'était plus pour se baigner et on revenait dans l'après midi. Là-bas, c'était amusant d'aller laver. On ouvrait ce linge sur la plage et c'était en un clin d'œil que cela séchait. Mais ici, avec ce froid et quand il pleut! Ici, l'eau nous arrive par des tuyaux et on a un lavoir » commente Julieta.

« Là-bas, il y a une forêt toute en montagnes et ici, une forêt toute en ciment. » Cette expression est le reflet de la perception d'une ville insensible avec l'autre, avec l'étranger pauvre. La douleur propre à l'abandon de « la terre » est permanente et s'intensifie quand les carences quotidiennes se chargent de rendre présentes les absences. « On s'ennuie de sa terre. Ce que l'on voudrait, c'est retourner à notre terre s'il y avait la paix, mais cela, personne ne le garantit. On a deux frères ici. Parfois, on boit un coup et les larmes commencent à couler. » Cependant, « à l'allure où vont les choses, c'est mieux que nous restions ici. Quand on aura vu qu'il y a de la tranquillité, on pourrait revenir » raconte Simón.

Vivre à Bogotá, cependant, n'est pas une décision définitive. Pour l'instant, l'attente d'un retour possible, bien que pas immédiat, est vivante. Accéder à un logement propre est le rêve entretenu par tous, un rêve sur lequel on parle comme but pour refaire son projet familial. Il symbolise l'intégration, l'insertion dans une société locale et devient même une espèce de mythe attendu de rupture avec sa condition de déplacé, d'étranger de passage.

3. *Desplazado* : une catégorie qui tend à devenir substantielle et stigmatisée

Le déplacement devient une mesure préventive quand « les choses commencent à tourner mal », ou une action imposée par les groupes armés sous la menace de « nettoyer la région », ou bien encore il est justifié par les armées qui annoncent « on va s'envoyer des pruneaux et vous êtes en danger ». Néanmoins, concrètement, ces décisions ont différentes nuances en termes de temps, de positionnement devant les armées, d'endroits où aller, etc. En tout cas, une recomposition du territoire en fonction de la guerre va s'engendrer. Si la population demeure, non seulement les alliances vont se modifier avec les nouveaux acteurs armés qui ont le pouvoir mais encore, bien des règles de la vie en société, familiale et personnelle vont être bouleversées.

La guerre engendre en permanence des marqueurs identitaires aussi bien individuels que collectifs. Les qualifications du genre ami-ennemi, coupable-innocent, victime-bourreau, déplacé de X endroit, déplacé par X acteur, vont configurer de nouvelles identités, qui ne correspondent pas seulement à des comportements et à des actes récents mais également à leur trajectoire historique. De cette catégorisation va dépendre, dans de nombreux cas, littéralement la vie ou la mort, surtout dans des espaces locaux où les rapports sont plus directs et un contrôle minutieux des habitants peut être exercé. En fonction de ces identités assignées, les groupes de pouvoir, armés et non armés, déterminent, au nom du bien commun, la vie de nombreux habitants ruraux. Les actions et interactions entre groupes armés et non armés engendrent des repères identitaires au-delà du simple jeu de reflets ou de réponses plus ou moins mécaniques aux attributions identitaires faites par d'autres. Par conséquent, si l'un des acteurs veut changer l'identité qui lui est assignée, cela veut dire qu'il veut modifier le rapport entre les deux, parce que ce qui est en jeu, ce n'est pas seulement l'identité de l'un ou de l'autre, mais la situation qui contient le rapport²⁵. Ainsi, par exemple, le changement d'armée dans un territoire que l'on se dispute entraîne une forte crainte des populations, car elles se savent considérées comme dangereuses par le groupe armé opposant. Ignorant comment interagir avec les autres, angoissée par les avertissements et les menaces, ne pouvant communiquer et s'informer qu'à travers les rumeurs, la population vit une situation insoutenable, à tel point qu'elle décide de partir, en quête d'un peu de sécurité et de tranquillité.

Mais les dominateurs ne sont pas les seuls à assigner des identités. Il y a aussi les autres habitants qui, alliés ou non aux premiers, qualifient ou disqualifient peu à peu voisins et personnes, connues ou non. On insiste sur le fait que « si on ne se mêle pas des affaires des autres et qu'on ne fait rien

de mal, on vous laisse tranquille » ou l'équivalent, « il doit bien y avoir une raison si... » Cette croyance se maintient bien qu'ils aient été eux-mêmes victimes sans avoir rien fait de mal. Les acteurs armés se voient ainsi légitimés car on responsabilise la victime, elle est responsable de sa situation. C'est ainsi que l'on intériorise des mécanismes d'impunité, d'indifférence et de consolidation de la justice privée.

La réalité du déplacement est née avec la guerre et doit renaître en plein milieu de celle-ci. Des situations et des points de vue semblables s'agencent en référents communs, et se construisent à partir de la perte, de la souffrance et de leur condition de victimes²⁶. Il est indispensable de commencer un processus de construction du territoire, en occupant les espaces sociaux et physiques d'autres habitants et en entrant en concurrence pour de rares ressources, dans une articulation forcée et conflictuelle entre le rural et l'urbain. Le *desplazado* est vu également comme un transmetteur de violence. La perception que l'on a de la guerre dans cet autre pays, le pays rural, nourri par des moyens de communication de masse, où chaque groupe armé extermine l'ami de son ennemi, nous pousse à conclure que, dans tous les cas, le *desplazado* est l'ami, le militant ou le complice d'un groupe armé. Sa fuite est vue comme une preuve de sa culpabilité, qu'il traîne à sa suite où qu'il aille, parce que des factions des groupes armés peuvent le suivre jusque dans la ville. La transmission de violence qu'on impute au *desplazado* se trouve confirmée et augmentée lorsque l'on connaît ou que l'on présume quelle est leur provenance; le Caguán, l'Urabá, Córdoba, Barrancabermeja et bien d'autres endroits ont dans l'imaginaire collectif une adhésion territoriale avec les groupes armés, que l'on fait endosser à l'habitant.

Dans ce contexte de misère et d'urgence, où il faut résoudre des besoins de premier ordre, d'autres stigmatisés s'ajoutent à ceux qui viennent de la guerre elle-même. Comme on l'assimile aux dépossédés, le *desplazado* est également vu comme un délinquant potentiel : les niveaux de misère urbaine et la corrélation quasi automatique entre pauvre et délinquant, aboutit à la construction du stéréotype du *desplazado* comme une nouvelle recrue de la pauvreté, qui habite dans les ceintures de misère de la ville, d'où sortent, justement, les délinquants. Les *desplazados* contribuent ainsi à augmenter « la poudrière sociale » ou « la bombe à retardement » qui bouillonne jour après jour dans la marginalité urbaine. D'après un document du *Red de Solidaridad Social* (Réseau de solidarité sociale), c'est « un nouveau facteur de déstabilisation politique et économique de notre région. » Les *desplazados* sont, dans la sphère locale, les nouveaux demandeurs de ressources étatiques, qui rentrent en compétition avec les « pauvres historiques », anciens

immigrants qui attendent une solution depuis naguère. Fonctionnaires, habitants et organisations sociales partagent souvent cette vision qui place les plus vieux demandeurs en position prioritaire. À cela vient s'ajouter la représentation de l'imposteur, qui se fait passer pour un *desplazado* pour profiter de la solidarité économique. On peut même être nommé « *desplazado* professionnel ». La méfiance freine la solidarité et impose une série d'« attestations » pour montrer aux « autres » qu'effectivement, on appartient à cette catégorie sociale. Le *desplazado* fait figure de nouveau mendiant dans les rues des villes, qui pour se différencier des mendiants traditionnels résume en une phrase son statut d'« être déplacé par la violence ».

Depuis la guerre et la misère on construit toute une série de stigmatisés à travers lesquels est reconnu, évité et exclu celui qui vit dans le déplacement forcé. Cela constitue une barrière difficile à visualiser et à manipuler qui, néanmoins, traverse les nouvelles dynamiques de sociabilité dans les nouveaux contextes urbains où on cherche à reconstruire un projet de vie. Les *desplazados* se meuvent entre l'illusion que donne la recherche d'une reconnaissance administrative du déplacement et le poids des multiples stigmatisés.

4. Solidarités, organisations et résistances urbaines

La ville offre de plus grands répertoires de confrontation au niveau des actions de fait et des discours exprès qui mettent l'État face à ses responsabilités en ce qui concerne le *desplazamiento* et exigent de lui le respect des droits de déplacés, quitte à faire appel aux instances légales. Cependant, tous les déplacés de Bogotá ne font pas pour autant appel à ces répertoires, car une espèce d'autocensure sévit, motivée par la peur, l'obéissance à l'autorité et la perspective stratégique de créer plus d'alliances que de conflits. Ainsi, l'accès à des espaces d'articulation, bien que passagers et naissants, s'en est trouvé favorisé entre organisations de déplacés. En ce processus là, la dynamique du secteur tertiaire, donc des ONG, est une des plus actives du pays et représente une opportunité politique importante et diverse pour les organisations de déplacés. L'accès aux événements, à la formation, aux discours institutionnels, etc. permet aux groupes présents à Bogotá d'enrichir leur propre discours, discours exprimant leurs besoins, d'un discours sur leur droit à une réponse de la part de l'État.

Fédérer tous les efforts pour résoudre les problèmes quotidiens est une possibilité surgie de la nouvelle situation de dépouillement qu'a laissée le *desplazamiento* forcé. Bien que de nombreuses actions communes n'aient pas de caractère formel, elles contribuent cependant à refaire les relations sociales dans de nouveaux contextes, à partir du référent identitaire contradictoire de « *ser y estar despla-*

zado » (déplacé permanent et temporaire). On retrouve ainsi des solidarités nées à partir d'initiatives des *desplazados* eux-mêmes, en tant qu'initiatives dont les institutions font la promotion et auxquelles elles apportent leur soutien. Ceci s'illustre par exemple par les soupes populaires conçues par les femmes, qui peuvent évoluer vers des actions de portée et de durabilité plus grande. D'autres formes d'action conjointe, même si elles ne sont pas organisées, consistent en la récupération des déchets des grandes industries agricoles ou l'entraide entre voisins pour garder les enfants quand les parents vont travailler ou pour s'occuper des malades. Même si ces stratégies de solidarité ponctuelle entre personnes pauvres peuvent être vues comme quelque chose de faible portée, elles constituent une force importante tant dans la survie des familles que dans la constitution de nouveaux réseaux sociaux qui peuvent avancer vers des processus à plus longue échéance.

La nécessité de canaliser les ressources et l'attention institutionnelle, ainsi que les exigences de la part de ces mêmes institutions d'aide, a généré une croissance rapide du nombre d'organisations de *desplazados* qui, jusqu'en 1997, étaient très rares. En suivant un schéma traditionnel et généralisé pour l'action collective, les personnes *desplazadas* se regroupent en associations et en collectifs, lesquels se constituent fréquemment à partir de l'hétérogénéité et de la conjoncture de la rencontre, plus qu'à partir de l'homogénéité des lieux d'origine. La plupart du temps, ce sont des organisations qui ont une existence légale et qui sont enregistrées auprès de l'État, démarche qui devient une condition pour les relations avec celui-ci.

Réplique des Juntas d'Action Communales (JAC), modèle le plus étendu dans le pays tant au niveau urbain que rural, ces organisations représentent les intérêts d'un secteur de la population auprès du gouvernement local, régional et national en vue d'assurer la gestion et d'investir des ressources. Depuis le schéma technocratique qui s'est imposé avec la décentralisation et la modernisation de l'État, les demandes des colons passent par « l'élaboration de projets ». Ces derniers sont une formalité dans l'intermédiation institutionnelle avec l'État et les ONG. Cette logique suppose des niveaux éducatifs et de gestion de l'information dont, dans la pratique, on ne dispose pas et qui ne correspondent pas avec les urgences et les situations limites du *desplazamiento* forcé. Cette formalité finit par être satisfaite en faisant appel à des intermédiaires qui élaborent le projet. Cependant, la différence entre les temps bureaucratiques et ceux des besoins et des rythmes des groupes permettent difficilement des processus satisfaisants de planification participative. Dans de nombreux cas, il n'y a aucune correspondance entre ces efforts et les processus de sélection technique et opportune de réponses, car les mécanismes

traditionnels du clientélisme et de la corruption continuent à primer sur les organismes gouvernementaux. D'autre part, l'aide reçue de l'État et des organismes d'aide subit fréquemment une forte ingérence qui conditionne les formes organisationnelles ainsi que les logiques et les dynamiques des groupes²⁷.

Les difficultés, dans ces processus collectifs, sont diverses. Les énergies des dirigeants sont concentrées sur le succès de la reconnaissance légale et sur de multiples démarches pour concrétiser et gérer les demandes de soutien de la part de l'État. Les familles associées font quelques apports en argent pour ces démarches et participent à des réunions périodiques, mais habituellement la résidence dispersée rend difficile la rencontre et la communication permanente. En même temps, la gestion quotidienne de la subsistance génère une concurrence entre les besoins familiaux et le temps dont a besoin l'organisation²⁸. Maintenir la dynamique et la force de l'organisation dépend, dans une large mesure, de sa capacité à faire la preuve de succès matériels vers des solutions stables. Les délais et l'absence de réponses affaiblissent les motivations des leaders et des associés. Les associations et autres groupements de *desplazados* reproduisent fréquemment la corruption, l'autoritarisme et la manipulation, ce qui restreint les possibilités de recréer des expériences alternatives d'organisation sociale. La modalité de représentation qui délègue à quelques-uns le pouvoir de la parole délivre aussi la responsabilité des actions en diminuant la participation des associés.

Il est nécessaire de souligner que le processus menant à redessiner des réseaux sociaux en ville est plus facile quand on dispose d'un référent identitaire qui existe déjà, un sens du « nous » qui contribue à une mobilisation à travers l'action collective. Ceci permet en effet la construction de consensus internes autour du leadership et des normes, beaucoup plus fluides et présentant beaucoup plus d'éléments de confiance du fait qu'il y a déjà une base de mémoire partagée qui sert de « niche morale » à la sociabilité institutionnelle de l'action collective. L'inexistence préalable de ce référent, comme c'est le cas pour bonne partie des paysans déplacés en ville, n'empêche pas cependant des actions collectives de surgir. Mais le rythme de construction des consensus et des relations de confiance va, dans ce cas, être beaucoup plus lent, beaucoup plus ambigu et sélectif.

On peut dire que la mobilisation des opportunités politiques offertes par Bogotá aux déplacés dépend de trois types de dynamiques : d'abord, l'articulation et le positionnement dans la chaîne des intermédiaires institutionnels qui, bien qu'ils apportent leur soutien, conditionnent aussi cette mobilisation; ensuite, les rythmes, processus et consensus internes à chaque groupe pour assumer les risques potentiels que la mobilisation implique; et enfin, la décision

de chacun, en tant qu'individu, de participer ou non à la poursuite d'actions collectives, en fonction de ses propres intérêts, de ses propres besoins et expériences.

Les actions collectives, organisées ou pas, orientent aussi les énergies vers la protestation contre l'État. La pression s'est imposée dans la mesure où les réformes promises ne sont pas engagées. Les paysans, convertis désormais en citoyens par la force de la guerre, cherchent à s'exprimer et demandent des actions effectives qui viennent résoudre ou compenser, ne serait-ce que partiellement, leur situation de misère et de manque de protection.

Une caractéristique de ces manifestations est leur développement dans les espaces urbains et tout spécialement dans les capitales. Ceci correspond à l'inertie d'une néo-centralisation qui continue à concentrer dans les cités les décisions et les ressources. Suivant une tendance historique, les paysans vont à la ville chercher la solution à leurs problèmes parce que c'est là qu'ils trouvent la figure de l'État et non pas dans les campagnes. Dans un échantillon de protestations qui se sont succédé dans le pays entre 1997 et 2001, on a trouvé que quatre actions collectives utilisant la pression sur dix ont été réalisées à Bogotá, tant parce que c'est un point stratégique au niveau des institutions, que parce que la capitale offre de meilleures garanties de « sécurité. » Cependant, les expressions de protestation ont commencé à se manifester à l'échelle régionale, les villes capitales en étant les épicentres.

L'État est un interlocuteur reconnu, dans la mesure où légalement, il a la responsabilité d'apporter des réponses opportunes aux multiples besoins de ceux qui se trouvent *desplazados*. Ainsi, près de la moitié des actions menées à bien se font par le biais de « prises » d'organismes gouvernementaux. Ensuite viennent les organismes religieux qui, estiment les *desplazados*, vont respecter leurs droits à la protestation. La prise d'espaces publics, tels que les *coliseos* (stades) et les places municipales, ne correspondant par toujours à une forme de pression mais souvent à la recherche d'un espace où s'abriter. Cette forme est sous représentée, car habituellement les gouvernements locaux font appel à l'installation, sur ce type d'espace, des personnes en *desplazamiento* collectif. Ces espaces collectifs comprennent les écoles et les centres communautaires. Finalement, on trouve les prises d'organismes internationaux qui, sans être trop nombreuses, ont considérablement frappé l'opinion publique et contribué de manière importante à « internationaliser » le problème du *desplazamiento*²⁹.

Dans certains cas le gouvernement a répondu par des concertations formelles et des promesses d'attention qui, dans bonne partie des cas, n'ont pas été respectées, provoquant une dé-légitimation encore plus grande. Dans certains cas les groupes paramilitaires ont contribué

à dissoudre ces actions collectives par le biais de menaces, d'assassinats ou d'ordres péremptaires sous le prétexte de résoudre des situations qui incommode le reste de la population³⁰.

L'exercice revendicatif récent de la part des personnes *desplazadas*, mouvement encore naissant et un brin tardif si l'on tient compte de l'existence du phénomène durant cette décennie, est fortement marqué par la peur des représailles. Selon les termes de Tarrow, ces mouvements pourraient être identifiés comme des « actions collectives contentieuses », dans la mesure où elles émanent de personnes dépourvues d'accès régulier aux institutions, qui agissent au nom de revendications récentes et qui sont vues comme une menace. Ces actions émergentes qui constituent un défi collectif pourraient bientôt constituer les prémices d'un mouvement social³¹.

Conclusion

Développement économique, ressources institutionnelles et une moins grande vulnérabilité face à la guerre constituent trois revendications que l'on retrouve au sein des flux de populations déplacées vers Bogotá par la violence. La primauté urbaine de Bogotá vue depuis les régions et depuis les conditions d'intensification du conflit armé dans le pays emmène à renforcer l'imaginaire de la métropole comme un lieu qui offre de plus grandes promesses de sécurité. Suivant les flux traditionnels des migrations économiques, les itinéraires du *desplazamiento* forcé se sont orientés en bonne partie vers la capitale du pays, suivant des rythmes beaucoup plus intenses.

Bien qu'ils arrivent dans une ville où ils rencontrent des manifestations d'un développement économique, avec ses avenues, ses grands édifices, ses centres commerciaux et ses usines, les nouveaux venus vont être situés dans les quartiers des pauvres. Depuis la ségrégation urbaine, ils alimentent l'espoir de lendemains meilleurs à partir du reflet de ce que possèdent les autres et à partir des choses dont les autres profitent. Coincés dans un quotidien misérable, les *desplazados* vivent à la fois la dureté et l'illusion du bien-être que peut offrir la ville. Fuyant les acteurs armés et la guerre dans les campagnes, ils se retrouvent dans la ville, face à l'extension de cette guerre et face à d'autres violences qu'ils doivent affronter. La guerre avance vers les villes et la violence sociale y a des manifestations intenses. Le mythe de l'endroit sûr aussi se dissipe.

La rencontre avec d'autres déplacés dans les mêmes circonstances que soi permet de tisser de nouvelles sociabilités improvisées, fragmentées et ambiguës. Se regrouper pour se montrer publiquement comme acteurs collectifs, voilà une possibilité qui devient prérequis et nécessité face à l'indifférence, à l'inefficacité et à la suspicion. La relation

avec les organismes gouvernementaux et les ONG, entités éloignées des déplacés, exige une série de légitimités, de connaissances, de démarches et d'efforts qui requièrent la formation d'organisations avec des porte-parole. La parole faite appel à une plus grande force quand elle est soutenue par un collectif, même si une telle délégation dépouille tous les associés de leur propre parole.

Cependant leurs vécus personnels de manque de protection dans leurs lieux d'origine les emmène fréquemment à vouloir rester ici, nourris par l'espoir de pouvoir résister mais aussi par le désespoir de n'avoir pas d'endroit vers où partir. Les possibilités de gérer et de gagner quelques ressources et quelques réponses à leur situation avec les organismes qui contribuent aussi à les fixer en ville. Malgré les promesses non tenues, les expériences ratées et l'incertitude des innombrables démarches, la persistance à croire que « quelque chose en sortira » s'impose. En somme, la permanence en ville devient un mirage du lieu d'accueil. Malgré la preuve du contraire, on soutient l'attente d'un futur meilleur, à défaut d'autre horizon et au milieu de la lassitude provoquée par l'instabilité et l'incertitude.

Notes

1. Extrait du texte de l'oeuvre fournie par l'ONG Taller de Vida (Juin 2001).
2. La promulgation de la loi 387 de 1977 a créé la catégorie juridique de *desplazado* et également précisé la responsabilité de protection que l'État doit leur donner.
3. La recherche s'est fait entre 1996 et 2001.
4. Voir Congreso Nacional de Paz y País (Congrès National pour la Paix et le Pays), « Relatoría Comisión : Conflicto Agrario, Seguridad Alimentaria y Cultivos de Uso Ilícito » (Bogotá, du 9 au 11 mai 2002).
5. Les promesses de la modernité se concrétisent à travers une citoyenneté abstraite, la régulation et le traitement des conflits par l'État, le contrôle de la science, le progrès économique et une distribution plus large de ses « bénéfices ». M. Palacios, « Conflicto y modernidad en Colombia », *Documentos* (Santafé de Bogotá : Banco de la República, 1992), 13.
6. Au niveau international, en Afrique, par exemple, les routes du *desplazamiento* forcé vont des villes jusqu'aux camps de réfugiés et *desplazados*. D'autres espaces sont des endroits difficiles d'accès, comme les bois. M. Lavergne, « De la cuvette du haut-Nil aux faubourgs de Khartoum. Les déplacés du Sud-Soudan », dans *Déplacés et Réfugiés. La mobilité sous contrainte*, sous la dir. de V. Lasailly-Jacob, J.-Y. Marchal et A. Quesnel (Paris : IRD Éditions, 1999).
7. Le massacre de Segovia (Antioquia), par exemple, une ville d'environ 50 000 habitants, où ont été assassinées presque 40 personnes en un seul après-midi, met en évidence l'impotence d'une collectivité face au pouvoir des armes, surtout quand l'attaque s'est fait en alliance avec quelques autorités locales.
8. On aborde ce sujet dans la troisième section du présent article.
9. Être voisin du bâtiment de la police peut être vu comme un danger que la population voudrait éviter.
10. L'alliance entre paramilitaires et armée est fréquente. Voir, par exemple, des cas sur lesquels ont fait enquête diverses instances d'État et ONG, comme les massacres de Naya, Carmen de Bolívar et Barrancabermeja.
11. Ce type de manifestation est habituellement signalé comme une action dirigée par la guérilla et soutenue par des « forces obscures ». En 1998 ont été enregistrées à Bogotá 12 *tomas* (occupations) de bureaux gouvernementaux et d'endroits publics, d'une durée d'entre un jour et trois mois, par des organisations de *desplazados* qui voient de telles manifestations comme une stratégie de pression qui vise des solutions rapides. À Barrancabermeja 10 000 paysans sont restés 45 jours. Voir Groupe de soutien aux *desplazados*, « Informe sobre desplazamiento Interno Forzado en Colombia en 1998 » (Santafé de Bogotá : Documente, 1998).
12. A. Reyes, « Conflicto y territorio en Colombia », dans *El campesinado en Colombia hoy; diagnóstico y perspectivas* (Santafé de Bogotá : ECOE, Universidad Javeriana, 1991).
13. Le processus d'urbanisation s'est nourri fondamentalement du transfert net de population entre zones rurales et zones urbaines. L'urbanisation est considérée comme un processus fini qui s'épuise quand l'augmentation de la proportion de la population totale résidant dans des localités urbaines est entravée, c'est-à-dire que toute la population devient urbaine et que la composante rurale est en voie d'extinction. M. Villa, « Distribución Espacial y Migración de la población en América Latina », dans *Migración, Integración regional y transformación productiva*, sous la dir. de D. E. Celton (Córdoba : Universidad Nacional de Córdoba, 1995).
14. Voir, par exemple, F. Gonzalez; T. Vasquez et I. Bolivar, *Violencia Política en Colombia* (Bogotá : CINEP, 2003).
15. Il s'agit des municipalités suivantes : Usme, Fontibón, Usaquén, Bosa, Engativá et Suba.
16. En tant que seconde ville la plus peuplée de Colombie, Medellín comptait 53 936 habitants. V. Gouëset, *Bogotá: nacimiento de una metrópoli. La originalidad del proceso de concentración urbana en Colombia en el siglo XX* (Bogotá : Tercer Mundo Editores, Observatorio de Cultura urbana, CENAC, IFEA, FEDEVIVIENDA, 1998).
17. Ibid.
18. Selon Gouëset, la suprématie urbaine est un concept rapproché de la concentration rapide en pôle urbain qui conjugue exode rural massif, explosion démographique et industrialisation. Ce phénomène, original dans le contexte latino-américain, est plutôt récent en Colombie et serait déphasé de presque un demi-siècle avec ce qui s'est passé dans d'autres pays du continent. Ibid.
19. Bogotá fait deux fois Medellín et figure parmi les quatre villes qui recueillent près de 30 % de la population nationale.
20. La surveillance est assurée par des jeunes qui s'envoient des signaux à travers des sifflets. Ces groupes assurent un travail de « *limpieza social* », assassinant les gens, particulièrement de jeunes hommes, signalés comme subversifs, délinquants,

drogués ou n'importe quelle étiquette considérée comme dangereuse. Témoignage d'une jeune non déplacée habitante du secteur de Ciudad Bolívar, mai 2001.

21. Voir, par exemple, « Andanzas de las AUC en Bogotá », *El Espectador*, 10 Juin 2001.
22. En février 2001, elle s'élevait à 10 USD.
23. M. Delgado, *Ciudad líquida, ciudad interrumpida*. (Medellín : Editorial Universidad de Antioquia, 1999), 100.
24. F. A. Sayad, « Le retour, élément constitutif de la condition de l'immigré », *Migrations Société* 10, n° 57 (1998) : 9–45.
25. I. Tobaoda-Leonetti, « Stratégies identitaires et minorités: le point de vu du sociologue », dans *Stratégies identitaires* (Paris : Presses Universitaires de France, 1997).
26. L. Boltanski, *La souffrance à distance. Moral humanitaire, médias et politique* (Paris : Métailié, 1993).
27. Comme les formes coopératives et la propriété de la terre en commun pour les ré-établissements ruraux de population desplazada. Voir F. Lozano et F. E. Osorio, *De víctimas de la violencia a buscadores de la paz* (Santafé de Bogotá : Universidad Javeriana y Acción Cultural Popular, 1999) et F. E. Osorio, « Reasentamientos rurales de población campesina desplazada », *Les Cahiers ALHIM*, n° 3 (2001).
28. Sur les expériences avec ces caractéristiques voir, par exemple, Rodríguez (1998), Lozano et Osorio, Mencoldes (2000).
29. Une des expériences d'action collective se réfère à l'occupation du Siège du Comité International de la Croix Rouge à Bogotá, en décembre 1999. Voir F. E. Osorio, *Los desplazados. Entre survie et résistance, identités et territoires en suspens* (Lille : ANRT, 2005).
30. Comme dans le cas de la prise du Coliseo de Buga, où les familles situées reçurent l'ordre des paramilitaires d'évacuer les lieux dans un délai de huit jours, délai qui a été respecté. Dans le cas des invasions en Mars 2001 à Montería, au terme de troubles avec l'Armée et la police, les paramilitaire obligèrent à évacuer à travers des menaces et plusieurs assassinats. Ainsi, ce fut eux qui offrirent une parcelle de terre proche de la ville pour y créer une espèce de quartier.
31. S. Tarrow, *Poder en movimiento* (Madrid : Alianza Editorial, 1997).

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Citoyens sans frontières

DANILO SANTOS DE MIRANDA

Résumé

Le Brésil est devenu actuellement un pays d'accueil pour des milliers de latino-américains et d'africains, surtout ceux de langue portugaise. L'article relève du travail des organisations de la société civile envers ces réfugiés, en particulier l'effort du SESC (Service Social du Commerce), une institution sui generis d'action socioculturelle en Amérique Latine.

Abstract

Brazil has become a host country for thousands of Latin-American and African people, especially those who speak Portuguese. This article discusses the activities of non-governmental organizations working with these refugees; more specifically, the efforts of SESC (Social Service of Trade), a sui generis institution engaged in socio-cultural activities in Latin America.

Victimes de conflits ethniques, de guerres, de persécutions politiques ou religieuses, ou simplement miséreux sociaux et économiques, les réfugiés affrontent fréquemment un nouvel obstacle dans le pays qui leur donne asile : celui qui rend difficile leur reconnaissance comme citoyen et par conséquent, comme personne ayant des droits sociaux et économiques, indispensables au rétablissement d'une vie normale et socialement digne.

Sebastião Salgado, le célèbre photographe brésilien dont l'œuvre montre la réalité de ces abandonnés, affirme dans *Éxodos*:

Les réfugiés et les personnes déplacées se distinguent des immigrants car ils ne rêvent pas d'une vie différente. En général, ce sont des personnes communes, des « civils innocents, » qui mènent leur vie d'agriculteurs, d'étudiants ou de femmes au foyer jusqu'au moment où leurs destins s'associent violemment à la répression ou la guerre. D'un seul coup, ayant perdu leur maison, leur travail et parfois des êtres chers, ils sont dépouillés même de leur propre identité. Ils deviennent des gens en fuite,

des visages sur des journaux télévisés ou des photographies, des chiffres dans des camps de réfugiés, des queues pour distribution d'aliments. Contrat cruel qu'est le leur : en échange de leur survie ils abdiquent de leur dignité. Ils ont rarement, en outre, les conditions de retrouver une vie normale, tout du moins, comme celle qu'ils avaient avant. Certains deviennent des réfugiés permanents, habitants des camps de réfugiés, comme les Palestiniens au Liban. Il est bien courant que les réfugiés n'ont pas de voix au chapitre des conflits politiques, ethniques et religieux qui dégénèrent en atrocités. Comment consoler ces gens, qui on assisté à ce que l'humanité a de pire?

Actuellement, le Brésil est un choix pour beaucoup de personnes en quête de refuge, venant d'Amérique du Sud (notamment Bolivie, Pérou et Colombie) et d'Afrique (Congo, Angola et Mozambique). Ils sont environ 3 200, parmi lesquels 1 600 se trouvent à São Paulo. Ce contingent a augmenté, surtout à partir de 1997, lorsque, finalement, le dispositif international d'accueil, créé après la seconde guerre, a été réglementé par le gouvernement fédéral. Selon la loi 9.474, « a le droit d'habiter le Brésil tout citoyen dont le pays se trouve en situation de menace généralisée aux droits humains. » Et même si le nombre de demandes d'asile au gouvernement brésilien soit bien inférieur à celui aux pays développés, comme la France ou le Canada, la quantité de requêtes refusées par le gouvernement brésilien n'est pas très différente, elle se situe autour de 70 %. Beaucoup, donc, sont clandestins.

La concession d'une documentation légale, qui consiste en trois documents — le Registre National d'Étrangers (RNE), le Registre de personne physiques (CPF) et la Carte de Travail — garantit au réfugié l'accès à la citoyenneté brésilienne, pouvant alors bénéficier de l'ensemble de politiques sociales assurées par l'État à ses nationaux. La concession du refuge se fait par l'intermédiaire du Conseil national des réfugiés (CONARE), organisme constitué de représentants des ministères de la Justice, des Relations Extérieures, de l'Éducation, du Travail et de la Santé, ainsi que de représentants de la Police Fédérale et de Caritas Brésil, une institution sociale de l'Église Catholique.

D'ailleurs, cette dernière se charge de la demande de refuge, de l'orientation et l'acheminement des personnes aux services, encore que provisoires, d'habitation, santé, éducation et utilisation de ressources communautaires, ainsi que des entrevues avec des représentants du CONARE, en raison d'un partenariat avec l'ACNUR (Haut Commissariat des Nations Unies pour les Réfugiés).

Les auberges publiques, et quelques organisations non gouvernementales d'assistance équipées de dortoirs, sont responsables de l'accueil de la grande majorité des réfugiés pendant six mois, en moyenne, ce qui oblige le réfugié à rechercher un autre logement après cette période. Mais comme il est nécessaire de séparer hommes et femmes dans les dortoirs, parents et enfants finissent par ne plus vivre ensemble.

Et s'il y a déjà des difficultés pour les brésiliens de trouver une occupation productive, le taux de chômage étant entre 10 % et 18 %, pour l'étranger, tout sera plus difficile. Comme dans d'autres pays, la solution la plus immédiate pour la survie est, notamment, le travail au noir.

Aussi, les privations dans la vie d'un réfugié ne se résument pas simplement au plan matériel, mais sont aussi, évidemment, d'ordre psychologique et culturel. Et c'est pour pourvoir quelques unes de ces nécessités que le SESC (Service Social du Commerce) et le Senac (Service National d'Apprentissage Commercial) de São Paulo ont instauré un partenariat avec Caritas Brésil et l'ACNUR en décembre 1995, afin d'augmenter le réseau d'appui et d'offrir des conditions d'intégration à la vie sociale. Par conséquent, toute personne qui demande refuge à São Paulo est envoyée au SESC Carmo — une unité d'opérations située au centre de la ville — et là-bas, elle pourra bénéficier des services suivants:

- a) cours de portugais, car un minimum de connaissance de la langue s'impose comme forme de compréhension, de socialisation et de rupture de l'isolement socioculturel ce qui mène à la reconquête de l'auto estime. Le cours a été spécialement conçu pour assouvir les inquiétudes les plus immédiates des réfugiés, ainsi que pour aborder les aspects particuliers de la vie et de la culture nationales, ce que se fait aussi par des visites aux musées et par l'assistance dans des spectacles de musique et de théâtre;
- b) déjeuner et dîner au SESC Carmo, qui possède un restaurant traditionnel dans ses installations, au prix symbolique de 90 centimes de dollar américain par repas complet. Ainsi, non seulement le nouvel-arrivé s'alimente sainement, mais aussi il a l'occasion de s'adapter à la cuisine brésilienne;

- c) accès au réseau mondial (Internet), sous l'orientation de moniteurs, en salle spécialement conçue, dotée de structure et d'objectifs faisant partie de son programme régulier d'éducation informelle. Dans le cas des réfugiés, cette accueil journalier leur permet de rétablir ou de maintenir contact avec parents et amis ainsi que de s'informer des nouvelles de leur pays d'origine;
- d) accès à des activités physiques (gymnastique) et sportives (cours et tournois) comme forme d'insertion communautaire et d'entretien individuel de la santé;
- e) accès à la bibliothèque et aux espaces communs (jeux, lectures de journaux), lieux appropriés à la lecture et aux échanges d'informations avec d'autres réfugiés et habitués du centre d'activités;
- f) sorties pour des spectacles artistiques gratuits et parcs, en compagnie des enfants, pour qu'ils se sentent également accueillis;
- g) atelier de musique appelé « Des quatre coins du monde, » constitué d'élèves et musiciens amateurs brésiliens et réfugiés, destiné à l'apprentissage et à l'échange de genres populaires des pays d'origine des participants, dont les résultats, plus que ceux spécifiquement musicaux, se montrent dans le cadre de la convivialité et la tolérance mutuelles. Le groupe qui s'y est formé a déjà réalisé 15 présentations dans la ville, pendant les deux dernières années;
- h) deux manuels d'orientation de base, en dernier lieu, pour le demandeur de refuge (2001) et le réfugié (2003) publiés par le SESC comme matériel d'appui, dans le but de les orienter au sujet de la situation, des droits, des devoirs, des normes et procédures légales du pays.

En outre, par l'intermédiaire du Senac, institution également dirigée par les entreprises du secteur tertiaire brésilien, et spécialisée dans la formation professionnelle, les réfugiés et leur famille ont l'occasion de fréquenter gratuitement les cours disponibles, du moment qu'ils possèdent les conditions requises dans chaque cas. Jusqu'à présent, à travers ce partenariat, environ 800 personnes ont suivi des cours d'informatique, photographie, administration, gastronomie, mode et santé.

Finalement, nous croyons que, même sous la précaire et douloureuse condition de réfugié, un citoyen ne peut pas être traité avec indifférence et discrimination. Le pays qui lui concède le statut de réfugié s'engage à le protéger et l'intégrer dans la société. Pour des raisons éthiques, universelles, et pour des raisons pratiques, socioéconomiques. Ainsi, la participation en coopération d'organisations gouvernementales et non gouvernementales est vitale à la survie et à la dignité de ces personnes.

SESC : culture, diversité, engagement

Le SESC (Service Social du Commerce) est aujourd'hui, au Brésil, une référence solide et reconnue en matière de culture et d'action culturelle. Grâce aux échanges avec d'autres pays, ainsi qu'au caractère incitatif, innovateur et propositionnel des projets qu'il entreprend, son image se profile, de nos jours, bien au-delà des frontières brésiliennes.

Ce n'est pas un hasard, car il s'agit d'une institution franchement originale. En effet, on retrouve chez SESC deux aspects apparemment disparates, mais dont la conjugaison est la clef de sa singularité. C'est ainsi que, si d'une part les sources de son entretien sont assurées par la loi, d'autre part le SESC a été créé et est géré par le patronat brésilien du commerce et des services, qui le soutient avec ses contributions financières obligatoires. Le SESC est donc un organisme privé national sans but lucratif. D'une façon générale, il a l'ambition de contribuer au bien-être social, à l'amélioration de la qualité de vie et au développement culturel du travailleur du commerce et des services — qui constitue son public prioritaire —, sans exclure cependant d'autres professions ou secteurs de la société.

Dans l'État de São Paulo, le SESC dispose d'un réseau d'installations physiques constitué par 31 unités en activité actuellement. Ce sont des centres culturels et sportifs, des centres spécialisés — comme ceux de cinéma et d'odontologie —, deux centres à la campagne et un centre de vacances.

Dans ces installations, le SESC offre au public — plus d'un million de personnes par mois — des programmes et des services diversifiés, mais en même temps complémentaires, d'une amplitude d'intérêts exceptionnelle. Il s'agit concrètement de ses programmes:

- a) culturels, constitués par des activités artistiques (arts plastiques, théâtre, musique, danse, littérature, vidéo et cinéma), soit sous la forme de spectacles, expositions ou festivals, soit sous celle de cours et d'ateliers. Cette rubrique comprend également les débats, les séminaires ou les congrès sur des sujets actuels ou d'importance historique;
- b) de développement physique, sports et récréation, comprenant la pratique de différentes modalités

sportives et des cours d'initiation divers, ainsi que la réalisation de jeux libres et récréatifs;

- c) de santé — services d'odontologie et d'alimentation (restaurants et cafés), et actions éducatives, telles que des campagnes de prévention et d'information;
- d) de développement psychomoteur et cognitif — destiné aux enfants de sept à douze ans, il s'effectue à travers des activités ludiques et d'information;
- e) de travail social avec les personnes âgées — une action pionnière au Brésil, réunissant des groupes de troisième âge autour de Centres de Convivialité et d'Écoles Ouvertes;
- f) de loisir et tourisme social — offrant des centres conçus spécialement pour les vacances et week-ends, ainsi que des voyages à plusieurs villes du Brésil;
- g) d'inclusion digitale — il s'agit de salles équipées avec des ordinateurs et système d'internet, ce qui permet l'accès gratuit du public au monde digital de nos jours.

La plupart des projets ci-dessus peuvent être appuyés par des institutions publiques ou privées, brésiliennes ou étrangères, ou développés de concert avec elles. Cette possibilité de travailler en collaboration est salutaire, non seulement pour des raisons économiques, mais surtout parce qu'elle permet l'échange d'expériences, le perfectionnement des démarches, l'acquisition de nouvelles connaissances, et la perception de valeurs méconnues ou de perspectives inusitées. Cela veut dire que l'association de différentes institutions peut devenir une source d'actualisation et de réflexion continues, surtout aujourd'hui où les discussions s'exacerbent sur les aspects positifs et négatifs de la globalisation, sur les gains et les pertes affectant la diversité des cultures régionales ou nationales.

Note

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Generosity and Resilience: Transnational Activity among the Khmer of Norway

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This article was submitted and accepted for publication in our recent volume on "Multiple Homes and Parallel Civil Societies: Refugee Diasporas and Transnationalism" guest edited by R. Cheran and Wolfram Zunzer. It was not included in that volume for reasons of space.

Abstract

The article reports on the pilot phase of an ongoing study of successfully rehabilitated Khmer refugees. Some of the most striking recoveries in this heavily traumatized group have taken place among those who have focused on contributing to the rebuilding of Cambodia. The article explores this collective and individual transnational generosity both generally, as an aspect of survivor resilience, and specifically by following one process. Why do Khmer refugees want to build a school and what does it mean to them? How does their transnational generosity relate to the resilience of Khmer refugees? Their own explanations are founded in their religion.

Résumé

Cet article est un compte rendu sur la phase pilote d'une étude en cours sur des réfugiés khmers réhabilités avec succès. Certains des rétablissements les plus frappants dans ce groupe fortement traumatisé sont survenus parmi ceux qui se sont évertués d'apporter leurs contributions à la reconstruction du Cambodge. Cet article explore cette générosité transnationale collective et individuelle tant sur le plan général, dans son aspect de l'endurance du survivant, que sur un plan plus spécifique d'un processus donné. Pourquoi les réfugiés khmers veulent-ils construire une école et qu'est-ce que cela signifie pour eux ? De quelle façon leur générosité transnationale se rapporte-t-elle à l'endurance du réfugié khmer ? Leurs

propres explications trouvent leurs fondements dans leur religion.

Introduction

The Khmer population in Norway numbers about three hundred persons – those who came as refugees from the camps along the Thai border, their children, and grandchildren. They were all settled in the same area in the late 1980s and almost all remain there. Khmer refugees are arguably the most traumatized refugees to have been resettled in Scandinavia, yet many have demonstrated a striking resilience. Marriages take place, children are born, and the parent generation, who balanced for a decade or so in the 1970s and 1980s on the edge of human experience, seem to have found a kind of peace. Second-generation Cambodians also display a striking buoyancy and creativity (see photo: flying boy). In this population there are many who have rehabilitated themselves: they appear to have won the ability to lead a normal life. How did this happen?

In the final analysis, the individual's resilience – the ability to “bounce back” or regain form after great strain – may make the difference between integration and disintegration for survivors.¹ Resilience is an extensive and growing field of study; a Web search for the term produced 332,000 hits, including a current definition: “ability to adapt well to unexpected changes and events.”² Research indicates various factors that may play a role in the resilience of refugee survivors who are successfully rehabilitated. A sense of coherence, work or meaningful activity, the continuity of cultural practices, religious beliefs, social

network, family coherence, and “steeling” through earlier traumatic experience are some examples.³ Survivors’ perspectives on their own recoveries are more uncommon, however. What do *they* think has contributed most to their survival after experiences known to destroy lives?

The article reports on the pilot phase of an ongoing study of successfully rehabilitated refugee survivors of war, concentration camps, and human rights abuses, based on an analysis of their biographical narratives. In recent years the focus of research on survival has slowly shifted from “misery” to “mastering” – from the study of problems to the study of resilient behaviour, from risk factors to protective factors, and from therapy to efforts to strengthen competency.⁴ The final aim of the study will be to develop hypotheses, grounded in the narratives, that may be of use for the substantive area of sociological inquiry constituted by patient care and psychosocial work with this vulnerable group. Mapping agents’ methods for survival and triangulating their narratives, their interpretations, and social theory are hoped to contribute to new ways of working with refugees as clients and patients.

This is a qualitative study, dealing as it does with biographical memories, thoughts, and feelings. The methodological basis is dialogue and participant observation among a population of Cambodian refugees who have made a remarkable recovery against all odds and in spite of a heavy load of traumatic experiences. In particular, a dialogue has continued over a period of ten years between the researcher and a Khmer gatekeeper who has been leader both of the Cambodian Society and of the Khmer Buddhist Society in this period. Secondary sources include reports and letters from the Khmer societies and field notes. As a consequence of culturally founded explanations offered by the informants, theoretical perspectives from Buddhist philosophy / psychology are explored and viewed in the light of sociological constructivism.

The first factor emphasized by Khmer survivors in Norway as useful for them has been their contact with the home country, including the giving of charitable donations to worthy causes. “The plate goes round: Norwegians give 10 dollars; Cambodians give 100.”⁵ Resilience appeared to be correlated with this generosity.

The article therefore charts the forms and extent of generosity and other altruistic behaviour among Khmer in Norway and follows one sample process: the building of a school in southeastern Cambodia. Why do Khmer refugees want to build a school and what does it mean for them? What forms of transnational generosity actually go on? How does their transnational generosity relate to the resilience of Khmer refugees?

Background: The Khmer Diaspora

In the Thai border camps, where the Norwegian Khmer lived for an average of eight years, a study of mental health status was carried out in 1990. At Site Two, one of the largest camps, 993 adults were interviewed about traumatic experiences and symptoms, using the Harvard Trauma Questionnaire and the Hopkins Symptom Checklist-25. Of the 993 interviewed, 55 per cent had scores correlating with major depression and hopelessness; 70.9 per cent had recurrent memories and nightmares. In conclusion, Mollica and his colleagues appealed to the powers that be to address the mental health needs of this population after repatriation or resettlement, warning that such exposures may produce serious long-term social and psychological effects.⁶

In resettlement countries, reports vary as to how Khmer survivors have fared. In Canada, for example, about twenty thousand Cambodians arrived in the 1980s. According to one report they did not benefit from government service and support or from post-trauma treatment and encountered profound difficulties because of the lack of a unifying and encompassing structure after their traumatic experiences.⁷ In the US, it is “estimated that virtually all victims of the Khmer Rouge period suffer from post traumatic stress disorder.”⁸ In spite of having been vetted for mental health prior to being granted residence, corresponding populations in the US showed an incidence of mental suffering six times higher than the national average.⁹ Interestingly, the Scandinavian countries followed the consciously humane policy of opting for UNHCR’s “20-or-more” plan for refugees with special medical needs.¹⁰ With this point of departure it could be assumed that a population’s needs would be greater still.

In Finland, another Scandinavian country, Khmer numbered about 150 in the late 1980s.

They never developed the critical mass to have a very vibrant community.... Many have had very serious problems of integration to work through, possibly because of the lack of supports and the desperate state of the society from which they came.¹¹

The group that arrived in Norway was about the same size as the Finnish Cambodian population (about two hundred persons). The Norwegian Cambodians received no particular attention from the health services when they arrived. All of the adult informants had such traumatic exposures as described in the international manual used by therapists to diagnose post-traumatic stress disorder (PTSD):

1. The person experienced, witnessed, or was confronted with an event or events that involved actual or threat-

ened death or serious injury, or a threat to the physical integrity of self or others.

2. The person's response involved intense fear, helplessness, or horror.¹²

Some have been less successful than others. The present sample, however, consists of persons who (1) were exposed to the kind of traumatic events mentioned above, yet (2) didn't develop the disability. They are resilient individuals – people who acknowledge that they have won over a traumatic past. In the following they will be referred to as Norwegian Khmer, because they constitute the majority.

Transnational Generosity Practiced by This Group

The Khmer Buddhist Association (KBA) in Norway has kept records of its activities for more than ten years. They reported that they began to collect money for good causes after the first visit (since 1975) of a group of Norwegian Khmer to Cambodia in 1993. They were shocked by conditions there and readily collected US\$10,000. They have since contributed to the building of temples, roads, and schools in three main communities to which Khmer in Norway are connected by family or birth. Some Norwegian Khmer live on disability benefits, but still manage to give generously by collecting empty bottles, acorns, strawberries. They save the money to build small houses, “enough for a family of 3-4.” Some also support the studies of young monks – “it is their only way to get an education,” reported the KBA.

A recent project began with the visit of a monk. There are no Cambodian monks in Norway and no temple. On Khmer New Year 2003 the KBA had managed to bring a Khmer monk to Norway. With him he had a letter from his village asking for help to build a junior high school or *collège*: they had a primary school, but five hundred to six hundred pupils were then at risk of stopping their education because of the distance to the nearest secondary school.

At a religious ceremony a few days later, many Khmer families gathered to hear the monk at a local gym. They were dressed in their finest and had with them food and children of all ages. After an orientation about the school-building project there was a collection and water blessing.

A table was covered with silk and flowers, incense, candles, a bowl of water and a bunch of twigs. Each person rose from the floor and went up to lay a donation on a golden platter. The monk blessed them by shaking a few drops of water on their heads. Teenagers in training clothes were held by the arms and their hands lifted to make a *sompeah* amid laughter and teasing.¹³

The KBA sent the following explanation and request to the local Norwegian Cambodian Friendship Association, a voluntary organization with both Norwegian and Khmer members:

Like other parts of the country, Phum Puon district was ruined after 30 years of war. The reconstruction of society in relation to socio-cultural factors is very slow and dependent on contributions from Cambodians abroad.

Phum Puon is a typical rice-growing village in Cambodia. Production materials and methods are still primitive with the result that the living standard is low. The people live without electricity and running water. Since 1979 the people have sent their children to the Buddhist temple to study. Thanks to support from exile Khmer, a primary school was built in 1999. Because of lack of means, the people cannot afford to give their children secondary education.

Establishment of a Cambodian-Norwegian junior high school will be a great gift from the Norwegian people that will help a new generation of Cambodians to obtain an education.¹⁴

The Friendship Association chose to support the school-building project and to apply for funding from NORAD, the Norwegian aid program. NORAD requires that a minimum of 10 per cent of the amount solicited be collected by fundraising.

In addition to collections among the Khmer community, the KBA immediately set to work at a local factory. After less than a month of tenacious fundraising, they reported modestly that they hadn't done as well as hoped, but that they had still collected US\$3,000. This was almost 10 per cent of the required sum, and in September an application was sent to NORAD. Through the transnational network, Khmer professionals at Save the Children Norway (SCN) in Cambodia declared themselves willing to monitor the building in their spare time. SCN's school-building policy emphasizes civil empowerment: participation at the grass-roots level, gender participation, and accountability are core values for NORAD, and support was granted. The school building will soon be completed.

Why Should Khmer Refugees Want to Build a School and What Does It Mean for Them?

Why do war refugees wish to use fairly large amounts of modest resources of money, time, and energy to build houses, roads, temples, and schools thousands of miles away? How do they explain it?

INTERVIEWER: So you give to schools, temples, roads, and houses – why do you think people do this?

RESPONDENT: Well, we cultivate it. In the association we talk about it, about trying to help our homeland – both in fellowship and individually.... We have tried to cultivate a sense of generosity to our homeland. *If we do good deeds, we hope we'll have a good life.*¹⁵

This is a common understanding found in Buddhism, and viewed in this perspective appears to be a reference to Khmer Buddhism. A form of Theravāda, Khmer Buddhism is an endemic religion, a kind of minimal religious practice that everyone participates in and that helps bind a people together. Saturated with associative meanings, with shared cultural imagery, it is not “the frozen artefactual stuff of museum displays and cultural performances.”¹⁶ In all forms of Buddhism, generosity is a cardinal virtue, the first of the six *paramitas* or moral perfections – perhaps a natural place to begin if one is committed to self-improvement in a Buddhist cultural context. “The essence of generosity is giving without any attachment or expectations, without any thought of receiving some thing in return.”¹⁷ The practice of generous deeds such as donating to the temple, giving alms to monks – even buying freedom for a caged sparrow – are everyday ways of earning merit for the Cambodian Buddhist. Accumulating merit in the endemic belief system is the way to salvation: “In the narrow way of Hináyána it is not expected that everyone will arrive at Nirvána, it is only a question of amassing merit, which can take thousands of years.”¹⁸

Acts of generosity and loving kindness are also “skilful means” (*punna*), conducive to the growth of wholesome states.¹⁹ Through effectively turning the attention of the practitioner from ego to alter, these acts are believed to be beneficial for the practitioner. the Dalai Lama writes: “Foolish selfish people are always thinking of themselves, and the result is negative. Wise selfish people think of others, help others as much as they can, and the result is that they too receive benefit.”²⁰

The Cambodian patriarch Mahá Ghosananda writes, “Great beings maintain their mental balance by giving preference to the welfare of others, working to alleviate the suffering of others, feeling joy for the successes of others, and treating all beings equally.”²¹ This monk has made a life’s work of reminding Cambodians of their Buddhist heritage. He expresses faith in Cambodia’s ability to heal itself, “reminding us that Buddhism was alive in us and that we could call upon the sweetness and depth of the tradition.”²² Ghosananda has made several trips to Norway at his own initiative, where “Travellers in the arrival hall were surprised to see a tiny man with bare feet and orange robes surrounded by a crowd of Norwegian Khmer lying flat on their faces.”²³

Ghosananda’s description of the merits of loving kindness resembles in some ways a self-help handbook for rehabilitation:

Those who practice loving kindness sleep well. They have no bad dreams. They wake up happy. They can focus their minds quickly. Their minds are clear and calm. They have no nervousness. No fire, poisons or weapons will harm them.... They are loved by all sentient beings. Their complexion becomes clear. They will attain nirvana.²⁴

How does their transnational generosity relate to the resilience of Khmer refugees?

If we do good deeds, we hope we’ll have a good life.

Khmer in Norway appear to subscribe to the Buddhist tenet that good deeds relieve suffering and generate happiness. A strongly motivated subgroup of Khmer in Norway has striven to keep Buddhism and its endemic value system alive in the community. They explain that it is 90 per cent due to the driving force of a few enthusiasts that the attempt has to an extent succeeded. A working hypothesis suggests that Khmer in Norway find their religious guidelines a useful self-therapy: an endemic religious belief in the benefits of good deeds and generosity is so deeply ingrained that it actually appears to bring the peace that is promised.

Giving is explained by Norwegian Khmer as a conscious strategy for improving their own feeling of self-worth. The school-building process, beginning with the invitation to the monk and the monk’s “mission” on behalf of the needy children in his own village, performed in the setting of a religious ceremony, firmly established the connection between generosity and traditional religious values for the participants. In simple terms, Norwegian Khmer explain generosity with religion, and religion explains the links between skilful means – acts of generosity, loving kindness, and compassion – and rehabilitation, healing, or rewinning a feeling of self-worth. The diagnosis and prescription of Buddhist philosophy and psychology, which predicate suffering and the way out of suffering, constitute the logic of the model.

In a psychological perspective, culture may buffer its members from the impact of stressful experience “by furnishing social support, providing identities by means of norms and values, and supplying a shared vision of the future”: cultural stories, rituals and legends, the relation to the spiritual realm, and religion itself are important mechanisms.²⁵

From a sociological perspective, the originators of “the social construction of reality,” Berger and Luckman, write, “Individuals who have acquired stable orientations possess an effective panacea against existential threats to their self-perception. They regard themselves as people with an undoubted identity.”²⁶ The persistent attempts of Khmer in Norway to cleave to their religion despite the lack of the usual basic materials – a monk, a place, a book of teachings – seem to be an example of this

In the wake of the Second World War the Russian American sociologist Sorokin established the Center for the Study of Creative Altruism at Harvard. After several years’ intensive study, he concluded that altruism can stop aggressivity, turn inimical relations to friendly ones, beget love, and in general hinder war and promote peace – provided we know how to produce it. Altruism may evolve by cultural evolution and transmission: parents can transmit their traits to the next generation by teaching.²⁷ The tasks children are assigned are also seen to have consequences for the development of interpersonal behaviour. Children who care for small siblings, as is common in many traditional societies, develop more nurturant behaviour,²⁸ a possible precondition for altruism.

If we are to accept Sorokin’s research, culturally transmitted altruism has a potential for affecting life quality.²⁹ He contends that only when a religion or other ideology is so deeply rooted in the human mind that it is consistently practiced, may it become a driving force.³⁰ Khmer Buddhism may be an example.

Using the gatekeeper as key informant rather than going out with a broad enquiry has been a methodological limitation of this pilot study. This has been imposed by an ethical consideration – a wish to hold back on the exploration of trauma stories in a non-clinical setting. The work with the gatekeeper suggests however that it may be possible to speak openly about recovery without digging into the past, and that acknowledging the achievement of informants may produce a positive action research effect.

The generosity of Norwegian Khmer is a small example of a global pattern. The International Organization for Migration (IOM) points out that remittances sent home by international migrants to developing countries in 2003 through official channels alone was US\$93 billion – a sum considerably greater than the total development assistance sent by rich countries. It is assumed that unofficial remittances are even greater. “In many developing countries, remittances represent the most important source of foreign exchange.”³¹

There is a soteriological motive in Khmer generosity: it harvests merit and merit is the way to salvation. This motive does not pretend to explain the generosity of other refugee groups, but may suggest one factor that deserves attention

and further research in regard to the motivation for this major cash flow in the world economy. As is known, generosity and caring for those less fortunate are also virtues both in Islam and in Christianity.

This limited research is innocent of the great findings of resilience research, and presents a simple finding from a small sample. From the Norwegian Khmer experience it may be possible to draw the implication for psychosocial work that, for some vulnerable groups, giving the space for, acknowledging, and respecting refugees’ religious practices may have a regenerative potential.

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IDP and Refugee Return to Northern Iraq: Sustainable Returns or Demographic Bombs?

DAVID ROMANO

Abstract

Regime change in Iraq has opened the door to the return of hundreds of thousands of refugees and internally displaced persons (IDPs), the majority of whom were expelled from Kirkuk and other areas in northern Iraq. The Iraqi case presents three broad, readily identifiable categories of displaced persons: refugees in Iraq's neighbouring states, internally displaced persons, and refugees and migrants in third countries further afield. The first two categories include the largest numbers of displaced people as well as the majority of those with a great desire or pressing need to return to their homelands in Iraq. Although some of those displaced have succeeded in making a good life for themselves in their new homes, those who did not manage well after their displacement generally long to return to their original towns and homes. However, the following general problems, in order of gravity, impede the success and sustainability of returns to northern Iraq: (i) sectarian competition over political structures and power distributions in post-Saddam Iraq; (ii) increasing lack of security in Iraq; (iii) insufficient preparations and slow policy implementation by the former CPA and Coalition Forces; (iv) insufficient financial resources to deal with the full magnitude of the displacement problem in Iraq; and (v) high expectations of returnees vis-a-vis continuing lack of opportunities and the slow rate of positive developments in the social, economic and political situation in Iraq. However, the emerging political contests over the future of the new Iraq greatly complicate effective and comprehensive return programs; the ultimate test of success and sustainability of return to Iraq will depend on the future of post-Saddam Iraq itself.

Résumé

Le changement de régime en Irak a ouvert la porte au retour de centaines de milliers de réfugiés et de personnes déplacées à l'intérieur de leur propre pays (PDIP), dont la majorité avaient été expulsés de Kirkuk et d'autres régions dans le nord de l'Irak.

Le cas irakien présente trois grandes catégories de personnes déplacées facilement identifiables : les réfugiés vivant dans les états voisins de l'Irak, les personnes déplacées à l'intérieur, et les réfugiés et migrants se trouvant dans des pays tiers plus éloignés. Les deux premières catégories englobent le plus grand nombre de personnes déplacées, aussi bien que la majorité de ceux ayant un grand désir ou un besoin impérieux de retourner dans leurs territoires d'origine en Irak.

Bien que certains des déplacés aient réussi à refaire leur vie de façon satisfaisante dans leurs nouveaux terres d'accueil, ceux qui ne se sont pas bien tirés d'affaire après leur déplacement éprouvent généralement le désir de retourner dans leurs villes et leurs foyers d'origines. Cependant, les problèmes généraux suivants, pris en ordre d'importance, entravent la réussite et la viabilité à long terme d'un retour vers le nord de l'Irak : (i) les rivalités sectaires pour le contrôle des structures politiques et la répartition du pouvoir dans l'Irak post-Saddam ; (ii) le manque croissant de sécurité en Irak ; (iii) les préparatifs insuffisants et la lenteur dans l'implémentation des politiques par l'ex APC (Autorité Provisoire de la Coalition) et les Forces de la coalition ; (iv) des ressources financières insuffisantes pour traiter le problème de déplacement en Irak dans toute son ampleur; et (v) les attentes élevées des réfugiés par rapport au manque incessant d'opportunités et à la lenteur de développements positifs quant à la situation sociale, économique et politique en Irak. Cependant, les rivalités politiques émergentes pour décider de l'avenir du nouvel Irak compliquent énormément les programmes de retour efficaces et globaux ; le test ultime de la réussite et de la viabilité à long

terme du retour en Irak dépendra en fin de compte du sort même de l'Irak post-Saddam.

Introduction

Regime change in Iraq has opened the door to the return of hundreds of thousands of refugees and internally displaced persons (IDPs), the majority of whom were expelled from Kirkuk and other areas in northern Iraq. The international community, the (potential) returnees, and most political parties in Iraq all support the principle of return of people forcibly displaced by Saddam's regime. Continuing uncertainty regarding Iraq's future poses serious problems, however: although a post-war country since May of 2003, Iraq can not yet accurately be described as in a post-conflict situation. The sustainability of returns very much depends on how incipient sectarian competition for power in the new Iraq plays out, especially since IDPs and refugees have emerged as one of the weapons available in the emerging contest. In trying to address the return issue in an extremely fair, legal, and regulated manner, Coalition Forces have also succumbed to near paralysis regarding the problem, exacerbating the risk of civil conflict centred around returning IDPs and refugees in northern Iraq. The oil-rich, multi-ethnic, strategic and contested region of Kirkuk in particular may be the lynchpin for either "getting it right" in Iraq, or igniting a civil conflict that not only makes returns unsustainable, but also creates large numbers of new displaced people.

Potential Returnees to Iraq

Although reliable estimates remain difficult to obtain, prior to the 2003 war Iraq had roughly 800,000 refugees residing in neighbouring countries—Iran (202,000 registered by the UNHCR), Jordan (around 300,000, mostly unregistered), Saudi Arabia (5,100 in the Rafha camp near the Iraqi border), and Syria (40,000, unregistered).¹ These refugees came from failed Kurdish uprisings in the 1960s, 1975, 1980s, and 1991, ethnic cleansing campaigns undertaken against Kurdish, Turkomen, and Christian villages in the north since the 1960s, the failed Shiite uprising of 1991, the draining of the southern marshlands in the early 1990s, Iraq's expulsion of so-called "Persians" in 1974 (hundreds of thousands of Iraqis listed as Persian subjects in the Ottoman-era archives), and individual cases of persecution committed by a paranoid, brutal regime. Many of the Iraqi refugees who remained in neighbouring countries for many years lived in poverty and never successfully integrated into their host countries. In Saudi Arabia in particular, refugees from the 1991 Gulf War were still in bleak, desolate camps by the time of the 2003 Iraq war.

In 2003, some 800,000 internally displaced persons also resided in Iraqi Kurdistan's Autonomous Zone, mostly victims of the Arabization ethnic cleansing campaigns conducted since the 1960s (100,000 were expelled from mostly the Kirkuk region as recently as the 1990s). A further estimated 100,000 IDPs could be found in central Iraq, most of whom had been either internally exiled from the north by Saddam's regime or pushed out of the Kurdistan Autonomous Zone by the new Kurdish authorities there (typically due to past allegiance with Saddam's regime, but also sometimes because of tribal rivalries or other reasons).² Some 100,000 to 300,000 IDPs also existed on meagre means in southern Iraq, mostly victims of the suppression of the 1991 uprising there, a counter-insurgency campaign that included draining the marshlands of southern Iraq and thereby destroying the ecosystem on which the Shiite Marsh Arab population depended.

In addition to these groups of refugees and IDPs, hundreds of thousands of Iraqis received asylum in third countries (mostly Europe, the United States, Canada, and Australia) or migrated there through underground people-smuggling networks. Many of these included educated, trained professionals whose departure from Iraq represented a significant "brain drain" for the country. Although "economic migrants" from Iraq may not technically fit into the category of forced displacement, they are in practice difficult to distinguish from displaced persons because of the multiplicity of factors that led to their departure from their homeland and a paucity of reliable data about them.

All told, there may be up to three million Iraqi exiles abroad, 500,000 of whom may ask the UNHCR for assistance to return home.³

Hence the Iraqi case presents three broad, readily identifiable categories of displaced persons: refugees in Iraq's neighbouring states, internally displaced persons, and refugees and migrants in third countries further afield. The first two categories include the largest numbers of displaced people as well as the majority of those with a great desire or pressing need to return to their homelands in Iraq. Although some refugees succeeded in making a good life for themselves in places such as Tehran or Amman, very large numbers continue to exist on the margins of the economic and social spheres of their host countries. The same holds true for Iraqi IDPs—while many individuals and families successfully found careers and new homes in places such as Erbil, Suleimaniya, Duhok, and Zakho (the major towns of Iraqi Kurdistan), those who did not manage well after their displacement generally long to return to their original towns and homes. Of those Iraqis who moved on to third countries such as Germany or Britain, fewer are likely to express an immediate desire or pressing need to resettle to

Iraq, although some have already returned (those whom the author met in Iraq in 2003–2004 all explained their decision to return in ideological terms—the wish to rebuild and participate in the renewal of their homeland).

Positive Factors Influencing the Return Process in Northern Iraq

Saddam Hussein's Ba'athist regime, and to a lesser extent previous Arab nationalist authoritarian governments in Baghdad, were responsible for the overwhelming majority of displacement in Iraq. With the toppling of the regime, the door opened for the return of the more than 1.5 million people who lost their homes and lands. Especially Iraqi Kurds and Shiites expressed heartfelt joy at the ousting of Saddam's government, since they formed the disproportionate majority of those he targeted and displaced over the years. Many displaced persons now look forward to reclaiming their original homes or at least moving back to their old neighbourhoods, as well as receiving compensation for what they had taken from them.

The United States also foresaw many of the difficulties and complexities involved with effecting returns especially in northern Iraq, and thus almost a year before the war the U.S. State Department formed DART teams (Disaster Assistance Response Team) to begin planning on such issues.⁴ The teams prepared studies on various humanitarian and post-war problems that would likely arise in Iraq, including complications regarding refugee and IDP returns. The presence of some 200,000 Arab settlers in Kirkuk and its surrounding areas, brought in from southern Iraq by Saddam's government during the Arabization programs, stood out as one of the major issues that would have to be addressed. The United States adopted a policy determined to effect returns in a legal, fair, neutral way that does not violate the Guiding Principles on International Displacement. Specifically, they stressed that there should be (1) no new forced displacement, (2) protection of displaced populations, and (3) restitution or compensation for displaced persons determined in a uniform, legal manner.

During the war, the Americans also managed to secure a commitment from their Iraqi Kurdish allies to reign in returning Kurds, and prevent the forced displacement of ethnic Arabs from town just south of the Kurdish Autonomous Zone (towns such as Kirkuk, Mosul, Makhmour, and Khanequin). Although KDP (Kurdistan Democratic Party) and PUK (Patriotic Union of Kurdistan) forces ran ahead of their American allies and entered Mosul and Kirkuk before U.S. forces did, the Kurdish leadership generally honoured their commitment regarding no new forced displacement. Although a few isolated cases of intimidation and expulsions of Arabs occurred, and significant numbers

of ethnic Arabs fled the advancing Kurdish and U.S. forces, the Kurdish leadership agreed to leave the return process, compensation issue, and reallocation of land to the legal, organized procedures envisioned by the Americans.⁵ In the summer of 2004, Human Rights Watch described the situation around Kirkuk in the following way:

Much of the Arab population brought to rural areas in the north during the Arabization campaign fled during the war, leaving large swaths of territory unpopulated. Among the reasons cited by the Arabs for their flight were the intensity of the bombing campaign and the proximity of the front lines with its associated dangers, fears of revenge from returning Kurds, and in many cases the remarkable recognition that the land they lived on did not truly belong to them, but rather to the Kurds or other minorities who had been expelled. Equally remarkable, although sporadic violence and intimidation by Peshmerga forces did take place (see below), Human Rights Watch is not aware of a single massacre committed against Arab settlers by returning Kurds or other minorities. This is an experience vastly different from that of the Balkans, where bloodshed was routine during the various "ethnic cleansing" campaigns that characterized those conflicts.⁶

Hence many returns could be accomplished without having to displace settlers, since many had fled during the war. Many of those who did not flee recognized that they were on someone else's land, and expressed a willingness to relocate if they could be provided with compensation and a place to relocate to. The Kurdish leadership agreed to the legal approach regarding returns with the understanding that returns and restitution would be effected soon, however.

Finally, some Iraqi Kurds who had settled in third countries in Europe or elsewhere also began returning after the 2003 war. Many of these were educated, prosperous professionals and business people who saw renewed hope for Iraq with the end of Saddam's regime. Many Kurdish Iraqis hoped that the war, and the prominent role played by the Kurdish parties in assisting the Coalition Forces, would lead to a renaissance or perhaps even independence for Iraqi Kurdistan. Their return in many ways represents an ideal scenario—renewed hope in their homeland made them voluntary returnees, and the skills, knowledge, foreign contacts, and investment funds they brought with them formed a much needed and generally welcome contribution to long isolated Iraqi communities. Some Iraqi Kurds interviewed by this author in 2003–2004 had sold homes and businesses in the United States and Europe in order to return with their families. In one case, a young University of Suleimaniya graduate, after finally managing to make it to Europe with the aid of a "people smuggler" (on his eighth attempt),

decided to turn around and go back to Iraqi Kurdistan when Saddam's regime collapsed. He did so out of renewed hope for a positive future in his homeland.⁷

Problems Impacting Returns to Northern Iraq and Their Sustainability

The following general problems, in order of gravity, impede the success and sustainability of returns to northern Iraq:

1. sectarian competition over political structures and power distributions in post-Saddam Iraq,
2. increasing lack of security in Iraq,
3. insufficient preparations and slow policy implementation by the former CPA and Coalition Forces,
4. insufficient financial resources to deal with the full magnitude of the displacement problem in Iraq, and
5. high expectations of returnees vis-a-vis continuing lack of opportunities and the slow rate of positive developments in the social, economic and political situation in Iraq.

Sectarian Competition over Political Structures and Power Distributions in Post-Saddam Iraq

As anyone familiar with the Bosnian case could attest, effecting returns in multi-ethnic post-conflict contexts presents many problems. The most explosive sectarian division in Iraq since the founding of the state has been the divide between Kurdish and Arab nationalism. It was in order to deny Kurdish nationalist claims to the strategic oil fields of Kirkuk that Saddam's regime conducted ethnic cleansing campaigns beginning in the 1970s. His government also gerrymandered the Kirkuk area into a new governorate separate from the predominantly Kurdish governorates of Erbil and Suleimaniya, naming the new administrative region "Ta'amim" (nationalization).

With the fall of Saddam's regime, Iraqi Kurds are demanding restitution of past wrongs. Specifically, they insist on the reincorporation of Kirkuk into the administrative boundaries of Iraqi Kurdistan (a 1970 autonomy agreement between the Iraqi government and Kurdish rebels even broke down over the issue of Kirkuk's inclusion in the Kurdish Autonomous Zone), compensation for and the return of those displaced by Saddam's regime, and the departure of Arab settlers from the region. Of course, Saddam's implantation of some 200,000 mostly Shiite Arab settlers from southern Iraq during his Arabization campaigns greatly complicates the issue, as many of these settlers have been in the area for more than thirty years. Saddam's government induced them to move north with generous grants of seized property and, in most cases, a cash incentive of 10,000 dinar (around US\$35,000 until 1991).

Although they do differentiate between settlers and the indigenous Arabs of northern Iraq, those who were forcibly displaced disparagingly refer to the settlers as the "10,000 Dinar Arabs." Many of those who fled during March and April of 2003 have become so-called "new case load IDPs," living in tents or abandoned buildings near Mosul. Others who already returned south no longer had homes in their former lands, and they too await assistance in makeshift camps pitched in the middle of the desert. Settlers who remain in Kirkuk (most of those in the urban part of Kirkuk, as opposed to outlying rural areas, remained) and other nearby parts of northern Iraq await compensation or the settling of conflicting land claims before moving. Also, many have intermarried with the indigenous Arabs, Turkmen, and Kurds of the area, producing children born in northern Iraq and only familiar with northern Iraq, but still seen by many as settlers from the south.

Many Arabs and Turkmen in Iraq fear that the Kurdish parties (mainly the KDP and PUK) are pushing hard for the return of displaced persons in order to take control of the oil-rich areas around the towns of Kirkuk, Mosul, Makhmour, Khanequin, and Kalar, however. With the oil resources of these areas under their direct control, the Iraqi Kurds might then have the economic basis from which they could separate from Iraq and declare an independent Kurdish state. Neighbouring Turkey also threatened to intervene militarily should Iraqi Kurds make a move to forcibly take control of Kirkuk and the surrounding oil fields. Sunni Arab insurgents in the country have told the settlers around Kirkuk to stay where they are, in the hope of maintaining Arab control of the area.

Kurds in turn fear that Arab and some Turkmen leaders therefore plan on blocking returns, and eventually reasserting authoritarian central government control over all of Iraqi Kurdistan. Kurds, Turkmen, and Christians displaced over the years also fear that if they do not return now, authorities in Baghdad will renege on promises to allow them and help them to return later. Hence Kurdish political leaders have encouraged the returns sooner rather than later, in an attempt to bolster Kurdish numbers in places such as Kirkuk ahead of elections and a possible census.⁸ U.S. army officials responsible for IDPs in Ta'amim governorate (which includes Kirkuk) estimated in August 2003 that 63 per cent of IDPs in the area were Kurdish, 28 per cent Arab, 7 per cent Turkmen, and 2 per cent of mixed ethnicity (Appendix 1 contains a graph of this ethnic distribution).

Arabs, Kurds, and Turkmen also jockey for position in new municipal councils and other government institutions, positions that could help them affect the return process and the distribution of resources to their respective communi-

ties. Between April 2003 and January 2005, simmering tension between the different sectarian communities broke out into violence on several occasions, with shootings at political demonstrations and the targeting of individuals because they were Kurdish, Arab or Turkmen. Although up until the beginning of 2007 sectarian strife in Iraq centred mostly around Baghdad, these multi-ethnic areas just south of the Kurdish Autonomous Zone (especially Kirkuk) also remain at risk for similar conflicts.

Increasing Lack of Security in Iraq

The continuing insurgency in Iraq impedes both the return of IDPs and especially refugees, and prevents both Coalition Authorities and international organizations from assisting in the process. Even assessing the numbers of returnees, their needs, and conflicting property claims has become a dangerous task. The United Nations (UNHCR and UNOPS, the United Nations Office for Project Services) originally held the designation of focal point for refugees and IDPs in the Kurdish Autonomous Zone, and the IOM (International Organization for Migration) was to act as the focal point south of the Kurdish area. After the August 19, 2003, bombing of the U.N. headquarters in Baghdad, however, the U.N. and many other international organizations withdrew their international staff from Iraq. The IOM functions in the country with local staff, while its international experts assigned to Iraq operate from Amman. Hence the expertise and resources that could be used to put in place a sustainable, comprehensive return process remain largely dormant. As a result, "UNHCR does not promote return to Iraq, but only facilitates the voluntary repatriation of those refugees who insist on going back."⁹ UNHCR policy likewise asks all states to forego any forced returns to Iraq:

9. Against the aforementioned backdrop, UNHCR therefore maintains its advice as follows:

- UNHCR strongly advises States to suspend the forced returns of Iraqi nationals to all parts of Iraq until further notice.
- UNHCR asks States to postpone the introduction of measures which are intended to induce voluntary returns, including of rejected cases. This includes financial or other incentives and particularly deterrent or punitive measures.
- UNHCR further reiterates its request that, within the framework of international solidarity and burden-sharing, asylum-seekers from Iraq should not be returned to other countries in the region, regardless of their prior stay in or transit through these countries.¹⁰

Until the security situation improves, returnees therefore remain very unlikely to receive much international support once they are in Iraq. Returns are also likely to prove temporary if the security situation does not improve soon. Likewise, no return program can be considered successful if the returnees find themselves physically threatened.

Finally, lack of security produces additional IDPs in northern Iraq, as Kurds living in Baghdad and other central parts of the country face intimidation by Arab Sunni insurgents and flee northwards.¹¹ Insurgents and criminal kidnapping gangs have also increasingly targeted the Iraqi Christian community in central and southern Iraq, leading many to flee to Iraqi Kurdistan, Syria, or other destinations outside the country. Although numbers remain very difficult to ascertain since aid organizations do not track migrants according to religion, estimates in the fall of 2004 typically fell between 30,000 and 40,000 Christians fearing for their own safety and consequently displaced.¹² Saddam's regime displaced many Christians from northern Iraq at the same time that ethnic Kurds and Turkmen were targeted, so those Christians heading to safer areas in Iraqi Kurdistan today are for the most part originally from that area in any case. Kurdish authorities told this author on various occasions that they welcome the return of Christians displaced by Saddam, although it remains to be seen how successfully these communities will be reconstituted. In the Kirkuk area alone, at least seventeen Christian villages were destroyed in what one former villager (now residing in Baghdad) described as "Saddam's Islamicization campaign of the 1970s."¹³

Insufficient Preparations and Slow Policy Implementation by the Former CPA and Coalition Forces

Although DART teams began looking into refugee and IDP return issues long before the March 2003 invasion of Iraq began, Coalition Forces and Coalition civilian authorities in charge of the issue in northern Iraq lacked sufficient preparation. Their initial actions after the war were mostly *ad hoc* and lacking clear, specific direction from the Coalition Authority and government in Baghdad. The resulting months of inaction put the whole return process at risk, as returnees lost faith in the new authorities and patience diminished. As late as August of 2003, several months after the end of the war, the following memo circulated in the Coalition Forces' Kirkuk Resettlement Office:

- Convey the impression to all Iraqis that we are working to address their problems and that answers will come soon.
- Investigate with the CPA as to the existence of the Iraqi Property Claims Commission and pressure them for action on this subject.

- Establish the Kirkuk Provincial Property Claims Office, and institute a standard procedure for each claim.
- Bring in a UN representative or International agent who has experience in this matter to advise and monitor the resettlement process (i.e. Member of the commissions that resolved land issues in Bosnia or South Africa).
- Refocus all coalition efforts towards establishing the Kirkuk office and quit wasting time with individual claims that we have no power or authority to truly resolve.¹⁴

The issues raised in the memo should have been foreseen and addressed even before the fall of Saddam's government, of course. Unfortunately, Coalition Authorities did expect to have the assistance of the UNHCR, IOM, and international NGOs active on forced displacement problems, but the security situation caused the withdrawal of most of these actors and left the Coalition dealing with much more than it had bargained for.

Most importantly, however, American authorities did not wish to be the ones to make the difficult decisions regarding the future of Kirkuk, boundaries of the Kurdish Autonomous Region, and various sectarian disputes in Iraq. As a foreign occupying force they felt that they lacked the legitimacy necessary to make such important, far-reaching decisions for the future of Iraq. Hence they tried to put off any substantive actions in these areas, and declared a "stay put" policy for IDPs and refugees wishing to return to south of the Kurdish Autonomous Zone. That is, while recognizing the right of all displaced persons to return, they requested that, except in the most pressing exceptional cases, returnees wait for the preparation of the areas they wish to return to, the legal determination of land ownership in contested areas, and rezoning and infrastructure work on the urban center of Kirkuk and other towns aimed at improving their capacity to absorb returns. CPA authorities asked the leadership of the KDP and PUK in particular to discourage returns until a more suitable time. In a kind of Catch-22, however, Coalition authorities also decided to avoid the creation of "pull factors" that might draw returnees in large numbers before they were ready; hence they forbade the very physical and infrastructural work they claimed they needed more time to prepare. NGOs and Kurdish authorities ready and willing to build new houses, dig wells, lay sewage pipes, and establish schools and clinics for returnees were forbidden to act until well into March 2004. Hence more than a year after the war, progress towards an integrated, comprehensive assisted-return program lagged far behind where it could have been.

The legal and politically neutral framework for compensation and the settling of property disputes between returnees and those inhabiting their original homes and lands

likewise took a very long time to materialize. The Iraqi Property Claims Commission (IPCC) finally opened offices in Iraq's various governorates in March 2004 and began accepting property claims shortly thereafter. Some 19,000 claims were filed with the IPCC (the majority in Kirkuk Governorate), but as of December 2004 the Commission had yet to process a single claim. In many cases, records of land or home ownership are lacking, or complicated by the existence of several different owners over the years. The possibility of sectarian strife on the horizon likewise makes competing claims a very sensitive issue. Additionally, the IPCC's mandate only covers those who owned property when they were forcibly displaced, leaving former tenants who wish to return to their home areas with no foreseeable mechanism of assistance or compensation.

The lack of sufficient planning also led to overlapping, competing, and unclear lines of authority regarding the displaced persons dossier. Although officials of the Kurdistan Regional Government (KRG), both KDP and PUK, were the most experienced, able, and willing local authorities available to organize return programs in northern Iraq, Coalition Authorities forbade them from acting anywhere south of the "Green Line," that is, the border of the Autonomous Kurdish region since 1992. Coalition Authorities feared that allowing Kurdish officials would use any authority to act south of the Green Line to extend the *de facto* borders of the Kurdish region, which would spark an antagonistic reaction from Arab and Turkmen leaders in the area. Hence a multitude of actors became involved with the return issue in northern Iraq, including Coalition Forces, the Coalition Provisional Authority (CPA), the Interim Governing Council (IGC), local staff from UN offices (UNOPS, UNHCR) and the IOM, some few remaining international and local NGOs, different ministries in Baghdad (housing, displacement, and health), municipal authorities, new Iraqi police and National Guard, and, despite orders to the contrary, officials of the KDP and PUK. The resulting coordination problems and questionable lines of authority, in addition to sectarian divisions between and within some of these bodies, probably contributed to a large amount of paralysis regarding an effective return program. For example, the Iraqi central government's new Minister of Displacement and Migration, Sorya Isho Warda, offered the following observation:

At Faish Habour on the Syrian/Iraqi border all of the areas are Chaldean Christian but Arabs were moved there by force. People want to move. There is no solution for these people. Kurds asked them to move out. Kurds said they would give the Arabs US \$10,000 per house but this should be our job. We are

discussing it with the Kurdish authorities. We want to do this the legal way, not through clashes.¹⁵

By way of contrast to the situation south of the Green Line, in the KRG area new villages have already been built and comprehensive return programs completed for thousands of Iranian Kurdish refugees who have decided to settle in Iraq rather than return to Iran. This was accomplished through effective and efficient co-operation of KRG authorities, international NGOs such as Qandil and Norwegian People's Aid, and the UNHCR.

Given the paralysis on the return issue south of the Green Line, as well as their own political calculations and strong feelings on the issue, KDP and PUK leaders seem to have ignored the Coalition's "stay put" policy. In many cases they even pressured Kurdish IDPs to return to Kirkuk and other areas south of the Kurdish Zone, either by offering them transportation south, verbally encouraging them, or even cutting off services such as electricity and water in IDP camps within the KRG area.¹⁶ By the fall of 2004, estimates of the number of returnees to the Kirkuk area alone ranged between 30,000 and 200,000, although the more likely number is around 80,000.¹⁷ Returnees tired of waiting for assistance or IPCC claims to be adjudicated have already invested in cinder blocks and begun constructing small homes throughout Kirkuk, anywhere they can find vacant land—roadsides, the International Football Stadium, abandoned lots, and public land. These new *ad hoc* settlements have also tapped into the electricity grid and water system of urban Kirkuk without authorization, aggravating power failures and water supply problems. Some villages destroyed by Saddam's government and not repopulated with settlers have begun being rebuilt as well.

Insufficient Financial Resources to Deal with the Full Magnitude of the Displacement Problem in Iraq

Given the magnitude of the return problem, with a total of some 800,000 IDPs in northern Iraq alone and around the same number of refugees in neighbouring countries, demand for financial resources to address the full extent of the problem will likely far outstrip supply. A comprehensive return program, of course, requires more than simply rebuilding houses and settling competing property claims—socio-economic infrastructure is needed to make returns sustainable. This is especially true when IDPs and refugees originally from rural areas have become exposed to amenities of urban living such as electricity, running water, schools, clinics, and the availability of a wider array of jobs. In the Kurdish Autonomous Zone, the large majority of IDP camps for people displaced by Saddam were established in fairly close proximity to the major urban centers of Erbil, Suleimaniya, Duhok,

and Zakho, while the majority of IDPs were originally from rural areas around Kirkuk, Mosul, Makhmour, and Khanaquin. Hence, many IDPs and refugees originally from rural areas are choosing to try to settle in the urban municipalities of Kirkuk, Khanaquin, and Makhmour (because urban Mosul is predominantly Sunni Arab and a base for many insurgents, not many Kurdish, Turkmen, or Christian returnees headed there). The resulting strain on these cities makes the need for urban renewal, infrastructural improvements, and provision of services all the more pressing.

Tens of thousands of Iraqi Kurdish refugees returning from Iran, for instance, received transportation from UNOPS, a piece of land, and U.S. \$1,000 (from the KDP and PUK). Although a good start, the returnees complained that \$1,000 is hardly enough to build a house with:

Admitting that \$1,000 was likely to be too little to buy construction materials, IDP department officials in Raniya and Sulaymaniyah pointed out that the money was aimed to tide returnee families over until their situations stabilised.

"Some families can provide building materials by themselves," said Abdullah Dler in Sulaymaniyah. "Others are government employers who can get interest-free loans. Others can rely on help from their extended families," he said.

Others questioned their decision to return home. "That is true of a lot of returnees, but not of me," said Hamid Qadir Ahmed. "I should have stayed in Iran," he added.¹⁸

High Expectations of Returnees vis-à-vis Continuing Lack of Opportunities and the Slow Rate of Positive Developments in the Social, Economic, and Political Situation in Iraq

Returning IDPs, refugees, and exiles from third countries all held very high expectations following the demise of Saddam's regime. The slower-than-expected pace of improvement in Iraq has disappointed and frustrated many. The sentiment of one Kurdish returnee to Kirkuk could just as well represent that of the vast majority, including scores of IDPs interviewed by this author: "We came with the hope that the Coalition and other nations would give us the opportunity to build houses quickly. We didn't think it would take so long."¹⁹ Because many IDPs and refugees in the area still hope that the IPCC or the new Iraqi government will compensate them for their displacement and the loss of most of their belongings, even in cases where they did not own property at the time of displacement, one can expect further disappointment soon. At the same time, however, most returnees interviewed by this author also went out of there way to insist that they were simply happy to be home, and just needed land on which to build a home and a job.²⁰

The issue of returnees coming from more developed countries in Europe and North America poses a somewhat different problem, however. For example, Karim Sayid, the young University of Suleimaniya graduate who successfully migrated to Europe on his eighth attempt, told the author that nothing had changed for him in Kurdistan and he deeply regretted his decision to come back. His main complaint lay in his continuing inability to find employment. Others, such as Kamal Kochnaw, returned to the KRG region after many years in the West, and expected to be greeted as important human resources and experts by their home communities. Instead, they often discovered that they lacked the political connections and family networks needed to secure important jobs in the local economy.²¹ The returnees experiencing the most difficulty finding employment typically lack skills in high demand locally, however. In the two cases cited here, Mr. Sayid was a social sciences graduate with no work experience, and Mr. Kochnaw had never finished high school, but rather ran a convenience store in Miami, Florida, for most of the twelve years since his first departure from Iraq.

Iraqi Kurdistan and northern Iraq²² in general does, however, have a great need for foreign-trained teachers, engineers, doctors, scientists, managers, and business people. KRG authorities have made public calls for such Kurdish exiles to return home and help rebuild the country. KurdSat, the satellite television station of the PUK, even publicized a new Web site where Iraqi Kurds living abroad can register their desire to return home and enrol their children in school in Suleimaniya. For the educated professionals who returned and did find important work in Iraqi Kurdistan, however, the major problem to date seems to involve the education of their children. The schools available in long-isolated regions such as the Kurdish Autonomous Zone simply can not compare to European or North American standards. The children of these returnees often also lack any experience with education in their native language, having typically been born and raised abroad. The culture shock and difficulties in adapting to local "home" cultures and norms can be significant:

I understand why my parents wanted to come back—here they are important people—but couldn't they have left me at home? Shania Shores, 16, who's spent the last nine years in Earls Court, London, told IRIN. "There's nothing for teenagers to do here, especially since a girl gets called a whore if she goes out after dark."²³

In Suleimaniya, the idea of setting up a support group for both the "returning" children and their parents has been discussed by teachers witnessing the reintegration problem.²⁴

In October 2004, a new school in Suleimaniya, the first of its kind in Iraqi Kurdistan, was set up by Kurdistan Save the Children Fund to cater specifically to returning Kurdish families from industrialized countries. "Gasha" school in its first year only offers three hours of classes a day, but bases its teaching methods on Western models rather than the rote memorization of the Iraqi education system. The ability to provide a good education to their children may very much determine the decisions of Kurdish families about whether to make their return permanent or much briefer. One Kurdish father remarked, "I am frightened the school will not succeed. If it fails, I will have to go back to Sweden with my family."²⁵ Given that the home community very much wants such Western exile families to return and become active in the home society, KRG authorities are considering broadening this new school initiative and possibly linking it to the International Baccalaureate system:

With thousands of families in Europe waiting to come back to Kurdistan, the ideal thing would be to change the curriculum in all schools here," said Karwan Ali, a senior field officer for KSC. "But that's impossible. Gasha is a compromise, and a blueprint for schools to convince those people back.

The difficulty with future planning is that you are extrapolating from the unknown," said Steve Harvey, a former British policeman in his second year of teaching in Sulaymaniyah. "The more successful this place is, the more people are likely to come back home."²⁶

Gasha school has become a kind of a haven for its Westernized Kurdish students, who feel ill at ease in a "home" society with which they have little familiarity and for whose traditional norms they lack sympathy. This may not completely solve the problem, however, as Steve Harvey explains:

...there is a real danger of this simply making them [the students] an isolated group rather than isolated individuals. When I asked my senior class, aged 14/19 today, where they saw themselves in five years time, only 3 out of 29 saw themselves as being here. If we are only educating them to keep their parents here and attract more back, is this sufficient?²⁷

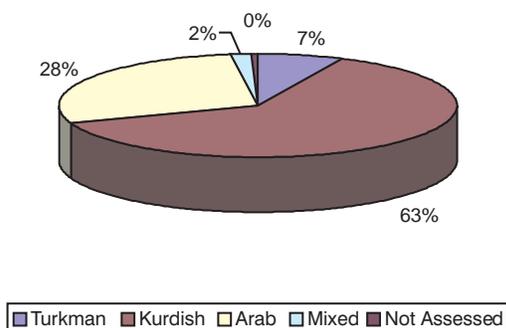
Conclusion

Although the end of Saddam's regime opened up Iraq to the return of hundreds of thousands of displaced persons, emerging political contests over the future of the new Iraq greatly complicate effective and comprehensive return programs. Coalition Forces attempted to address the returns in an impartial and legal manner, but very slow movement in implementing programs threatens to subvert their whole approach to the issue. The sheer number of actual and

Appendix 1

IDP Demographics – August 2003

Source: United States Civil-Military Operations Center Kirkuk



potential returnees, as well as the problem of new returnees being created due to the continuing insurgency in Iraq, will likely outstrip available resources for some time to come. At the same time, the poor security situation in the country limits the number of returns and threatens the safety of those who do return. In the end, the ultimate test of success and sustainability of return to Iraq will depend on the future of post-Saddam Iraq itself, of course. If a reasonable degree of stability is achieved, and the emerging socio-political system proves capable of peacefully accommodating the minimum aspirations of Iraq's various sectarian communities, then the largest hurdle will have been overcome.

In the meantime, the end of international sanctions and isolation of Iraq has reopened the country to the world. Irregular migrants, exiles, refugees, and diaspora communities in general are now freer than before to return to Iraq. In some cases returns will consist of simple visits, while in other cases they will be more permanent. In either case, the back-and-forth traffic may reinvigorate the Iraqi economy and society, opening them up to trade, investment, educational, professional, and cultural links to the wider world. International aid to Iraq can now move beyond simple relief programs such as UN Resolution 986 ("Oil for Food") to reconstruction and longer-term development, although the legacy of dependency that both the Oil for Food program and Saddam's authoritarian government created will take time to overcome. The extent to which return programs succeed in Iraq will also depend on the degree to which the problems discussed in this paper can be overcome. In his

Christmas 2004 speech to the troops U.S. Secretary of Defense Donald Rumsfeld cited the return of some 140,000 refugees as an Iraqi "vote of confidence in the future of the country."²⁸ Hopefully the confidence of returnees will not be betrayed.

Notes

1. Larry Bartlett (CPA Senior Advisor to the Iraqi Ministry of Displacement and Migration), interview by the author, Baghdad, November 24, 2003. Numbers of refugees in Iran, Jordan, Saudi Arabia, and Syria from "Country Report: Iraq 2002," U.S. Committee for Refugees, <<http://www.refugees.org/world/countryrpt/mideast/iraq.htm>> (accessed February 1, 2004).
2. Integrated Regional Information Networks (IRIN), "Special report on internally displaced people in Iraq, Part II," *Turkish Daily News*, January 14, 2004:7.
3. Lisa Schlein, "UN/Iraq/Refugees," News Report, Voice of America, October 8, 2003, <<http://www.globalsecurity.org/wmd/library/news/iraq/2003/08/iraq-030810-27e56aa1.htm>> (accessed November 5, 2004).
4. Bartlett.
5. Somewhere between 10,000 and 100,000 ethnic Arabs became what is referred to as "new case load" IDPs by the end of the 2003 war, due to expulsion or intimidation by returning Kurds and Turkomen or their own flight during the war. Sources disagree on the numbers, however. For an estimate of 10,000, see Luke Baker, "Returning Kurds, Turkmen threaten Iraq crisis," Reuters, January 28, 2004, <<http://www.iraq.be/med/nieuws/hotnewsJanuary04.htm>> (accessed February 1, 2004). Baker cites Human Rights Watch. For an estimate of 100,000, see "The Return of Kurds to Their Former Homes Has in Turn Displaced the Arabs Living in Them (2003)," The Global IDP Project, <www.idpproject.org> (accessed February 1, 2004).
6. "Reversing Ethnic Cleansing in Northern Iraq," *Human Rights Watch* 16, no. 4 (E) (August 2004).
7. Kamal Kochnow and Karim Sayid, interviews by the author with the assistance and translation of Karim Khallaayoun, Suleimaniya, Iraqi Kurdistan, April 2004.
8. For instance, see Jim Krane, "Kurds Flooding Back into Northern Iraq," Associated Press, September 16, 2004, Kurdistanobserver.com (accessed November 6, 2004).
9. UN News Center, "Iraq: Security Concerns Interrupt UN Refugee Agency's Return Convoys from Iran," April 6, 2004, <<http://www.payvand.com/news/04/apr/1041.html>> (accessed November 2, 2004).
10. UN High Commissioner for Refugees, "UNHCR Return Advisory regarding Iraqi asylum seekers and refugees," October 22, 2004, <<http://www.reliefweb.int/w/rwb.nsf/0/be5d238674935d7385256f350052990b?OpenDocument>> (accessed November 5, 2004).
11. UN Information Network, "Kurds Continue to Flee Cities of Sunni Triangle," October 5, 2004, <<http://www.irinnews>>

- org/report.asp?ReportID=43494&SelectRegion=Iraq_Crisis&SelectCoun try=IRAQ> (accessed November 5, 2004).
12. Charles Recknagel, "Iraq: Christians Seek to Escape Pressure from Islamist Extremists, Kidnappers," Radio Free Europe/Radio Liberty, September 30, 2004, <<http://truth-news.com/world/2004090244.htm>> (accessed November 5, 2004).
 13. Stephane 'X,' interview by the author, Baghdad, November 26, 2003. Iraqi Christians interviewed by the author in Erbil, Dohuk, Mosul, and Baghdad all confirmed the claim that Saddam Hussein's regime uprooted Christian villages of northern Iraq, in addition to Kurdish and Turkmen ones. Whether Saddam's avowedly secular regime did so in order to increase its appeal *vis-à-vis* conservative Muslims in Iraqi society (the apparent logic at work when Saddam added the words "God is great" to the Iraqi flag in 1991) or for other reasons is difficult to determine, however. For more on Saddam's destruction of Iraqi Christian villages and the situation of Iraqi Christians today, see "Iraq: Christians Debate Self-Autonomy to Halt Exodus," *Compass Direct News*, December 22, 2006, <<http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=4711>> (accessed January 13, 2007).
 14. Undated memorandum [August 2003?], "Kirkuk Resettlement Office Proposals and Guidelines: Keys to Success," Kirkuk Resettlement Office [copy provided to the author by U.S. military personnel in Kirkuk].
 15. IRIN, "IRAQ: Interview with Minister of Displacement and Migration," December 9, 2004, <http://www.plusnews.org/report.asp?ReportID=44592&SelectRegion=Middle_East> (accessed December 16, 2004).
 16. Kurdish IDPs in the Kirkuk area, interviews by the author, February 4 and 6, 2004.
 17. Thanassis Cambanis, "As Kurds Return to Oil-Rich City, a Fragile Detente," *Boston Globe*, December 14, 2004, *Kurdistanobserver.com*, <<http://home.cogeco.ca/~kurdistan5/15-12-04-as-kurds-return-kirkuk.htm>> (accessed December 16, 2004). My estimate of a more likely figure of around 80,000 comes from discussion held in April 2004 with Coalition Forces officials and NGO workers in Kirkuk, who estimated approximately 60,000 to 70,000 returnees were present around the Kirkuk area. A new surge of returnees arrived in August and September, just before the new school year began, which likely brought up the numbers closer to at least 80,000. Because many returnees are staying with family and friends, reliable estimates are difficult to arrive at, however.
 18. IRIN, "IRAQ: Political Differences over Repatriation to North Fade Away," December 2, 2004, IRIN Web site, accessed December 16, 2004; link is no longer active, but see copy available at ReliefWeb, <<http://222notes.reliefweb.int/w/rwb.nsf/0/c8828733d74394b785256f5e006ed83b?OpenDocument>>.
 19. IRIN, "IRAQ: Focus on Desperate Kirkuk IDPs," January 19, 2004, <<http://iys.cici.org/humanitarian/hsr/iraq/04a/ix116.html>> (accessed February 1, 2004). I regularly heard the same sentiment expressed in my interviews with Kurdish and Turkmen returnees in Kirkuk during November and December 2003, and January, February, March, and April of 2004.
 20. Approximately two hundred Kurdish IDPs in the Kirkuk area, interviewed by the author, between November 2003 and April 2004.
 21. Kamal Kochnaw and Karim Sayid, interviewed by the author, Suleimaniya, Iraqi Kurdistan, April 2004. Mr. Kochnaw complained that "everything requires 'connections'; it's all corrupt."
 22. In this paper, "Iraqi Kurdistan" refers to the Kurdish Autonomous Zone in existence since 1992, while "northern Iraq" encompasses both Kurdish areas south of the Autonomous Zone and predominantly non-Kurdish areas such as urban Mosul, Hawiija, Tal Afar, and other towns.
 23. IRIN, "IRAQ: Education for European Kurds—A Tough Task," December 1, 2004, <<http://iys.cidi.org/humanitarian/hsr/iraq/04b/ix1103.html>> (date accessed December 16, 2004).
 24. Steve Harvey, (teacher in "Gasha" School of Kurdistan Save the Children in Suleimaniya, Iraq), e-mail communication to the author, December 5, 2004.
 25. *Ibid.*; Steve Harvey quotes one of the parents of a student of his.
 26. IRIN, "IRAQ: Education for European Kurds—A Tough Task."
 27. Steve Harvey.
 28. CNN, "Evening News," December 24, 2004.

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Book Review

The Rights of Refugees under International Law



James C. Hathaway

Cambridge and New York: Cambridge University Press, 2005

For James Hathaway, the James E. and Sarah A. Degan Professor of Law and the Director of the Program in Refugee and Asylum Law at the University of Michigan Law School, *The Law of Refugee Status*¹ is a hard act to follow. It has become the bible for those involved in the interpretation of the *Refugee Convention* in the late 1980s and early 1990s. Published in 1988, it quickly became essential reading for refugee practitioners and members of refugee tribunals. It has been routinely relied upon by courts around the world in interpreting the definition of a Convention refugee.

As a result, when I was asked to review Hathaway's new book, *The Rights of Refugees under International Law*, I readily accepted. I was curious to see if Hathaway could produce another treatise that might revolutionize thought around such an important issue. At the same time I was somewhat surprised that a refugee practitioner would be chosen to review his new book. Practitioners are generally grounded in domestic law. Our role as refugee lawyers is to ensure that our clients are recognized as Convention refugees by the relevant tribunals and to ensure that they are afforded all the rights and protections available under domestic law. As a Canadian lawyer grounded in domestic law, I rely on Canada's *Immigration and Refugee Protection Act (IRPA)*² and the *Charter of Rights and Freedoms (Charter)*³ as the sources of my advocacy on behalf of my clients. That being said, international law is becoming an increasingly important part of my practice. It is an important tool of interpretation when attempting to ascertain the meaning of our *Charter*.⁴ For instance, the Supreme Court of Canada in *Suresh*⁵ had recourse to international human rights law in interpreting section 7 of the *Charter* and in determining that removal to torture would in almost all cases violate the principals of fundamental justice.

Despite these advances in the use of international law in the domestic refugee context, practitioners are well aware of the difficulty of ascertaining the scope of international law in the everyday practice of refugee law. Courts have

been reluctant and cautious in using international law in the immigration context.⁶ The applicability of international law is uncertain, and its substance is subject to differing interpretations by domestic courts.⁷ Moreover, international human rights tribunals charged with protecting these rights have no power to effectively enforce their decisions.⁸ It is with this background in mind that I approached Hathaway's treatise about refugee rights with caution.

Hathaway addresses this challenge head on in the first chapter of his book, when he deals with the scope of international refugee law. He argues in favour of a conservative approach to defining rights under refugee law. He suggests that there are very few rights that are universally accepted under international law—the right against discrimination and the right to be *free* from arbitrary deprivation of life, from torture, and from genocide. Given this limitation, traditional customary international law therefore cannot be a source for refugee rights. He maintains that the source for rights of refugees under international law must be found first in the *Refugee Convention* and then in the other international human rights treaties.⁹

He begins with the text of the *Refugee Convention* and “seeks to understand it not on the basis of literal constructions but rather in a way that takes real account of its context, and which advances its objectives and its purpose.”¹⁰ Hathaway believes that by grounding his evaluation of refugee rights under international law in a contextual analysis of the *Refugee Convention*, he can put forward a more compelling argument for their acceptance as principles of international law.

Having set out the framework for his analysis in chapter 1, Hathaway begins his discussion of the rights of refugees in chapter 2. He provides us with his definition for refugee rights:

a mechanism by which to answer situation-specific vulnerabilities that would otherwise deny refugees meaningful benefit of the more general system of human rights protection.¹¹

Hathaway argues that the *Refugee Convention* provides for a series of rights—the right to be able to escape, to be accepted, to be provided shelter, to not be penalized for seeking refuge, and to not be exposed to the risk of return; basic rights for survival, for documentation, and for access to the courts; rights of non-discrimination, religious freedom, and access to the social safety net; and the right to work.¹²

After discussing the general terms of the *Refugee Convention*, Hathaway then considers whether or not any of the other international human rights treaties have significantly expanded the rights of refugees. He notes that although they are extremely important documents in terms of their recognition of human rights, they do not add significantly to the protection of refugees because they are directed mostly toward persons who are citizens of states and they set out the rights of citizens inside a country. International alien law, as well, has not emerged to the point where there is any generalized consensus that will assist refugees. As a result, Hathaway concludes that when considering the rights of refugees, the primary source must be the *Refugee Convention* itself.

In chapter 3 Hathaway provides us with an overall framework for his analysis of the rights of refugees under international law. He argues that the *Refugee Convention* recognizes a hierarchy of rights that depend on the degree of connection that the refugee has to the country of asylum. The most basic and fundamental rights, the rights to non-discrimination and *non-refoulement*, attach as soon as a refugee comes under a state's jurisdiction, even prior to arrival in the territory. Persons who actually arrive at the territory acquire greater protection and those who are lawfully admitted or who are accepted as long-term residents would acquire the greatest rights.

In chapter 4 Hathaway considers the rights that a refugee obtains immediately upon coming under the jurisdiction of a state party. These rights may accrue even prior to arrival on the territory of the state. The most important right is the right to enter and remain in the country of asylum. Hathaway acknowledges that there is no right of asylum, and that there is no duty on a state to admit a refugee *per se* but that the obligation only arises as a negative consequence of the rule against *refoulement*. *i.e.* the right to enter a country only accrues if the refusal to admit the person might result in the Convention refugee being *refouled* back to a country where he or she is at risk of persecution.

Hathaway makes several assertions in order to delineate the scope of this right. First, the right to be protected against *refoulement* arises only in the case of Convention refugees. One consequence of this is that measures taken to prevent refugees from leaving their country are not in breach of

Article 33 because a Convention refugee is defined as a person who is outside his or her country of nationality. A second consequence is that the duty to admit would only arise when the denial of the right to admission would expose the Convention refugee to a real risk of return to a country where he or she would be subjected to persecution. Hathaway makes the point that the *Convention* applies from the moment a person arrives in the state and applies prior to the official recognition by the state. The character of being a Convention refugee exists independently of national recognition and, therefore, the duty of *non-refoulement* would apply to a refugee from the moment he or she arrives in the state until such time as the determination is made that he or she is not a refugee.

Hathaway reaches several conclusions based upon this general analysis. First, rules that prevent refugees from arriving in countries of asylum, such as visa requirements or interdiction at airports *en route*, are not inconsistent with Article 33 because they do not immediately expose a person to risk. However, the Haitian interdictions by the U.S. government are contrary to Article 33 because they exposed Haitians to a real risk of persecution upon return to their country due to the inadequacy of any determination that was done on the high seas. Second, country of asylum rules which deny a refugee admission to one country and require him or her to make a claim in the first country of asylum would not be inconsistent with Article 33 unless their application exposes the refugee to a real risk of persecution, *i.e.* a real risk of being returned to a country where he or she would be subjected to persecution, or being exposed to a determination of refugee status in a country where the standards were not acceptable, either because of its interpretation of the Convention refugee or of the quality of the determination process.

At the end of this section, Hathaway maintains that a strict interpretation of the right of entry, consistent with the requirement of Article 33 of the *Convention*, is consistent with international law. He rejects the notion that customary international law has expanded the concept of *refoulement* and suggests that those proponents who argue for an expanded understanding of the rule against *non-refoulement* are undermining the protection that is now available under the *Convention*.

In the rest of chapter 4, Hathaway engages in analysis of the other rights of a refugee upon arrival in a country of asylum. He argues that the *Convention* imposes an obligation on a state to not arbitrarily detain or otherwise penalize refugees who seek protection. This is subject, of course, to the caveat that they must, according to Article 31, make their presence known and seek protection at the earliest

possible moment. Refugees are entitled to the basic necessities of life, to protections of their life, and to their security of the person; and they are entitled to receive adequate food and shelter. They are entitled to respect for basic human dignity, which includes the right to preservation of family unity, freedom of thought, religion, and education. They are also entitled to documentation and they should have access to meaningful remedies. All of these rights flow from the clear and express provisions of the *Convention* itself. Hathaway argues that it is the *Convention* that gives refugees these rights under international law.

In chapter 5, Hathaway examines the rights of refugees who have been lawfully admitted to the country of asylum. He argues that, as a degree of attachment between the refugee and the state increases, so too do the rights that a refugee may claim. He maintains that once a refugee is lawfully in the country, he or she enjoys further rights, including the right under Article 32 to substantive and procedural protection against arbitrary expulsion. Refugees are also entitled to freedom of internal movement within the country. He notes that once a refugee is lawfully in the country, Article 18 of the *Convention* gives the refugee a right to self-employment. In chapter 6 Hathaway treats the rights of refugees lawfully staying in the country. He argues that once a refugee has been given the right to remain in the country, he or she is entitled to work, to fair working conditions, to social security, to housing, and to other basic rights, including the right of international travel.

Hathaway concludes by considering the difficult problem of enforcement of refugee rights. He notes that the United Nations High Commissioner for Refugees (UNHCR) does not have an enforcement role in its mandate and contrasts this situation to that existing under the *International Covenant on Civil and Political Rights (ICCPR)* and the *Convention Against Torture (CAT)* where the Committees entrusted with supervising compliance do have such a role. This deficiency makes enforcement of refugee rights a greater challenge. However, having noted this deficiency, Hathaway argues that the real problem is the lack of any real commitment on the part of states to comply with their obligations:

as the empirical evidence presented in this book tragically attests, the reality today is that a significant number of states in all parts of the world are withdrawing in practice from meeting their legal duty.¹³

Given this reality, Hathaway argues that there is a need to “design a structure for the implementation of *Convention* rights that states will embrace,”¹⁴ one that does not merely

alleviate the burden on states, but one which also improves the lot of refugees themselves. This is the challenge for those involved in the debate around reforming the international refugee system today.

Those who are looking to international law to provide an expansive understanding of the rights of refugees may be disappointed with Hathaway’s conservative approach. It is Hathaway’s position that, given that states do not currently meet their existing obligations under international law, it is not a useful exercise to push the envelope further and try to interpret the *Convention* in a manner that is not consistent with the *travaux* or international jurisprudence. In my view, given this reality that Hathaway so clearly exposes, his approach is a sensible one.

As a refugee lawyer my interest in Hathaway’s latest work is not purely an academic one. By carefully delineating the scope of the rights granted to refugees and ensuring that his interpretation is in keeping with the *Convention*, the *travaux préparatoires*, and the existing jurisprudence, Hathaway has made a vital contribution. For those of us practicing refugee law, Hathaway’s careful exposition of the obligations that states have assumed under international law will become a new standard to measure the conduct of states in domestic courts. Only time will tell whether his latest opus will become a new bestseller among refugee scholars and legal practitioners. It is certainly safe to say that Hathaway’s latest book is a major work that warrants careful scrutiny.

Notes

1. James Hathaway, *The Law of Refugee Status* (Toronto: Butterworths, 1991).
2. S.C. 2001, c. 27.
3. Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982* (U.K.), 1982, c. 11.
4. See for example *Slaight Communications v. Davidson*, [1989] 1 SCR 1038.
5. *Suresh v. MCI*, [2001] 1 SCR 3.
6. This was highlighted recently in the case of *Bouzari v. Iran* (2004), 71 OR (3d) 675 (CA). Mr. Bouzari sought to sue the government of Iran in Canada for torture committed in Iran. He argued that his right to seek redress was a universal right under international law available to him in Canada and provided expert testimony to that effect. The government of Canada disagreed and called its own experts to assert that no such right existed. The court agreed with the government’s experts and found against Mr. Bouzari.
7. In *Suresh v. MCI*, [2000] 2 FC 592 (F.C.A.), the Federal Court of Appeal held that Article 33 of the *UN Convention relating to the Status of Refugees (Refugee Convention)* took precedence over Article 3 of the *Convention Against Torture (CAT)* and

that international law did *not* preclude return to torture. Although the Supreme Court of Canada disagreed and found that international law did prohibit *refoulement* to torture, the Court's interpretation of the *Charter* still left open the possibility that in "exceptional circumstances" return to torture could be countenanced. Indeed the Federal Court has already concluded that the Suresh decision does allow for removal to torture under exceptional circumstances (see *Sogi v. MCI*, 2005 FC 262, overturned on consent on other grounds by the Federal Court of Appeal). No case has yet been considered by the Federal Court of Appeal on this point.

8. Recourse to international human rights committees by Canadian lawyers has been met with indifference. Interim measures have been ignored. See for example *Tejinder Pal Singh v. MCI*, [1997] F.C.J. No. 1807. Indeed in *Ahani v. Canada* (2002), 58 O.R. (3d) 107 the Ontario Court of Appeal concluded that Canada did not violate the *Charter* when it refused to comply with a request to not deport Mr. Ahani pending a review by the Human Rights Committee of a complaint made under the Optional Protocol to the *International Covenant on Civil and*

Political Rights U.N.T.S. No. 14668, vol 999 (1976) (ICCPR), at 302.

9. See ICCPR, CAT, and the *International Covenant on Economic, Social and Cultural Rights*.
10. James Hathaway, *The Right of Refugees under International Law* (Cambridge and New York: Cambridge University Press, 2005), 74.
11. *Ibid.*, 75.
12. *Ibid.*, 94–95.
13. *Ibid.*, 998.
14. *Ibid.*, p. 999.

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