



**Evaluation of UNHCR's
policy on refugees in
urban areas**

*A case study review of
New Delhi*

Evaluation and Policy Analysis Unit

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Aim, scope and methodology of the review

The number of refugees to be found in the urban areas of developing countries appears to have increased considerably in recent years. It is a trend which has given rise to a wide range of protection and assistance concerns, both within and outside of UNHCR. It was in this context that UNHCR issued a new policy on refugees in urban areas at the end of 1997 (see Appendix A). In a covering memorandum to that document, UNHCR stated that the policy would be revised as necessary in the light of comments received from UNHCR offices and partners.

In October 1999, the Evaluation and Policy Analysis Unit (EPAU) was requested to undertake a comprehensive review of the new policy and its implementation. As a first step in this process, a desk-based global survey was undertaken, so as to identify key issues for further research and analysis.

As a second step, a number of case studies have been selected for detailed review. New Delhi was chosen as the first of these evaluations because it accommodates a large and longstanding urban refugee population – almost 16,000 in total, most of them from Afghanistan - and because the UNHCR programme in New Delhi has proven to be a particularly problematic one.

This review was undertaken by two EPAU staff members, who undertook a mission to New Delhi from 3 to 13 April 2000. The team interviewed UNHCR staff members in the Indian capital, as well as personnel from the organization's local implementing partners: the Public Interest Legal Support and Research Centre (PILSARC); Voluntary Health Association of Delhi (VHAD) and the YMCA. The evaluation mission also held discussions with an official from the Foreigners Regional Registration Office (FRRO), a representative of a major resettlement country, as well as refugees from Afghanistan, Myanmar, Somalia and Sudan. The evaluation team also interviewed relevant UNHCR and NGO personnel in Geneva and reviewed a wide range of programme documents in Geneva and New Delhi, including archival sources and statistical data.

This review has benefited particularly from the lengthy comments provided on a first draft of the report by a number of UNHCR units and staff members in Geneva, New Delhi and other locations. On many issues, it should be noted, these comments were substantially at odds with each other, testifying to the complex and controversial nature of the refugee situation in New Delhi.

Summary of conclusions and recommendations

1. New Delhi has accommodated a refugee population from Afghanistan since the early 1980s, when people began to leave the country in large numbers as a result of the Soviet intervention. The number of Afghan refugees recognized by and registered with UNHCR in New Delhi has fluctuated over the years, reaching a peak in 1993, when it stood at almost 26,000. Today, the number is around 15,000 - a tiny proportion of New Delhi's total population, which is in the region of 13 million.

A problematic situation

2. Over the past two decades, Afghan asylum seekers have been freely admitted to India and allowed to remain in the country once recognized as refugees by UNHCR. But in many other respects, the situation of Afghans in India has been problematic.

3. Because of India's unwillingness to accede to the 1951 UN Refugee Convention, as well as the country's failure to establish any domestic refugee legislation, the Afghan refugees have suffered from a precarious legal status and have not been accorded the formal right to work or establish businesses in India. Neither have the Indian authorities encouraged the Afghans to integrate or become naturalized citizens, although a significant proportion of them (currently around 65 per cent) are Hindus and Sikhs with historical links to the country where they have sought asylum.

4. There are currently no solutions in sight for most of the Afghans in New Delhi. The refugees are unwilling to repatriate due to the continuing conflict and human rights violations in Afghanistan, not to mention the economic devastation of their homeland and the dispersal of their relatives to other parts of the world. While a limited number of resettlement opportunities exist, most of the Afghans, especially those "of Indian origin", cannot benefit from this solution.¹

5. Many of the Afghans in New Delhi have experienced some significant changes in their conditions of life during the past decade. Throughout the 1980s, the refugees received a monthly subsistence allowance from UNHCR. But from 1992 onwards, following the fall of the Najibullah regime and a significant influx of new refugees, the majority of Afghans had their subsistence allowances terminated. In place of the allowance, many received a one-time lump-sum grant. This initiative was based upon the belief that many refugees had other sources of income, that they were living in relatively comfortable circumstances, and that they had the capacity to

¹ While the phrase "Afghans of Indian origin" has become a well-established feature of the UNHCR vocabulary in India, this evaluation considers the term to be somewhat misleading as many of the refugees concerned have only a remote connection with the country. Moreover, as a later section of the report explains, these refugees have not found it particularly easy to claim Indian citizenship.

become self-reliant. It was also intended to curtail the spiralling cost of UNHCR's New Delhi programme.

6. While this new approach attained a number of its short-term objectives, events in India during the past two or three years have raised some important questions with regard to its sustainability. On one hand, the Indian government has pursued a new and less tolerant policy towards the Afghan refugees, making it almost impossible for them to renew the residence permits that previously enabled them to live and sustain themselves in New Delhi. On the other hand, public and political hostility towards the Afghans has grown, primarily as a result of the alleged involvement of Afghans in the Kashmir conflict and the hijacking of an Indian aircraft.

7. As a result of these developments, the Afghans in New Delhi have experienced mounting discrimination and harassment.² The refugees have also found it increasingly difficult to gain access to local markets and to engage in income-generating activities. UNHCR staff members and others who are familiar with the Afghan population believe that growing numbers of refugees are surviving by means of illicit activities and are leaving the country in an "irregular" manner to escape from their current insecurity.

8. In response to these developments, UNHCR's New Delhi office has made representations to the Indian government. It has also provided assistance to the most needy refugees and has sought to establish a constructive dialogue with the Afghan population. But these initiatives have met with relatively little success.

9. In terms of its relations with the authorities, UNHCR's ability to advocate on behalf of the refugees has proved to be very limited in the current political and administrative climate. According to the organization's office in New Delhi, this situation is exacerbated by the fact that UNHCR has no legal status in India and lacks a strong domestic constituency. In the words of one paper prepared by that office, "the lack of formal accreditation of UNHCR New Delhi by the government of India also poses a constraint. UNHCR cannot easily get other UN agencies to support and lobby for refugee rights or collaborate with UNHCR in meeting the basic needs of food, shelter, schooling for children, health care etc. for mandate refugees".

10. UNHCR's efforts to establish a more constructive relationship with the Afghan population, especially its more vociferous elements, have also been frustrated by the organization's apparent inability to bring about substantive improvements in the refugee situation. Indeed, some commentators suggest that by opening up new channels of communication with the refugees - an entirely laudable objective - UNHCR may have inadvertently generated some expectations which cannot be fulfilled.

11. UNHCR's New Delhi office thus finds itself uncomfortably poised between a government and a refugee population which are placing very different pressures on the organization. To compound the situation, relations between the New Delhi office and UNHCR's Geneva headquarters have come under strain - the former seeking

² At the time of writing, no large-scale deportations or detentions had been reported, although the number of protection incidents involving individuals has certainly increased.

additional resources to assist the urban refugee population, and the latter trying to control expenditures so as to limit the organization's global funding shortfall.

Policy recommendations

12. On the basis of the historical analysis summarized above, this report presents a number of conclusions and recommendations, some of them relating to UNHCR's global policy on refugees in urban areas, and others relating specifically to the organization's programme in New Delhi.

13. With regard to the global policy, the evaluation suggests that the existing policy document, issued in December 1997 and reproduced as Annex A, should be revised on the basis of the following considerations.

14. A distinction should be made between host states which respect the provisions of the 1951 UN Refugee Convention and host states which fall outside of this category. This amendment is required to address the situation of those urban refugees who lack a secure legal status, who do not have a formal right to engage in income-generating activities, and who cannot benefit from the solution of local integration.

15. The policy document should make a distinction between the attainment of self-reliance, which is essentially a socio-economic process, and local integration, which requires a refugee to enjoy the legal and physical protection of the country where he or she has been granted asylum.

16. The notion of self-reliance should itself be more carefully defined. The policy document should make it clear, for example, that unassisted refugees cannot be regarded as "self-reliant" if they are living in abject poverty and are obliged to engage in illicit activities in order to survive. The document should also point out that refugees who have very limited access to public services and social support systems cannot realistically be expected to attain self-reliance.

17. The existing policy document states that UNHCR should promote self-reliance amongst urban refugee populations in ways that "respect the policies of the government". The document should make an explicit reference to those situations in which government policies actually obstruct UNHCR's efforts to promote self-reliance.

18. A revised version of the policy document should recognize more clearly that urban refugee populations are not always the result of "irregular movements" from first asylum countries. The document should also acknowledge that refugees in urban areas do not always have the option of living in a rural camp or settlement.

19. The existing policy document fails to explain why refugees in urban areas are invariably expected to attain self-reliance, while refugees living in camps are often assisted indefinitely. The document also fails to explain why the provision of assistance to urban refugees should be based upon a periodic means test, whereas refugees living in a camp generally receive the same level of assistance, irrespective of their relative wealth and access to income-generating opportunities.

20. The policy document should underline the practical difficulties associated with the application of means-testing to urban refugees. It should also highlight the problems that are likely to arise when the termination of assistance and the promotion of self-reliance appear to be motivated by the need to effect a rapid reduction in UNHCR expenditure.

21. The policy document should place greater emphasis on the means whereby UNHCR encourages and assists urban refugees to establish sustainable livelihoods. More specifically, the policy document should underline the need for self-reliance programmes:

- to involve refugees as soon as they have been admitted to a country and their legal status has been determined;
- to be based on careful planning and preparation, as well as a detailed knowledge of the refugee population concerned;
- to draw on the expertise of organizations with an understanding of the local market and experience in the promotion of small-scale enterprise;
- to be based upon the principles of "people-oriented planning", and therefore to adopt an approach which is sensitive to the issues of gender, age, ability and culture.
- to be regarded as long-term investments, and therefore to receive the level of financial support that is required for effective planning, testing and implementation; and,
- to incorporate systematic monitoring and follow-up mechanisms.

22. While recognizing the demands which urban refugees often make upon UNHCR, the policy document should place greater emphasis on the need for the organization to establish a positive partnership with them. In accordance with this principle, the document should underline the importance of refugee participation and consultation, as stated in UNHCR's community services guidelines. UNHCR should also support the cultural, social and community development activities of urban refugee communities – a routine feature of the organization's programmes in rural refugee camps.

The New Delhi programme

23. Turning to the future of UNHCR's programme for Afghan refugees in New Delhi, the evaluation suggests that the organization should continue to monitor the welfare of Afghan refugees in the city, taking due account of their legal, physical, material and psychological security. In this respect, the evaluation notes with particular concern the long delay in filling the protection officer's post in New Delhi, and calls for immediate action to address this problem.

24. As well as monitoring the situation of the refugees, the UNHCR office in New Delhi should continue to pursue its current strategy: seeking a speedy and lasting solution to the residence permit problem; promoting the enactment of national refugee legislation; encouraging the Indian authorities to offer citizenship to Afghans,

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particularly those “of Indian origin”; and establishing a constructive dialogue with the refugees. To achieve this objective, UNHCR should approach the Indian government at the highest level with a proposal for a joint and comprehensive review of the refugee situation in New Delhi.

25. Because of the residence permit problem, UNHCR has been obliged to make special assistance payments to the most needy Afghans in New Delhi. The evaluation endorses this approach. For while it is true that large numbers of very poor people manage to survive in New Delhi without international assistance, refugees find themselves in a particularly disadvantaged position and do not have access to the same social support networks as many other residents of the city. As a general principle, moreover, UNHCR should not expect its clients to live well below the poverty line, even if many local people find themselves in that unfortunate position.

26. With regard to the promotion of self-reliance amongst the refugees, UNHCR should exploit whatever opportunities exist to achieve this objective. But in the current political climate, such initiatives will have to be small-scale and low-profile in nature, and they are likely to be very modest in their achievements.

27. If, however, it proves possible to resolve the residence permit problem and the Afghan refugees are able to compete more fairly in the local economy, a new self-reliance programme should be introduced. Such a programme should be based on rigorous research, be tested on a pilot basis, be adequately financed and managed by individuals and organizations with relevant expertise. It should also be accompanied by continued efforts to ensure that refugees in New Delhi are given the formal right to work, trade or establish a business.

New Delhi: implications for UNHCR policy

28. At the end of February 2000, some 15,500 refugees were registered with UNHCR's New Delhi office. Nearly 93 per cent of that number were Afghan nationals, the remainder coming primarily from countries such as Myanmar, Iran, Somalia and Sudan. The rate of refugee arrivals from Afghanistan has remained very modest since the mid-1990s, averaging less than 500 people a year. More than 85 per cent of the Afghan refugees have been resident in India for more than five years. About half of the Afghans are aged between 18 and 59, and a slightly greater proportion are female. Almost 35 per cent of the refugees live in female-headed households.

29. When Afghans first began to seek asylum in New Delhi, a considerable proportion were educated professionals or relatively prosperous traders from urban centres. That is no longer the case, as many of these refugees were accepted for resettlement in the 1980s or have made their way independently to other countries. A considerable proportion of those who remain in New Delhi are more recent arrivals, traders and shopkeepers of rural origin who fled to Kabul and other urban areas to escape the fighting, and who subsequently moved on to the Indian capital. Around 60 per cent are illiterate.

UNHCR and the Afghans

30. UNHCR's involvement with Afghans in New Delhi goes back to 1981, when, after a five-year absence, the organization re-established a presence in the city. At that time, the Indian authorities were confronted with a growing influx of asylum seekers from Afghanistan, which had been invaded by Soviet forces at the end of 1979. Given its friendly relations with Moscow, the Indian government was somewhat embarrassed by the presence of the new arrivals. Rather than dealing with the refugees directly, the authorities preferred UNHCR to assume responsibility for them.

31. From 1981 onwards, in the absence of any domestic legislation governing the treatment of asylum seekers and refugees, new arrivals from Afghanistan were formally screened by UNHCR so as to verify their refugee status. They were also provided with a subsistence allowance (SA) by the organization, a monthly cash payment intended to cover the cost of housing, food and other daily needs.

32. A number of considerations influenced the decision to launch and maintain a programme of monthly subsistence allowances. From the early days of the refugees' arrival, the Indian authorities made it clear that the Afghans would not be accorded a formal legal status or the right to seek employment. The number of Afghan refugees in New Delhi was initially modest, and the cost of the programme was therefore not a major concern. At this moment in the early 1980s, Afghan refugees enjoyed considerable sympathy and support from UNHCR's major donors. And because of

their frequently urban, educated and middle-class background, it was considered appropriate for the Afghans to sustain a lifestyle that bore some comparison to the one they had left behind in their homeland.

33. As the years passed, the assistance programme in New Delhi came under growing scrutiny. During the 1980s, there was a steady rise in the number of Afghans making their way to the Indian capital. At the same time, it was becoming increasingly obvious that the Afghan conflict would continue for a lengthy period, ruling out the possibility of an early repatriation for those refugees living in New Delhi.

34. The financial implications of this situation became of increasing concern to UNHCR, as did the supposed unwillingness of many Afghans to support themselves. This issue came to a head in 1992-93, when the fall of the pro-Soviet Najibullah regime led to a new influx of refugees, taking the number of Afghans registered with UNHCR from 10,000 to 25,000 in little more than a year. Almost 80 per cent of the UNHCR budget in New Delhi was now being spent on the subsistence allowance programme – the most costly of its type anywhere in the world.

35. The rationale for UNHCR's existing approach to the refugee problem in New Delhi was brought into question by some other significant factors. First, the composition of the Afghan population had changed. A large proportion of those refugees who arrived in the early 1990s were Hindus and Sikhs with historical links to India, who travelled to New Delhi with regular Indian visas, issued in Kabul or in the Pakistani capital of Islamabad. Because of their background, they encountered few protection problems and they were considered unlikely to return to Afghanistan. They were also better placed than other Afghan refugees to compete in the local economy and to obtain an Indian ration card, giving them access to cheaper commodities.

36. Second, while the Afghans were legally barred from seeking employment or engaging in income-generating activities, they were free to function in the informal sector of the economy. As a result, UNHCR increasingly felt that they had the potential to become self-reliant. Indeed, a good number of the refugees had been involved in commerce prior to their departure from Afghanistan, and some were known to engage in trade with their country of origin, taking advantage of the direct flight linking New Delhi to Kabul.

37. Third, it was felt that the continuation of the subsistence allowance system would act as a "pull-factor" for growing numbers of asylum seekers, and would simultaneously encourage an unhealthy "dependency syndrome" to develop amongst existing beneficiaries of the UNHCR programme.

38. With these considerations in mind, UNHCR's New Delhi office began to look for new approaches to the Afghan refugee situation. A number of alternatives were proposed: providing refugees with food and accommodation instead of cash; freezing the level of subsistence allowance and withholding such payments from refugees with alternative sources of income; and reducing the educational and medical benefits which refugees received in addition to their subsistence allowance. At the same time, efforts were made to establish refugee cooperatives, to introduce vocational training and income-generating programmes for the Afghans, as well as

grants for the purchase of tools and other equipment. But such initiatives were taken on a very limited scale.

39. As the refugee influx of 1992-93 came to an end, a more radical approach was adopted. Believing that many of the Afghans could sustain themselves in other ways, and faced with the rising costs of the programme, UNHCR began to terminate its monthly subsistence allowances and to provide refugees instead with a one-time lump-sum grant, not exceeding the value of a year's subsistence payments, which they could use to establish alternative sources of income.

40. To implement this strategy, in May 1993 UNHCR initiated a survey of the Afghan refugee population. Each refugee's file was scrutinized and home visits were conducted by social workers from UNHCR and the Delhi School of Social Work, so as to identify those refugees who were no longer in real need of subsistence payments. These included, in the words of one programme document, "those whose financial assistance could be immediately terminated due to the fact that they have confirmed alternative financial support; those who have the aptitude and could be motivated to take up vocational training; those who already have the skills and could be provided with special small establishment or cash grant as start-up capital for small-scale income generating activities". At the same time, the household survey was intended to identify refugees belonging to a fourth category: "vulnerable groups needing financial assistance for a longer period".

41. As indicated by a document prepared three months after the introduction of the household survey, UNHCR's strategy in New Delhi was now characterized by a real determination to terminate the longstanding system of subsistence payments:

A lump-sum equivalent to 12 months cash assistance will be offered to all refugees assisted by UNHCR. The lump-sum is intended to give an opportunity for the refugees to set up small-scale income generating activities. The acceptance of this offer will imply the deletion (of acceptees) from the monthly subsistence allowance list... Refugees who have not accepted the offer of the lump-sum but who are found to have a job or other sources of income would lose their right to receive the subsistence allowance partially or completely, depending on the findings of the survey. Refugees who have accepted the lump-sum grant could also benefit, at their request, from vocational training activities provided by UNHCR.

Consequences of the policy change

42. The policy change described above had a number of consequences. First, the number of refugees receiving regular assistance payments from UNHCR declined substantially. As a result of the household survey, for example, 72 per cent of the cases which had arrived before 1992 had their subsistence payments terminated. Of this number, 46 per cent were offered a lump-sum grant equivalent to 12 months cash assistance. With regard to those who had arrived after 1992, 76 per cent of 4,009 cases were removed from the regular assistance programme, the majority of them being offered lump sum grants. As a result of these initiatives, the total number of refugees receiving regular subsistence payments decreased very dramatically: from some 6,000

cases (24,000 people) in 1993 to less than 1,500 cases (6,500 people) in 1996. By February 2000, that figure had dropped further, to 794 cases or 1,820 people.

43. Second, the scale-down of the subsistence allowance system was clearly resented and resisted by a proportion of the refugee population. Indeed, following its introduction, UNHCR's New Delhi office was confronted with a growing degree of protest from the Afghan community, some of it taking the form of threats and physical violence. Such security incidents led to the temporary closure of four refugee community centres in 1994.

44. A third result of UNHCR's new policy was a controversy with regard to the true implications and impact of the organization's attempt to reorient its programme in New Delhi. According to some UNHCR staff members, the statistics cited above were a vindication of the decision to terminate subsistence payments and to promote self-reliance amongst the Afghan refugees. A 1996 inspection report, for example, said that it had been a "remarkable achievement" to reduce the assisted caseload in New Delhi so sharply "without major harm coming to either the refugees or staff."³

45. The inspection report went on to suggest that UNHCR should go even further in its efforts to address the Afghan refugee situation. More specifically, the report argued, UNHCR should abandon the practice of re-registering refugees and renewing their file on an annual basis. This longstanding practice, the report argued, "maintains the identity of 'refugee', obstructing the natural process of integration into the local community".

46. In contrast to this positive appraisal, other commentators argued that the Afghan refugees had been treated unfairly by UNHCR and were suffering unnecessarily as a result of the new assistance policy. Foremost amongst these commentators was the South Asia Human Rights Documentation Centre (SAHRDC), one of UNHCR's most vociferous and at times extravagant critics. The SAHRDC alleged that as a result of financial restrictions imposed by UNHCR headquarters, the organization's New Delhi office had "arbitrarily terminated" many subsistence allowances. The lump-sum grants provided to some refugees, the SAHRDC argued in 1997, were "too meagre to establish any business or develop self-sufficiency".⁴

47. It has also been suggested that some of the refugees whose subsistence allowances were cut moved on to other countries, often by "irregular" means, while others simply used their lump-sum payment to meet their daily needs. According to this perspective, an Afghan refugee who manages to survive without assistance from UNHCR cannot necessarily be considered self-reliant.

³ 'Inspection mission to India: a report to the High Commissioner by the Inspector', UNHCR, Geneva, August 1996.

⁴ South Asia Human Rights Documentation Centre (SAHRDC), 'Refugee protection in India', October 1997, posted on <<http://www.hri.ca/partners/sahrdhc>>. See also SAHRDC, *Abandoned and Betrayed: Afghan Refugees Under UNHCR Protection in New Delhi*, New Delhi, November 1999, and US Committee for Refugees, *World Refugee Survey 1997*, Washington DC, 1998, p. 133-34. Some UNHCR staff members feel that SAHRDC and its criticisms of UNHCR have little or no credibility. Others, including the authors of this report, feel that the SAHRDC analysis has some validity, while acknowledging that it is sometimes embellished and expressed in rhetorical language.

New pressures and problems

48. During the past few years, the controversy surrounding UNHCR's New Delhi programme has intensified, largely as a result of some important changes in the social and political context of the organization's activities in the Indian capital.

49. Throughout much of the 1980s and the 1990s, India's policy towards the Afghan refugees was essentially one of benign neglect. India was not a signatory to the 1951 UN Refugee Convention and had not passed any domestic legislation which acknowledged the special status and rights of refugees. But asylum seekers who had been recognized as refugees by the UNHCR office in New Delhi were allowed to remain in the country on humanitarian grounds and were provided with annually renewable residence permits.

50. While they had no legal entitlement to do so, the Afghans could make use of public services such as hospitals and schools. And although refugees were formally barred from seeking work or establishing a small business, the authorities usually turned a blind eye to those who did. In fact, as indicated earlier, the government even allowed UNHCR to support some modest vocational training and income-generating activities for refugees living in New Delhi.

51. The situation has changed significantly since 1998, casting a new and more intensive spotlight on UNHCR's programme in New Delhi. The past three years have witnessed the election of a new government in India, which is generally recognized to be less tolerant of foreigners in general and Afghans in particular than previous administrations. Public hostility towards Afghan refugees has also grown, fuelled by the alleged involvement of Afghans in the Kashmir conflict and the hijacking of an Indian aircraft.

52. These developments provided the context for some important changes in official refugee policy, most notably the more stringent application of the 1946 Foreigners Act, which India inherited from the colonial government. As a result of this policy, recent refugee arrivals have not been able to acquire residence permits, while earlier arrivals have been informed that they can only renew their permits on presentation of a valid national passport.

53. Few Afghans are able or willing to take this course of action, which requires them to approach the Afghan embassy in New Delhi and to pay a fee of some \$100. Most recently, moreover, the Indian authorities have announced that refugees who wish to renew their residence permits must pay a \$30 fee to do so. As a result of these developments, practically all the refugees in New Delhi have been left without valid residence documents and have technically become illegal immigrants, making them liable to detention and deportation.

54. According to one UNHCR report, this sequence of events "has given rise to a vast range of problems, which has in turn adversely affected the basic survival of mandate refugees in India".⁵ First, the refugees have experienced a growing number of protection problems, including detention by the security services and harassment by the local population. A growing number of refugees have been issued with "Leave

⁵ 'Impact of non-issuance of residence permits on mandate refugees in India', UNHCR, New Delhi, December 1999.

India” notices (although these do not appear to have been implemented) and have been instructed to report to the Foreigners Regional Registration Office on a regular basis.

55. Second, the Afghans have encountered new difficulties in relation to housing, following a government order that requires all landlords to provide the police with information on foreign tenants. Because landlords are reluctant to accommodate foreigners who lack a valid residence permit, some refugees have been evicted from their homes while others have been confronted with sharp increases in their rental payments.

56. Third, in the words of some UNHCR staff members, there has been a “total breakdown in the implementation of the policy of self-reliance, which is embedded in the urban refugee policy”.⁶ Refugees have been prevented from trading in local markets and have had their assets taken from them. Fearing detention or harassment if they venture throughout the city, refugees have become less mobile and consequently find it difficult to work in the informal economy. Younger Afghans who previously found it possible to get a job (albeit illegally) no longer find it possible to work for a living.

57. Because of the situation described above, refugees have been obliged to find alternative means of survival. Afghans who previously had little or nothing to do with UNHCR are approaching the organization in growing numbers, seeking financial assistance. Refugee children have been withdrawn from private schools because their parents can no longer afford to pay the fees. Without valid residence permits, it has become more difficult for the Afghans to send their children to government schools, which are in any case oversubscribed. There is also evidence to suggest that the Afghan refugee population is experiencing higher levels of physical and mental illness, as well as an increased incidence of delinquency and domestic violence.

58. In order to make ends meet, some refugees appear to have become more involved in illicit activities such as theft, drug dealing, smuggling and prostitution.⁷ According to some observers, the proceeds of such activities are used in some cases to finance “illegal departures” from India to other parts of the world, using the services of professional traffickers. With the prospects of life so bleak in either India or Afghanistan, many refugees have approached UNHCR with a request to be resettled in one of the industrialized states. But the resettlement opportunities for the Afghans are limited, and very few of the refugees meet the criteria of the countries concerned.

59. Not surprisingly, these developments have placed a considerable strain on the relationship between the refugees and UNHCR. They have also led to some tensions between UNHCR's New Delhi office and its Geneva headquarters. The New Delhi office points out, for example, that its annual budget has shrunk from \$1.6 million to \$1.2 million since 1998, making it very difficult to respond effectively to the needs of refugees affected by the residence permit problem. In response, UNHCR's

⁶ B. Gorlick et al, 'Comments on the UNHCR policy on refugees in urban areas', UNHCR, New Delhi, 24 February 1998.

⁷ Two qualifications are required with respect to this statement. First, there is a broad consensus in New Delhi that some refugees were involved in illicit activities before the residence permit problem arose. Second, it is not possible to demonstrate statistically that refugees are now more frequently involved in such activities; the evidence is primarily circumstantial in nature.

Regional Bureau for Asia has pointed out that "budget reductions were necessary as a result of UNHCR's overall financial constraints and were undertaken at a global level... In comparison with many other country programmes, the reduction for India was small."⁸

60. By engaging in advocacy and lobbying efforts, UNHCR has attempted to ameliorate the situation for refugees living in the Indian capital. But it is not been easy to achieve that objective. UNHCR's New Delhi office has for many years had a problematic relationship with the Indian authorities and still has no official status in India.⁹ It is obliged to operate in a difficult environment, where the authorities are preoccupied with the security dimension of the refugee issue and where the problems experienced by refugees have a very low priority amongst the mass of the population. While India has a lively human rights movement, it is preoccupied with domestic issues and does not generally concern itself with the very small number of refugees living in New Delhi.

61. At a more tangible and immediate level, the UNHCR office has responded to the deteriorating situation for Afghans in New Delhi by making ad hoc subsistence payments to the most needy cases. "One-time emergency financial assistance" has been provided to refugees with acute financial difficulties, and has in some cases been paid to the same individual or household three or four times. Those refugees who have lost their primary source of income due to the non-renewal of their residence permit (RP) have also received financial aid under a new "RP assistance programme".

62. At the same time, efforts have been made to open new channels of communication with the refugee community. According to some commentators, however, such initiatives have only served to raise expectations amongst the Afghan population - expectations that UNHCR is unable to satisfy in the current political climate. As a result, the organization's New Delhi office has been obliged to deal with an increasingly frustrated and angry refugee population.

Amending UNHCR policy

63. Issued in December 1997, UNHCR's policy document on refugees in urban areas was strongly influenced by the organization's experience in New Delhi. This influence is particularly evident in the section of the paper dealing with "assistance in urban areas", which states:

There are many examples of problems and longstanding demands on UNHCR resources as a result of assistance programmes in urban areas that provided regular monthly allowances and refugee-specific services without ensuring that this support from UNHCR was indeed essential. Most such examples show an increasing involvement by UNHCR in the administration of assistance and rising overheads. There are also examples where UNHCR offices designed and implemented

⁸ This quotation is taken from the Asia Bureau's comments on the first draft of this report.

⁹ This problematic relationship has derived from a number of different factors: a UNHCR decision to close its New Delhi office in 1975, following China's admission to the UN and ostensibly due to the expansion of its activities in Africa; India's close relationship with the Soviet Union, at a time when UNHCR was assisting large numbers of refugees from communist states; and UNHCR's extensive involvement with refugees in Pakistan, fleeing initially from the Soviet invasion.

programmes for assistance in urban areas that did not create avoidable long-term reliance on UNHCR. There are recent examples of successful redirection of long-term care and maintenance programmes in accordance with the guidelines set out below.

64. Continuing to draw upon UNHCR's experience in New Delhi, the policy paper goes on to say that "assistance to refugees should be given in a manner that encourages self-reliance and does not foster long-term dependency". "Where assistance has to be provided by UNHCR", it continues, "care and maintenance assistance should be strictly limited to those cases where early self-reliance is not possible, and the continuing appropriateness of this form of assistance must be confirmed at regular intervals".

65. The policy enunciated in the UNHCR document has some evident merits. It is clearly in the interests of the organization and its donors to promote self-reliance amongst refugees in urban areas, rather than wasting scarce resources on expensive and open-ended assistance programmes. It is in the interest of urban refugees - both materially and psychologically - to establish their own livelihoods and to become self-reliant, rather than having to depend on assistance from UNHCR. And as far as host countries are concerned, it is surely preferable for refugees to become productive members of society, rather than frustrated and impoverished recipients of international welfare.

66. In other respects, however, and despite the direct influence of the New Delhi programme on its formulation, the 1997 policy document fails to address the situation of Afghans living in the Indian capital, which continues to accommodate more UNHCR-registered refugees than any other city in the developing world.

67. First, the existing policy document makes no distinction between host states which respect the provisions of the 1951 UN Refugee Convention and host states which fall outside of this category. As a result, the document generally assumes that refugees living in urban areas have a secure legal status, are able to engage in wage-earning or income-generating activities and have the opportunity to benefit from the solution of local integration. None of these conditions currently prevail in New Delhi.

68. The significance of this consideration has been underlined by a UNHCR staff member who served in New Delhi and who submitted a detailed response to an earlier draft of this report. "I remain convinced", he writes, "that the urban refugee policy in certain county contexts, as presently formulated and implemented, simply cannot work unless government authorities provide real protection through stay permits, as well as the economic means, whether in the form of work permits, permission to set up cooperatives, food banks or small businesses, etc., for refugees to support themselves in an urban environment".

69. Second, and as a direct corollary of the above, the policy document tends to confuse self-reliance with local integration. Self-reliance is essentially a socio-economic phenomenon, referring to the capacity of an individual, household or community to establish productive livelihoods and thereby meet their basic needs.

70. Local integration, however, adds a legal component to such socio-economic considerations. In the language of the 1951 Convention, to be "locally integrated" a

refugee must have acquired a new nationality and enjoy the protection of the country of his or her new nationality. In simpler terms, a refugee who is self-reliant continues to be a refugee and continues to be of concern to UNHCR. The policy document, which confusingly makes reference to urban refugees who are “de facto legally integrated” (essentially a contradiction in terms, as local integration should have a de jure basis) should be amended to reflect this fact.

71. Third, the notion of "self-reliance" itself requires further definition given its centrality to the UNHCR policy document. It should be made clear, for example, that unassisted refugees cannot be regarded as "self-reliant" if they are living in abject poverty and are obliged to engage in illicit activities in order to survive. It should also be pointed out that people who are generally considered to be self-reliant often depend on a wide range of services, benefits and support systems provided by their government, families, communities and employers. Refugees who lack such forms of support cannot realistically be expected to attain "self-reliance".

72. Fourth, the policy document on refugees in urban areas requires UNHCR's field offices to promote self-reliance amongst urban refugee populations, and to do so in ways that "respect the policies of the government". In New Delhi, however, these objectives are essentially contradictory, as the government's recent policy towards refugees has made it more difficult for them to establish sustainable livelihoods and has consequently discouraged them from attempting to engage in economic activities. A revised version of the policy document should make reference to such situations.

73. Fifth, the 1997 policy is preoccupied with the issue of “irregular movement” (almost half of the document is devoted to this issue), whereby urban refugees who have found effective protection in one country move on to another for reasons of personal convenience. The document also focuses attention on the situation of refugees who take up residence in an urban area, rather than living with their compatriots in a rural camp or settlement.

74. In the Indian context such issues are essentially irrelevant, as most of the Afghans travelled directly from their country of origin to India, and were never given the option of living in a camp. Indeed, both UNHCR and the Indian authorities have encouraged the refugees to remain in the capital city for administrative and security reasons. Again, it would be useful if the policy document could acknowledge more explicitly the existence of such situations.

75. Sixth, as well as assuming that urban refugees are generally “irregular movers”, the existing policy document tends to suggest that the provision of assistance to such refugees leads inevitably to “long-term dependency” and “long-term reliance on UNHCR”. But as UNHCR staff members in New Delhi have pointed out in a critique of the document, this raises a fundamental question: “How is it acceptable to have refugees in camp settings remain dependent for years, yet by virtue of finding oneself in an urban environment, you have to become self-reliant? Is it the view that it is easier to become self-reliant in an urban environment”.¹⁰ That may often or even usually be so, but as recent experience in India has demonstrated, it is not necessarily the case.

¹⁰ B. Gorlick et al, op cit..

Dependency and self-reliance

76. Experience in India suggests that urban refugees are too readily perceived as being “dependent” on UNHCR - a perception that seems to be reinforced when they make aggressive demands in the organization for additional and prolonged assistance.

77. From the time when the Afghans started to arrive in the Indian capital during the early 1980s, commentators have made reference to the Afghan’s reluctance to sustain themselves and the liberal manner in which they have been treated by UNHCR. Such perceptions were typified by the 1996 inspection report, which described the Afghans as “an over-dependent refugee caseload” receiving “excessively generous” levels of assistance. Having reviewed the many studies, surveys and mission reports held in the files of UNHCR's New Delhi office, this evaluation suggests that it is difficult to sustain such broad generalizations.

78. In 1982, for example, a report by two UNHCR staff members observed:

We can only reiterate our view that economic self-reliance should be encouraged through skills training and entrepreneurship schemes, but that it can never wholly replace the ‘care and maintenance’ option while official opposition to refugee employment and integration exists... Unemployment and underemployment is extremely high and at best any employment would only be for supplementary income for persons assisted by the office.¹¹

79. The report goes on to acknowledge that the subsistence payment was “inherently unsatisfactory”, but that it met “a genuine an unexaggerated need”. It continues:

Very few of the refugees receiving subsistence payment have sufficient resources and do not deserve what they receive from UNHCR. Most have experienced a steady deterioration in living standards since they arrived in India, evidenced by frequent shifts to cheaper accommodation at intervals during their stay.

80. Five years later, a UNHCR cost-of-living survey undertaken in New Delhi reached similar conclusions. Observing that the refugees were obliged to pay higher prices for accommodation and other basic needs than the local population, the survey notes that the Afghans generally lived “in servants quarters, garages converted into rooms and in single rooms which are shared by many”, all of which were “badly ventilated, dark and dirty with a basic minimum of household commodities”.¹²

81. A further report written in the early 1990s helps to place the question of refugee “dependency” in a broader perspective. “By and large”, it acknowledged, “the refugees’ attitude towards employment has not been very positive”. But it then went on to explain:

The acute unemployment and underemployment problem of nationals, restrictions imposed on foreigners taking up jobs or setting up

¹¹ A. Simmance and G. Everts, 'Report on mission to India, 4-11 December 1982', UNHCR, Geneva.

¹² 'Cost of living survey of refugees in India', UNHCR, New Delhi, October 1987.

enterprises without a work permit (which is not normally given), coupled with the non-acceptance of people of our concern as refugees, makes employment prospects remote... Many establishments initially provide only reimbursement of transport costs, and the employees are subsequently put on a regular salary subject to satisfactory performance... The extremely low initial salaries offered by most potential employers also act as a disincentive for refugees to seek employment. This situation is the result of several factors, i.e. availability of cheap local labour, the acute language problem of refugees and the temporary nature of their stay in India. While large establishments are good paymasters, they are unwilling to employ foreigners without a work permit.¹³

82. Turning to the question of small-scale enterprise, the same report observed that the refugees were able to participate in the informal economy, but that they were obliged to function “very discreetly” because of their precarious legal status. While the Indian authorities allowed the Afghans to engage in economic activities, it was on the understanding that “the income generated is not very high, sufficient only for subsistence, and that the money earned is not repatriated... Since economic activity is associated with termination or reduction of financial assistance provided by UNHCR, the refugees do not wish to risk their subsistence allowance for a venture that is uncertain”. “This should not”, the report concludes, “suggest that refugees as a whole do not make efforts towards self-sufficiency. Many of them do, and succeed as well.”

83. If the alleged dependency of the Afghan refugees was a questionable phenomenon in the 1980s and early to mid-1990s, it has become even less valid in the past three years. In the words of a February 1998 paper written by UNHCR staff members in New Delhi:

For many refugee families the provision of subsistence allowance (SA) was a form of welfare which helped subside their general impoverishment. The amount of SA provided was such that one cannot seriously suggest, as the policy paper does, that there was any real ‘dependency’ occurring. Subsidized poverty is very different from the alleviation of poverty... The legal officers have interviewed a large number of credible refugees who have complained that when they were receiving SA, they were able to manage, but no longer. These cases do not exhibit exaggerated or fantastic claims of hardship, simply the strong and consistent claim that a little bit of assistance from UNHCR in the form of a modest monthly allowance made the positive difference to [their ability] to maintain themselves and their family.¹⁴

Sustainable livelihoods

84. The preceding analysis has some important implications for the content and implementation of UNHCR’s policy on refugees in urban areas. It suggests, for example, that decisions concerning the payment and level of assistance should be

¹³ 'Promoting the self-reliance of refugees: the Indian experience', UNHCR, New Delhi, undated.

¹⁴ B. Gorlick et al, op cit.

based on accurate data concerning refugees needs, incomes and expenditures.

85. According to some commentators, the file inspections, home visits and interviews undertaken in the mid-1990s constituted a thorough and genuine effort to identify those refugees who had the potential to become self-reliant and who were therefore no longer in need of a subsistence allowance.¹⁵ Other observers believe that the assessment was undertaken somewhat hurriedly, and at a time when there was a general presumption that the refugees could support themselves and that the size and cost of the assistance programme had to be reduced.¹⁶

86. UNHCR's policy on refugees in urban areas states that "care and maintenance assistance should be strictly limited to those cases where early self-reliance is not possible, and the continuing appropriateness of this form of assistance must be confirmed at regular intervals". As well as begging a question with regard to the meaning of "early" in this context, the preceding quotation ignores the practical difficulties associated with means-testing for the purposes of social welfare.

87. A task that has challenged the welfare systems many industrialized states, periodic mean-testing is not an activity that can easily or effectively be undertaken by UNHCR and its NGO partners. In New Delhi, the attempt to determine levels of refugee income through home visits created considerable resentment and prompted the Afghans to devise ingenious methods of concealing their assets. As a result, UNHCR and NGO staff, ostensibly employed as social workers, became progressively involved in the tasks of inspection, spot-checking, interrogating and generally "policing" the Afghan population, which did further damage to UNHCR's relationship with the refugees.

88. A revised version of the policy document should draw attention to the difficulties of periodic means-testing, especially when it is perceived to be undertaken for the purpose of reducing assistance. It might also be noted that the issue of means-testing does not arise in rural refugee camps, where UNHCR's beneficiaries generally receive the same level of assistance, irrespective of differentials in their wealth and access to income-generating opportunities.

89. Experience in India also suggests a need for the UNHCR policy document to place much greater emphasis on the way in which the organization encourages and assists urban refugees to establish sustainable livelihoods. Indeed, while it is based upon the principle that "assistance to refugees should be given in a manner that encourages self-reliance and does not foster long term dependency", the existing policy document on refugees in urban areas provides very little guidance on how these objectives might be achieved. It is therefore recommended that a revised version of the policy underline the need for self-reliance programmes:

¹⁵ According to one UNHCR staff member, "The decisions were not made lightly. There was extensive case-by-case examination and counselling that was done prior to terminating SA or authorizing lump-sum grants by qualified social workers. There were elaborate interviews, reviews and appeal mechanisms... In a number of cases, assistance was reinstated or prolonged..." The same staff member points out that "a softer approach to self-reliance was already underway by early 1997, because by then, the caseload had been reduced to the 'hard core', for whom, UNHCR recognized, full self-reliance would be difficult if not impossible".

¹⁶ A UNHCR staff member writes that "another myth which should be dispelled is that the reduction of SA was undertaken in a systematic way which, in turn, led those refugees who were subject to SA reduction somehow becoming more self-reliant".

- to be introduced at the earliest possible stage of a refugee situation, so that UNHCR's beneficiaries have an early appreciation of the fact that they will be expected to support themselves;
- to be based on careful planning and preparation, as well as a detailed knowledge of the refugee population concerned;
- to draw on the expertise of organizations with an understanding of the local market and experience in the promotion of small-scale enterprise;
- to be based upon the principles of "people-oriented planning", and therefore to adopt an approach which is sensitive to the issues of gender, age, ability and culture.
- to be regarded as long-term investments, and therefore to receive the level of financial support that is required for effective planning, testing and implementation; and,
- to incorporate systematic monitoring and follow-up mechanisms.

90. Again, there is considerable disagreement within UNHCR concerning the extent to which such principles were respected in New Delhi in the second half of the 1990s, as well as the extent to which UNHCR's self-reliance programmes achieved their intended objective.

91. According to some staff members, UNHCR's vocational training efforts were properly pilot-tested, based on thorough skills and market surveys and were subject to regular 'fine-tuning', by means of initiatives such as regular meetings with refugee women's groups. According to others, the vocational training programmes offered by UNHCR's implementing partners were mediocre in quality and had very limited results in terms of providing employment. Such contradictory comments suggest a need for a more systematic assessment of the income-generating and job-creation schemes established for refugees in urban areas, undertaken where possible by organizations other than UNHCR and its implementing partners.

Relations with refugees

92. A final area in which the current policy could usefully be revised concerns UNHCR's relationship with refugees in urban areas. That relationship has been a problematic one in many parts of the world, derived from the fact that urban refugees are frequently perceived as 'troublemakers': articulate and assertive individuals, many of them young men, who make persistent demands upon the organization for resettlement places, material assistance and other benefits. By expressing their concerns to UNHCR in aggressive and sometimes violent ways, the Afghan refugees in New Delhi have both lived up and contributed to that negative stereotype.

93. The hostility of certain groups of refugees towards UNHCR in New Delhi has to some extent been a result of factors which are beyond the organization's control: the refugees' precarious legal status in India; their inability to repatriate or to be resettled elsewhere in the world; the growing discrimination they have encountered from members of the local population; and the daily stress of life in one of the world's largest, most crowded and polluted cities.

94. In such a context, the decision to reorient the UNHCR programme in New Delhi was bound to generate some resentment. That resentment appears to have been exacerbated by a number of factors: the speed with which the reorientation was effected; the extent to which the 'option' of a lump-sum grant was presented to refugees as a *fait accompli*, and the mixed messages given to the Afghans concerning the rationale for UNHCR's new approach. For while the termination of SA payments was ostensibly related to the promotion of self-sufficiency, many refugees were left with the impression that this was essentially a cost-cutting exercise, imposed by UNHCR Headquarters.

95. The 1997 policy paper provides some guidance with respect to UNHCR's relationship with refugees in urban areas. But it does so from an essentially negative perspective, in a section of the document that emphasizes the propensity of urban refugees to engage in "threats and violent protests".

96. To correct this imbalance, a revised version of the policy document should place considerably greater emphasis on the need for UNHCR to establish a meaningful dialogue and positive partnership with refugees in urban areas. This is admittedly a challenging task, especially in a city such as New Delhi, where the Afghan refugee population is evidently frustrated, as well as being fragmented along ethnic, religious and ideological lines. But the lessons learned from UNHCR's experience in the Indian capital should inform the organization's future policy on refugees in urban areas.

97. As well as being effectively planned, tested, monitored and financed, self-reliance programmes should be based on extensive consultation and refugee participation, as indicated in UNHCR's 1985 'Model for an Integrated Urban Refugee Programme' and 1996 'Community Services Guidelines'. A new version of the policy document on refugees in urban areas should draw more extensively on the developmental and participatory approach recommended in these documents. Rather than being used to disengage from an urban refugee population, self-reliance programmes should be perceived as a means of establishing an effective partnership with refugees, pending the time when they can find a lasting solution to their situation.

98. Finally, while the existing policy refers to the need for urban refugees to be provided with "proper, timely and transparent information", it says little about the need for UNHCR to establish a constructive dialogue with them. And although it suggests that the aggressive behaviour of some urban refugees may be due to "psychological problems", it does little to explain why such problems arise and how they might be averted.

99. A revised version of the 1997 policy document should address these issues by stressing the need for UNHCR to hold regular meetings and discussions with urban refugees, as well as supporting their cultural, social and community development activities. In refugee camps, it should be noted, UNHCR has recognized that such activities play an important part in maintaining the self-esteem and social fabric of communities who find themselves in difficult circumstances. The same principle should guide the organization's work in urban areas.

Future programme directions

100. Turning from the general issue of UNHCR's urban refugee policy to the future of the organization's involvement with Afghans in New Delhi, it must be acknowledged that UNHCR's room for manoeuvre is limited by a number of variables beyond its control: the policies of the Indian authorities; the inability of the refugees to repatriate or to find alternative solutions to their situation; and, of course, the organization's limited financial and human resources. In this context, a radical change of strategy does not appear to be feasible.

101. As pointed out by a senior UNHCR staff member who has served in New Delhi, this situation raises a critical question: "is it appropriate for UNHCR to promote a self-reliance strategy in countries like India, where the legal status of refugees is unclear and where the level of economic development is poor"? The same staff member goes on to suggest that in the Indian context, "imperfect solutions are better than none". The following paragraphs provide some suggestions - none of them, it must be acknowledged, very original - as to what might be done to attain such "imperfect solutions".

102. The organization's policy on refugees in urban areas states that protection, particularly "non-refoulement and treatment in accordance with recognized basic human rights standards" must be "the over-riding priority" for the organization. In the current Indian context, that principle must evidently be upheld.

103. First and foremost, UNHCR should continue with its efforts to monitor the welfare of the Afghan refugee population, taking due account of their legal, material, physical and psychological security. At the same time, the organization must persist with its efforts to resolve a range of issues which impinge upon the welfare of refugees and UNHCR's ability to fulfil its mandate: the issuance and renewal of residence permits; India's accession to the UN Refugee Convention, the introduction of domestic refugee legislation; the legal entitlements of refugees, including the right to work; and the status of the UNHCR office. In this context, it is disturbing to note that the Protection Officer's post in New Delhi has been vacant since November 1999, and that earlier plans to establish a Regional Protection Officer post in New Delhi have been abandoned.

104. To address such issues effectively, UNHCR must engage in a more fundamental discussion with the Indian authorities on the refugee question. According to some UNHCR staff members, the demarches made by the organization in New Delhi and Geneva, coupled with the High Commissioner's recent visit to the Indian capital, may have opened a new window of opportunity in this respect. To take full advantage of that opportunity, UNHCR should approach the Indian government at the highest level, proposing a joint and comprehensive review of the refugee situation in New Delhi. While a positive outcome is by no means guaranteed, it is incumbent upon the organization to explore such an approach.

Resettlement and naturalization

105. A primary objective of the UNHCR programme in New Delhi must, as in any other country, be to find a lasting solution for the refugees under its protection. For it is the absence of any hope for the immediate future which has generated such high levels of insecurity and frustration amongst the refugees. The prospects for voluntary repatriation continue to appear remote. When the influx to New Delhi began in 1992-93, it was estimated that approximately 50,000 Afghans with historical links to India were living in cities such as Kabul and Jalalabad. Today, however, most of those people are to be found in India or have found ways of migrating to other countries. It is consequently unlikely that the "Afghans of Indian origin" will choose to repatriate - a situation reinforced by the consolidation of Taliban authority in Afghanistan.

106. Given the political complexion and devastation of their homeland, ethnic Afghans are also unlikely to opt for repatriation in the short or medium term. In fact, the one thing that appears to unite the fragmented Afghan population in New Delhi is their desire (and in many cases desperation) to leave India, whether by legal or "irregular" means, and to begin a new life elsewhere in the world.

107. The Afghans' interest in moving on to another country derives in part from the fact that many of their compatriots have been resettled from India: over 9,000 between 1981 and 1992, most of whom went to Australia, Canada, the USA and a number of European countries. Such large-scale resettlement came to an effective end in the early 1990s, when the countries concerned introduced new and more stringent admission criteria. The number of resettlement cases has increased in recent years, however, partially as a result of vigorous activity by the UNHCR office in New Delhi, and partially because the resident permit problem has led to an increase in the number of people needing resettlement for protection purposes.

108. Resettlement will continue to be a valuable tool of protection in New Delhi. Its use for this purpose should consequently be promoted by UNHCR. But care should be taken not to create false expectations among the refugees, who, in view of their determination to leave India, may even be tempted to jeopardize their own safety, so as to enhance their prospects for resettlement. In the current context, it is of particular importance to ensure that UNHCR's resettlement procedures are transparent, consistent and based upon individual protection needs.

109. UNHCR's New Delhi office has had a longstanding hope that the Afghans, especially those "of Indian origin", will become naturalized Indian citizens and therefore cease to be of concern to the organization. Technically this hope is well-founded, as Indian law permits the naturalisation of foreigners who have lived in the country for ten years (five years in the case of people with Indian ancestry) or who have married an Indian national.

110. More than 30 non-Afghan refugees (mainly Iranians and some Indo-Chinese) have been naturalized in the past. However, due to bureaucratic delays and the limited capacity of the NGO selected to pursue this matter on UNHCR's behalf, little progress has been made with respect to the naturalization of the Afghans. As with so many other issues, the government's reluctance to issue and renew the Afghans' residence permits has complicated UNHCR's task. Despite this situation, UNHCR

should take up the matter of naturalization with renewed vigour, making use of local organizations with the necessary expertise and capacity.

Assistance and partnership issues

111. Turning to the issue of assistance, this evaluation concludes that UNHCR may have to make cash payments to a growing number of needy refugees if the residence permit problem is not resolved. Should the situation warrant it, earlier proposals involving the provision of free or subsidized food and accommodation to the refugees might also be usefully re-examined.

112. A cost-of-living survey should also be undertaken in order to determine the appropriate level of the subsistence allowances paid by UNHCR. An upward adjustment should not be ruled out, given that the current monthly payment is only 50 per cent of the statutory minimum wage. While it may be true that millions of poor Indians are able to eke out a living in the capital city, refugees are generally confronted with higher expenditures and do not have access to the same networks of social support.

113. This evaluation recognizes the dangers associated with the provision of cash payments to Afghans in New Delhi. It also acknowledges the section of the 1996 Community Services Guidelines, which state that "at no stage should refugees be viewed as being more privileged than the local population." But it does not believe that people of concern to UNHCR should be obliged to live substantially below the poverty line, even if many Indian citizens find themselves in that unfortunate position.

114. Turning to the issue of educational assistance, UNHCR has in recent years encouraged the Afghans to make use of state schools, where education is free and the language of instruction is Hindi, and discouraged them from sending their children to fee-paying private schools, where classes are held in English. While UNHCR's efforts to negotiate the admission of refugee children to state schools have yielded some success, such establishments are already overcrowded and are not always able to accommodate young Afghans. As mentioned earlier in this report, the resident permit problem has exacerbated this situation, making it increasingly difficult for the refugees to gain access to public education.

115. In the short term, UNHCR should take up the admissions issue with the relevant school authorities and government ministry. It could also usefully provide some support to community-based schools which have been established by some Afghan groups, recognizing the important contribution which such institutions can play in the lives of refugee children.

116. At the same time, UNHCR should not exclude the option of assisting refugees to send their children to private schools, should it prove impossible for them to access other forms of education. While such a policy would be interpreted by some commentators as giving preferential treatment to refugees, it is perhaps more accurately regarded as an expression of UNHCR's commitment to the welfare of people who fall within its mandate.

117. Notwithstanding the difficulties currently experienced in New Delhi, there may be some scope for UNHCR to persist with its efforts in the promotion of self-reliance. For there would appear to be a significant number of Afghans living in New Delhi who continue to support themselves and who have not approached UNHCR for assistance as a result of recent changes in the political and protection climate.

118. In its response to an earlier draft of this report, UNHCR's Asia Bureau has suggested that the promotion of self-reliance should be undertaken "in a low-key, discreet way, involving greater participation of local implementing partners". As this comment suggests, a fully-fledged UNHCR effort to promote self-reliance may have to wait until some of the legal and protection problems confronting the Afghans are resolved.

119. Such a programme, if and when it becomes feasible, should be tested and piloted in its initial stages, adopt a participatory and developmental approach, and be managed by individuals and organizations with relevant expertise and local knowledge. It should also be based on rigorous research and a detailed knowledge of the refugee population. Such issues are addressed in an insightful May 2000 paper from UNHCR's New Delhi office, titled 'Preliminary ideas and thoughts on refugee assistance programmes directed to economic self-reliance'. It is recommended that this report be used as a basis for planning UNHCR's future activities in this area.

120. A final issue that requires some discussion in this context concerns the role to be played by local NGOs in UNHCR's New Delhi programme. Since the mid-1990s, UNHCR has reduced its direct involvement in health, vocational training and counselling activities, delegating these responsibilities to organizations such as the YMCA and the Voluntary Health Association of Delhi. This strategy has a number of advantages. National NGOs can support UNHCR's role in refugee protection and provide cost-effective services to UNHCR and its beneficiaries. They have the important advantage of local knowledge, and their involvement in a UNHCR programme may constitute a valuable form of capacity-building.

121. At the same time, some caution is required in relation to this strategy. As a UNHCR staff member who served in India has commented, "promoting self-reliance among urban refugees is not a readily available skill". In New Delhi, as in other parts of South Asia, the same staff member points out, national NGOs involved in job-creation and income-generating projects in urban areas normally work with poorer members of the local population. They may not have the experience or even the inclination to work with refugees, whose needs, aspirations and abilities may be quite different.

122. In a forthcoming UNHCR evaluation report, John Telford draws attention to some broader difficulties associated with national NGOs.¹⁷ In too many cases, he argues, UNHCR's efforts to work through such organizations and to develop their capacity have been characterized by "a litany of bad practice". Providing details of that litany, Telford begins by noting the extent to which UNHCR has been responsible for "the destabilization of nascent NGOs through swamping them with resources and responsibilities they could never absorb. This includes the phase over from UNHCR to NGOs of core protection-related activities by UNHCR..."

¹⁷ John Telford, 'UNHCR's role in strengthening national NGOs', Evaluation and Policy Analysis Unit, UNHCR, Geneva, forthcoming.

123. Unfortunately, the recommendations of a recent programme assessment mission to New Delhi, undertaken to assist with the development of a strategy for the UNHCR office in the city, would appear to epitomize such an approach.¹⁸

124. In brief, the report of that mission notes that "the work of the Protection Unit is both voluminous and intensive and could be farmed out to NGOs". While calling for the transfer of functions to take place within then very short a period of six months, the report also acknowledges that UNHCR's existing NGO partner in the legal sector "leaves room for improvement" and currently demonstrates "a less than satisfactory performance". The mission's answer to this problem is to propose that the agency concerned "could be expanded through capacity building". It goes on to suggest that if this agency is unable to meet UNHCR's expectations, UNHCR "may have to identify a new [but unspecified] implementing partner".

125. Before this plan is implemented, UNHCR would be well advised to absorb the findings of the Telford report. "Capacity building", he points out, "is a serious matter - probably more serious and demanding than most people currently accept in UNHCR". It is, he says, "generally a painfully long-term process... It is not just a matter of short-term finance-driven, top-down contractual relationships". Underlining the "the single most important conclusion" of his report, Telford states: "Before UNHCR can build the capacity of others, it needs to enhance its own capacity for the task. Half-hearted, unprofessional attempts can cause more harm than good".

Dispersal from New Delhi?

126. For many years, UNHCR has taken the position that refugees would normally be eligible for assistance only if they resided in the New Delhi. The rationale for this decision was to prevent abuse of the assistance programme by refugees who had alternative sources of income, and to facilitate the organization's monitoring activities.

127. While based on sensible considerations, this policy has had the effect of requiring refugees to live in a city where there is serious competition in the local labour market, where living costs are particularly high, and where daily life is especially stressful. Should the protection problems currently confronting the Afghans be resolved, the UNHCR office in New Delhi should give serious consideration to a programme that is designed to assist refugees to take up residence in other locations, where conditions should prove more conducive to the attainment of self-reliance.

128. But this strategy does not represent any kind of panacea, as pointed out by two responses to an earlier draft of this report. According to one, "while there is merit to the recommendation that refugees should be encouraged to live outside Delhi, this will be extremely difficult to implement in practice, since refugees would prefer to congregate within their own community". And in the words of another,

¹⁸ The terms of reference of the mission were: "to examine available solutions for the urban refugees, external implications and the financial and human resources required; to draw up a plan of implementation for the policy of self-sufficiency for the urban refugees being elaborated by the OCM; to assess the necessity for continued operational role for urban refugees and the feasibility of involving more NGO partners or increasing the role of existing partners; and to assess the feasibility of reducing UNHCR operational and staffing costs".

"relocation is difficult and will require a great deal of support and commitment, including involvement of the local authorities and NGOs".

Appendix A

UNHCR Policy on Refugees in Urban Areas

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES **GENEVA**

Inter-Office Memorandum No.90/97

Field Office Memorandum No.95/97

To: All Directors of Operations
The Directors of the Divisions of International Protection and
Operational Support
All Heads of Sections/Desks/Units at Headquarters
All Representatives/Liaison Offices in the Field

From: Sergio Vieira-de-Mello, Assistant High Commissioner

Dossier/File Code: ADM 1.1 Date: 12 December 1997

Subject: **UNHCR Policy on Refugees in Urban Areas**

1. The "UNHCR Comprehensive Policy on Urban Refugees" dated 25 March 1997 was promulgated under cover of IOM/25/97, FOM/30/97 of 28 April 1997, and shared thereafter with a number of our NGO partners. While the central thrust of the policy - promote self-reliance and avoid dependency - has not been challenged, a number of colleagues and NGOs expressed concern at aspects of both the form and substance of other elements. In particular, it was felt that the policy was formulated in a manner that did not properly reflect its claim that refugee protection was the central consideration.

2. The policy was reviewed in light of these concerns. It was concluded that, rather than amend the document to take account of them, it would be better to redraft and refocus the document. The attached document "UNHCR Policy on Refugees in Urban Areas", dated 12 December 1997, therefore supersedes that dated 25 March 1997, and is effective on receipt. The French text is also attached.

3. The policy will be further revised as necessary in light of comments and suggestions received from UNHCR Offices and partners. Field offices are requested to share the attachment with relevant NGO or other partners and give them the opportunity to make comments and suggestions. These, together with any of their own, are to be forwarded to reach the Senior Community Services Officer, PTSS, by 31 March 1998. Comments and suggestions from colleagues at Headquarters are of course also welcome. The attachment is also being shared directly with those NGOs that were represented at an informal discussion on

the issues on 10 October 1997, held within the framework of UNHCR's pre-EXCOM consultations with NGOs.

4. Since the promulgation of the earlier document, considerable progress has been made in a number of countries in reviewing and redirecting assistance in accordance with the policy, and in consolidating action that was already underway. Several workshops have also addressed the issues. In order to take stock of the situation and have a reference for measuring further progress, all country offices concerned are requested to provide the following information by 31 January 1998 on the situation as at 1 January 1998 with respect to refugees receiving material assistance from UNHCR in urban areas.

- (a) Total numbers by country of origin.
- (b) Numbers and gender, disaggregated by the following age groups:
0-4; 5-12; 13-17; 18-59; 60 and above.
- (c) Brief description of registration system and its effectiveness.
- (d) Of assisted refugees:
 - (1) what percentage (or how many) are being resettled?
 - (2) what percentage of the remainder are already largely self-reliant (that is not significantly dependent on UNHCR subsistence or other allowances, or are expected to have benefits cut or substantially reduced in the next 3 months)?;
 - (3) what percentage are making progress to self-reliance (e.g. starting a small business, undertaking skills training)?;
 - (4) what percentage, through vulnerability or other factors, are having difficulty in working towards self-reliance?;
- (e) Brief description of implementing arrangements for delivery of assistance and promotion of self-reliance.
- (f) Comments (optional).

5. This report should be addressed to the SCSO, PTSS, by e-mail where possible (ashton@unhcr.org).

Enclos.

UNHCR Policy on refugees in urban areas

Introduction

1. The objective of this document is to provide clear guidelines for the provision of assistance to and the promotion of solutions for refugees in urban areas. It takes due account of both their specific situation and the problems that may be created by unregulated movement to urban areas, whether this movement takes place within the country or from another country where the refugee had found protection.

2. 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. In a number of countries asylum seekers arrive directly in urban areas. Whatever the nature of the movement or legal status of a person of concern to UNHCR in an urban area, the over-riding priority remains to ensure protection, and in particular, non-refoulement and treatment in accordance with recognized basic human standards.

Residence in urban areas

3. Freedom of movement is the rule under international law and restrictions should be the exception, though some restrictions - such as the location of refugees away from the border - respond to protection concerns. UNHCR should encourage the government to allow freedom of movement, and should promote the refugees' right to work and access to national services, wherever possible. In consultation with the government, UNHCR may, however, 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 so.

4. Such compelling reasons could include: specific protection or security problems faced by an individual or his or her family in the settlement or camp; pre-arranged movement to an urban area for the duration of health care or for reunion with family members legally resident in the urban area; and assistance in achieving a durable solution, where this is possible in the urban area.

Nature of assistance in urban areas

5. There are many examples of problems and long-standing demands on UNHCR resources as a result of assistance programmes in urban areas that provided regular monthly allowances and refugee-specific services without ensuring that this support from UNHCR was indeed essential. Most such examples show an increasing involvement by UNHCR in the administration of assistance and rising overheads. There are also examples where UNHCR offices designed and implemented programmes for assistance in urban areas that did not create avoidable long-term reliance on UNHCR. There are recent examples of successful redirection of long-term care and maintenance programmes in accordance with the guidelines set out below.

6. Assistance to refugees should be given in a manner that encourages self-reliance and does not foster long-term dependency. Where assistance has to be provided by UNHCR, care and maintenance assistance should be strictly limited to those cases where early self-reliance is not possible, and the continuing appropriateness of this form of assistance must be confirmed at regular intervals. Services for those who are not yet self-reliant should be provided through support, where necessary, to national health and education services, not by the creation of parallel structures and special services for refugees. This support should be in

the form of one-time assistance where possible, not open-ended commitment to recurring costs. UNHCR assistance that is selective - for example, access to higher education - should be made available only on the basis of the same criteria as apply for refugees elsewhere.

7. Asylum seekers in urban areas should receive assistance from local authorities and institutions pending assessment of their claim. If no other source is available and if the asylum seeker would otherwise be unable to meet minimum needs, UNHCR may provide material assistance. In such circumstances, it should be limited to essential requirements and provided in a manner that does not raise false expectations of open-ended care and maintenance assistance if the claim is successful. Any such assistance should be subject to regular review if consideration of the claim is delayed, when UNHCR's own assessment of the status of the asylum seeker should be taken into account. UNHCR should, however, ensure that any specific needs of an asylum seeker as a result of the circumstances of his or her flight (for example, for health care and trauma counselling) are being met.

8. Guidelines on how assistance programmes for refugees in urban areas should be developed are provided in the Community Services Guidelines, part 3, Urban Refugees - A Community-based Approach (May 1996). Guidelines on the promotion of self-reliance, employment and on microfinance are under preparation. Unlike other refugee populations, the majority of refugees in urban areas are generally male: the proportion of family groups is often lower than usual. While there may thus be fewer women, children and adolescents than normal, they can be even less visible than they are in some refugee camps and settlements. Particular attention must therefore be paid to identifying their needs, and also to identifying the needs of those who remain behind in urban areas - for example, the elderly, handicapped and those not eligible for resettlement - after others of their group have left.

Solutions for refugees living in urban areas

9. Where voluntary repatriation is a viable option in the foreseeable future, this should be the preferred option, as for all refugees. Where this is not the case, or pending it, local integration if possible should be the objective of UNHCR assistance. The promotion of self-reliance should be undertaken accordingly, in a manner that will depend on local circumstances. This must respect the policies of the government while recognizing that many refugees, including many who have never received UNHCR assistance, are de facto locally integrated in urban areas.

10. Any determination that resettlement is needed for individual refugees should be made with direct reference to the criteria set out in Chapter 4 of the Resettlement Handbook. The corner-stone of UNHCR's resettlement policy is the application of criteria that are consistent, both within a country and among countries with refugees from the same country of origin, with respect to an individual's circumstances. Thus a refugee in an urban area should have neither more nor less chance of resettlement than he or she would have had in a refugee camp in the same country, or in another country where protection had been found. Active and timely case finding by UNHCR, based on the consistent and transparent application of resettlement criteria, should remove the incentive for refugees to move to urban areas, and in particular to the capital, in search of resettlement.

11. Irregular movement (see 13 below) to an urban area in another country in search of resettlement can in itself create a new situation where criteria for resettlement are met or more nearly met than was the case in the previous country. This may happen, for example, when the act of irregular entry creates a protection problem. Such cases create a dilemma for UNHCR: resettlement after irregular movement has been demonstrated to encourage more such movements, and may lead to increased reluctance of countries of resettlement to accept such refugees, particularly when this may be at the expense of those who have not moved. At the

same time, the only alternative to resettlement in extreme cases may be prolonged incarceration in an immigration jail.

12. Refugees who have moved irregularly to the country should not be submitted for resettlement (or given any prospects of resettlement) without the approval of the Resettlement Section, DIP. Such approval is likely only if it is determined that the person(s) would already have met the criteria for resettlement in their previous country. Approval would otherwise be conditional on the absence of any other means of resolving immediate protection problems.

Movement between countries

13. The movement of refugees without the consent of the authorities concerned from a country where they had found protection to another country is often described as "irregular movement", and usually takes place to urban areas. Such movement may or may not have been legal: the key consideration is rather whether or not the refugee had found protection. A refugee who is compelled to move because of specific protection or security problems in his or her previous country clearly cannot be considered to have found protection there. Such persons should therefore be treated as if the present country is their first country of asylum, not as refugees whose movement was irregular.

14. Irregular movements can put asylum and protection in the country of destination at risk for other refugees, and place demands on UNHCR's resources in the country of destination that far exceed those that would have been required in the previous country. Where voluntary repatriation was an option, irregular movement may make it less likely and more costly. Irregular movements tend to encourage others to follow.

15. Working with the government(s) concerned, UNHCR should therefore seek to remove the incentive for and discourage irregular movement by:

- a) ensuring proper protection and promoting durable solutions in countries of first asylum;
- b) ensuring appropriate and consistent standards of assistance;
- c) placing certain restrictions on assistance to refugees whose movement was irregular, and taking the special precautions with regard to their resettlement set out in paragraph 12 above;
- d) supporting return to the previous country of asylum in certain clearly defined circumstances, as set out in paragraph 18 below.

Assistance after irregular movement

16. UNHCR offices should first determine if the person is of concern to the Office. If the country of destination applies the same prima facie or group recognition as the country from which the irregular movement took place, or if the person was previously recognized (or not recognized) as a result of an individual determination by UNHCR, further action to determine status is not required. If the government of the country of destination has made a determination, this should be accepted unless UNHCR has reasons to undertake its own individual determination. If none of the above is applicable, there should be an individual determination of status by UNHCR in the present country. If the person is not found to be a refugee, any further action by UNHCR would be on the basis of good offices; issues related to the return of rejected cases are not covered herein.

17. While, as explained in paragraph 1 above, UNHCR's protection obligations are unaffected by such movement, 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. With the obvious exception of life-saving assistance that is not available in time from any other source, or where the lack of UNHCR assistance would compromise protection, UNHCR should generally not provide direct individual assistance; persons whose movement to an urban area was irregular should use government services and their own resources whenever possible. UNHCR assistance that is selective - for example, access to higher education - should not be made available.

Return after irregular movement

18. UNHCR may promote the return of refugees who had found protection in a previous country provided certain conditions are met. Some conditions will be specific to the circumstances; the following are general conditions, likely to be applicable in all circumstances:

- a) desire of the authorities in the present country to ensure return if possible;
- b) sufficient evidence of stay in the previous country to satisfy that country;
- c) assurance that protection will again be available after return;
- d) readiness of the authorities in the previous country to readmit;
- e) a determination by UNHCR that a durable solution is not possible in the present country.

It should be noted that Executive Committee Conclusion 58 on international protection states that return may take place if persons returned are "permitted to remain there and to be treated in accordance with recognized basic human standards until a durable solution is found for them."

Response to threats and violent protests

19. Some refugees in urban areas have reacted with threats and violence to what they perceive as UNHCR's failure to meet their needs and/or expectations. Such actions have taken forms that include hunger strikes, threats of suicide, and threatened or actual violence towards UNHCR and implementing partner staff and property, or towards other refugees who do not support the protests or the means used. A consistent, firm and fair implementation of the policies set out herein, and proper, timely and transparent information to the refugees on these policies - and on the constraints and limitations on UNHCR - are the best ways of ensuring that refugees' expectations are realistic, and thus preventing such actions.

20. Where problems nevertheless occur, UNHCR should first establish whether the reaction of individual is due to psychological problems. If this is the case, these problems should be addressed. Where the refugees' concerns are legitimate, UNHCR should of course seek to meet them. However, experience suggests that the most serious threats and incidents occur as a result of a deliberate attempt to force UNHCR to change its position and accede to the protesters' demands. Resettlement is perhaps the most common demand. Some demands may be in UNHCR's power to meet; others will not, though this is frequently not accepted by the protesters.

21. Experience shows that compromising in the face of such protests often leads to further demands and exacerbates the underlying problem. UNHCR should not change its

position in response to threats or actual violence, whether towards UNHCR and its partners or self- or otherwise inflicted on refugees. Headquarters should be informed as soon such protests occur or are likely. If a field office is in doubt, advice should be sought from Headquarters on the most appropriate response to the demands. The security and law-and-order aspects of threats and violent protests are a matter for the authorities and police, and UNHCR offices should not hesitate in seeking their early involvement and assistance. Measures to ensure staff security are not covered herein. In the absence of a Field Staff Safety Officer, the advice of the Field Staff Safety Section at Headquarters should be sought without delay.

12 December 1997

Appendix B

Statistical tables

Table 1	Beneficiaries of subsistence allowance
Table 2	Refugees registered with UNHCR in India
Table 3	Period of stay in New Delhi
Table 4	Departures from India
Table 5	Average bi-monthly financial assistance, January 1995 to February 2000
Table 6	Resettlement by nationality in 1999

Table 1

The number of beneficiaries of subsistence allowance

Source: UNHCR New Delhi

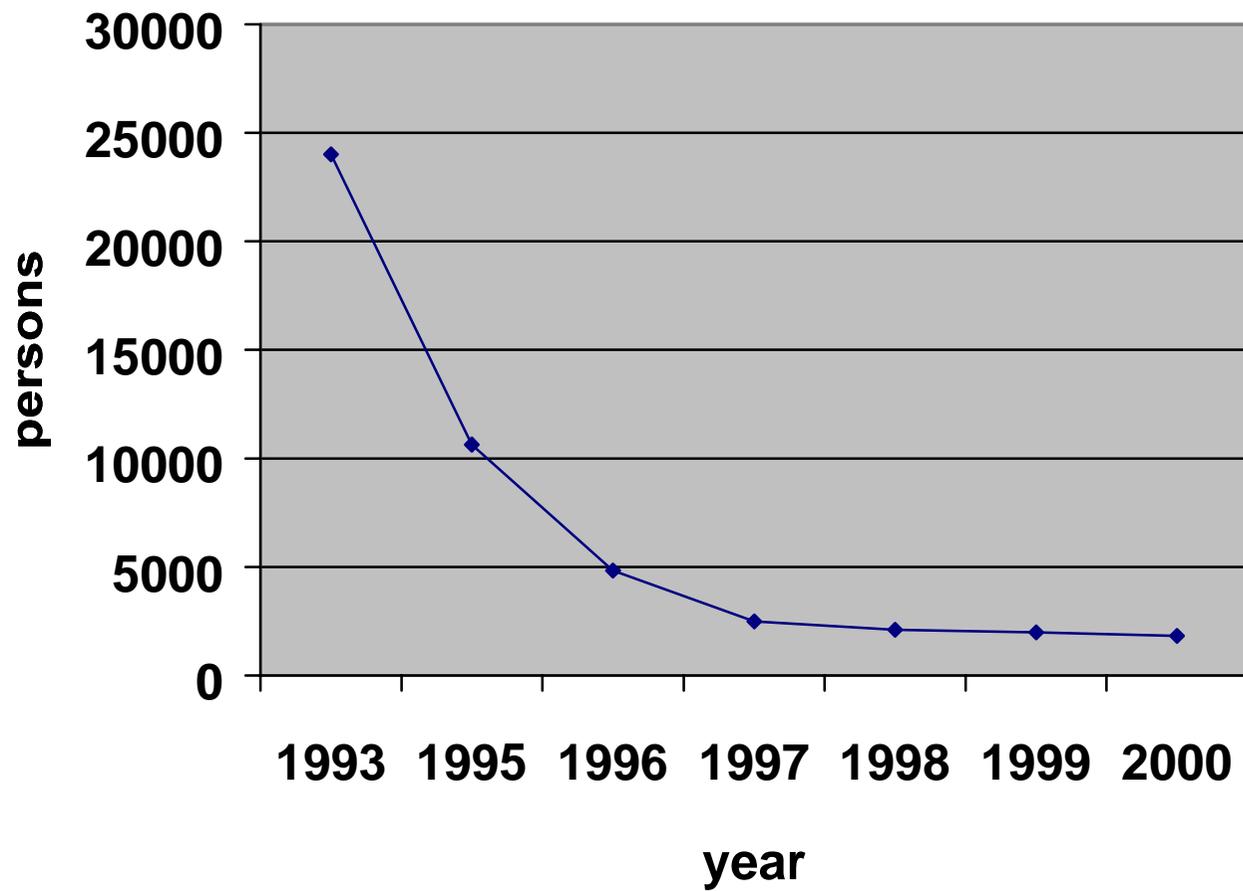


Table 2

Refugees registered with UNHCR in India

Source: UNHCR New Delhi

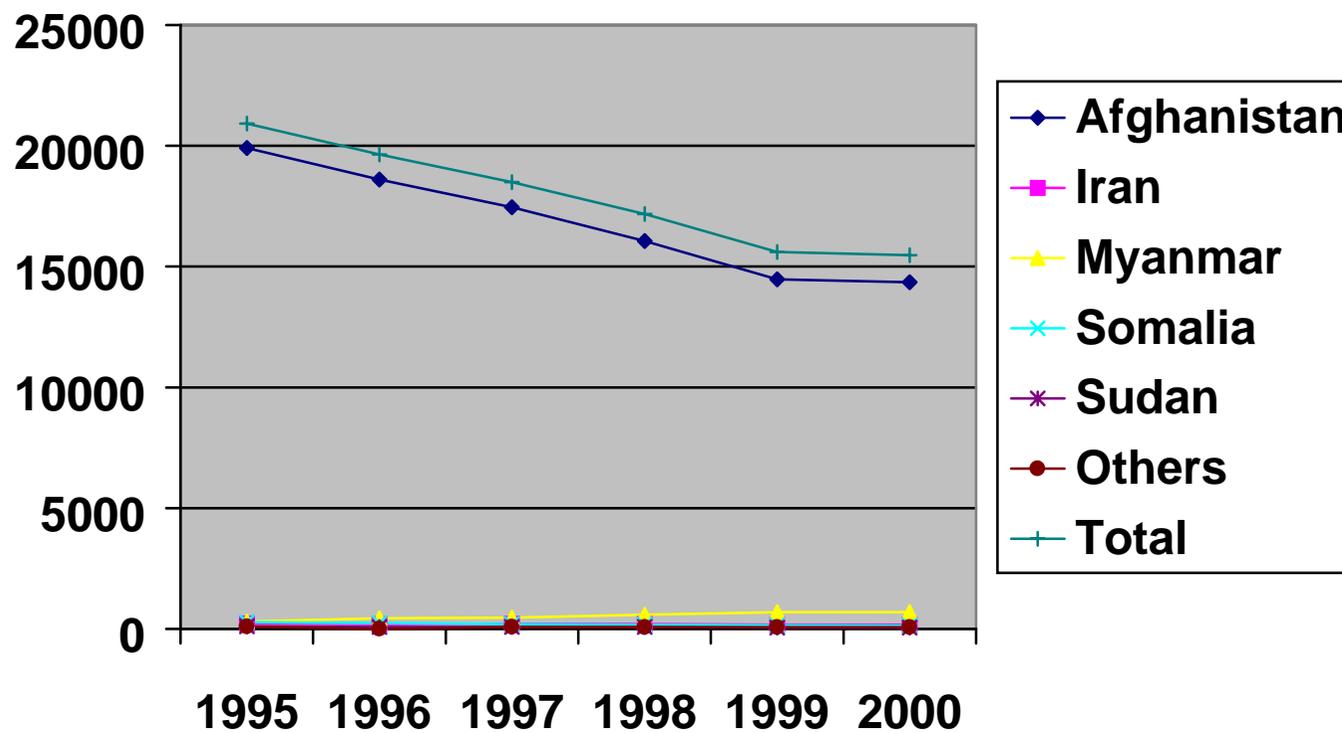


Table 3
Period of stay in New Delhi

Source: UNHCR New Delhi

Time period	Number of persons	%	Cum %
10 years or more	1,064	7.5	7.5
5-10 years	11,268	78.9	86.4
1-5 years	1,873	13.1	99.5
Less than 1 year	71	0.5	100.0
Total	14,276	100.0	

Table 4
Departures from India (of all nationalities)

Source: UNHCR New Delhi

Year	1995	1996	1997	1998	1999
Resettled	430	306	542	803	835
Repatriated under UNHCR	410	199	185	57	57
Spontaneous Departure	76	1,775	1,533	1,258	1,429

Table 5

**Average bi-monthly financial assistance paid
between January 1995 and February 2000
(Breakdown by Year of Assistance and Type of assistance)**

Source: UNHCR in New Delhi

	1995	1996	1997	1998	1999	2000
Subsistence Allowance	10,631	4,833	2,494	2,101	1,984	1,820
Primary Education	4,163	4,239	3,153	2,296	1,842	91
Medical	297	394	395	430	532	657
One Time Assistance	N/A	23	14	150	798	N/A
Lump-sum Grant	N/A	N/A	718	275	206	N/A
Self Sufficiency Grant	N/A	0	0	188	303	N/A
Handicapped Medical	71	95	97	102	132	148
Vocational Training	N/A	6	21	79	91	182

**Table 6
Resettlement (Breakdown by nationality)
For the year 1999**

Source: UNHCR New Delhi

Nationality	Number of Cases	Number of Persons
Afghanistan	197	677
Myanmar	12	28
Iran	6	25
Iraq	4	14
Somalia	8	22
Sudan	56	67
Kenya	2	2
Total	285	835