

Introduction

1. Twenty-one UNHCR and NGO staff members met in Geneva on 14 June 2002 to consider the December 2001 report produced by the Evaluation and Policy Analysis Unit (EPAU), 'Evaluation of the implementation of UNHCR's policy on refugees in urban areas' (EPAU/2001/10).

2. The workshop was facilitated by the Head of EPAU, Jeff Crisp, who opened the meeting with a Powerpoint presentation titled 'Refugees in urban areas: some frequently encountered problems. A copy of the presentation is attached. This report provides a summary of the workshop discussion.

The need for a global policy

3. There was broad consensus on the need for UNHCR to have a global policy on refugees in urban areas. It was emphasized that a simple revision of the 1997 policy statement would not be adequate or appropriate. Participants in the workshop observed that the current policy is inconsistently applied and is not known or understood by many UNHCR staff in the field. Once a new policy has been prepared, it must be accompanied by vigorous dissemination and training efforts.

Protection focus

4. The workshop agreed that the 1997 policy statement, which focuses on the need to limit assistance and promote self-reliance among urban refugee populations, had been strongly influenced by the need for UNHCR to reduce budgets. A new policy should take protection as its starting point and leave no room for doubt that refugees in urban areas are of concern to UNHCR.

State responsibility

5. A new policy should give much greater emphasis to the principle and practice of state responsibility. Many of the difficulties encountered by UNHCR with respect to refugees in urban areas derive from the fact that host states, including those which have signed the 1951 UN Refugee Convention, have abdicated responsibility for the treatment and welfare of refugees. As a result, many difficult demands have been placed upon UNHCR.

The need for flexibility

6. While recognizing the need for a new policy, the workshop agreed that a degree of flexibility must be built into that policy, in order to take account of local variations.

7. In this respect, two specific issues were underlined: first, the difference between countries where refugees have the option of living in a camp and those countries where such an option does not exist; and second, the difference between

countries which have signed the 1951 Refugee Convention and where refugees have a legal status, and those countries where such conditions do not prevail.

8. A new policy must also take into account the different groups of people who are referred to as 'urban refugees': those who have arrived directly from their country of origin; those who have moved on from countries of first asylum, and those who arrived in cities after living in a rural area. A distinction must also be made between asylum seekers and people who have already been recognized as refugees, whether on an individual or prima facie basis.

Institutional responsibility

9. The workshop agreed that UNHCR's policy on refugees in urban areas was an issue that concerned a number of different units within the organization, most notably, the Division of Operational Support (DOS) and Department of International Protection (DIP). At the same time, and in view of the need to ensure that a new policy has a clear protection focus, it was felt that the DIP should play a leading role in the drafting of the policy.

10. In the development of a new policy, DIP should look particularly at two issues for which lack of specific guidelines has been identified: the notion of 'effective protection' in a country of asylum, and the reasons for which a refugee might legitimately leave his or her country of asylum and seek the support of UNHCR elsewhere.

Refugee status determination

11. A lengthy discussion took place with regard to the refugee status determination (RSD) activities undertaken by UNHCR with respect to refugees in urban areas. Some participants pointed out that such activities place a very significant pressure on UNHCR's limited financial and human resources.

12. Others suggested that UNHCR has no option but to undertake RSD in countries where the state is unable or unwilling to carry out this task. In that respect, UNHCR's involvement in RSD could not be made conditional on the availability of funds or the availability of durable solutions for the refugees concerned.

13. It was emphasized that RSD criteria must be consistently applied from one country and region to another, especially when they involve asylum seekers from the same country of origin. In the absence of such consistency, asylum seekers will be prone to engage in secondary and tertiary movements.

Prima facie and individual recognition

14. Some participants in the workshop asked why asylum seekers who left their region of origin should be subjected to individual refugee status determination procedures, when the same people would be granted prima facie refugee status if they moved to a neighbouring or nearby country.

15. Other participants pointed out that the use of individual status determination procedures outside the region of origin is often linked to the question of eligibility for resettlement (see UNHCR's Resettlement Handbook 3.5). One NGO representative expressed the opinion that prima facie recognition of asylum seekers should be employed more widely in the urban context, given the problems associated with individual determination procedures.

Movement from camps to urban areas

16. The workshop agreed that while acknowledging legal limitations attached to the principle of freedom of movement, UNHCR had an obligation to promote a gradual improvement of this right, as enshrined in the Universal Declaration of Human Rights.¹ At the same time, it was acknowledged that a protection trade-off is sometimes required. If a state agrees to admit and not to refoule a group of refugees, but refuses to grant that population freedom of movement, then UNHCR has little choice but to accept such an arrangement.

17. Participants agreed that even where freedom of movement is disallowed, some refugees will always seek to leave their camp or designated area of residence so that they can move to an urban area.

18. Such movements should not, however, be interpreted to mean that protection standards in urban areas are necessarily better than those which pertain in camps and rural areas. In this respect, it was noted that UNHCR often has a very limited capacity to monitor protection standards for refugees living in large urban agglomerations.

19. The workshop agreed on the need for UNHCR to develop a better understanding of the push and pull factors which lie behind the movement of refugees from camps to urban areas. Participants also agreed that a number of steps could be taken to avert or reduce such movements. These included:

- improving standards of protection in camps;
- enhancing standards of assistance in camps;
- making educational, wage-earning and income-generating opportunities available to refugees in camps;
- providing resettlement opportunities to refugees in camps;
- disseminating relevant information to refugees in camps so as to counter the kind of images and rumours that encourage them to move to urban areas; and,
- obtaining clear understandings with the authorities in respect of the circumstances in which it might be legitimate for a refugee to move (or be moved) from a camp to an urban area.

¹ For the legal limitations, see Article 12 (3) of International Covenant on Civil and Political Rights.

20. One participant pointed out that the notion of movement from a 'rural' to an 'urban' area was fundamentally misconceived. Many refugee camps are, to all intents and purposes, urban in character. Refugees are consequently moving from one kind of urban centre to another.

21. The workshop did not consider at any length the option of establishing camps or collective accommodation centres in countries where there are a significant number of urban refugees. It was pointed out, however, that such initiatives might in certain situations leave the refugees concerned more vulnerable to harassment and abuse.

Movement between countries

22. The workshop agreed that greater consideration should be given to the notions of 'irregular', 'secondary' and 'onward' movement. According to some participants, the movement of a refugee should be considered as 'primary' until such a time as that person finds 'effective protection'. According to others, the term 'irregular' has pejorative overtones and should be replaced by a more neutral term.

23. As indicated earlier, UNHCR needs to develop a clearer definition of the concept of 'effective protection'. Under what circumstances can the movement of a refugee from one country of asylum to another be considered legitimate? What obligations does UNHCR have towards a refugee who moves from a country of asylum, despite the fact that they had found effective protection there? And how feasible is it for such refugees to be returned to the country where they had found effective protection?

Other issues

24. Unfortunately, the workshop did not have time to consider a number of important issues relating to refugees in urban areas. These included:

- criteria for the provision of assistance to refugees in urban areas, and the impact of funding constraints on the application of those criteria;
- forms and standards of assistance for refugees in urban areas;
- the problems associated with means-testing for refugees in urban areas;
- self-reliance, income-generating and vocational training programmes for refugees in urban areas, especially in countries where such refugees have no legal status or the right to work;
- UNHCR's partnerships with other agencies in relation to refugees in urban areas; and,
- the inclusion of refugees in urban areas in UNHCR's guidelines on other topics, such as the protection of women and children.

Annex: Presentation slides

