

UNHCR AFRICA BUREAU

DISCUSSION PAPER ON PROTRACTED REFUGEE SITUATIONS IN THE AFRICAN REGION

I. INTRODUCTION

1. A recent assessment of UNHCR's annual programmes in Africa revealed that a substantial number provide for care and maintenance of refugee groups who have been in exile for a long time with no durable solution in sight. Most refugees in such situations live in camps where idleness, despair, and, in a few cases, even violence prevail. There are also a number of instances of urban refugees in African towns and cities whose protection and assistance needs may not be adequately met. The Office has identified the need to improve responses by formulating a comprehensive and coherent strategy to address protracted refugee situations.

2. This is a particularly daunting challenge in view of the fact that the root causes of refugee movements continue unabated. Furthermore, in certain situations, refugees may be perceived by both governments and local populations as a security threat as well as an economic, social and environmental burden, which makes some refugee issues politically sensitive. UNHCR faces dilemmas of its own in formulating strategies, whereby equally important objectives may often turn out to be mutually incompatible. For example, in certain situations the goal of ensuring safety and security may be inconsistent with the promotion of self-reliance, in that relocation from border areas where refugees have spontaneously settled often makes them more dependant on UNHCR's assistance, and possible targets of hostility on the part of the local community.

3. The purpose of this discussion document is to propose a working definition of protracted refugee situations and analyse various policy options amongst which UNHCR and governments may select the approach best suited to address such situations in Africa. It complements other initiatives being undertaken by UNHCR, in particular the Protracted Refugee Situations Project undertaken by the Evaluation and Policy Analysis Unit and the strategy on integration and reintegration elaborated by the Division of Operational Support.

II. MINIMUM STANDARDS VERSUS ESSENTIAL NEEDS

4. In its review of the UNHCR programme for Sudanese refugees in Kakuma (Kenya), the UNHCR Evaluation and Policy Analysis Unit concluded that there is a need for UNHCR to cease using the concept of "minimum standards" when planning its activities in a specific refugee situation. When "minimum standards" are taken to mean the basic protection and assistance standards that ensure human survival, it is obvious that these may be meaningfully applied only at the time of a refugee influx. Once the refugee situation stabilizes, the requirements of the group often change. If the Office continues to adhere to the concept of "minimum standards" in providing assistance and protection, it is most likely that it will no longer be able to cater for the new and different needs of the refugees. Ultimately, this may mean the failure of UNHCR to ensure that refugees lead a meaningful and dignified life while in exile.

5. The study concludes that UNHCR should adopt the concept of “essential needs” as the threshold guiding its activities to provide protection and assistance to refugees. The main difference between “minimum standards” and “essential needs” is that the former is a static concept, which does not change over time; whereas the latter is a dynamic one, which changes as the refugee situation in the host country evolves. Acceptance of this distinction would enable UNHCR to adjust its programmes accordingly.

6. For example, protection from *refoulement* and provision of sufficient basic shelter, food and health care to sustain lives during a refugee emergency, may become inadequate when the emergency is over and refugees are trying to establish themselves and improve their living conditions in a host country. At this point, their ability to exercise civil, social and economic rights in order to attain a measure of economic self-sufficiency and self-reliance, and prepare their children for the future, becomes of paramount importance. If UNHCR continued to base its programmes on the concept of “minimum standards”, it would not be able to meaningfully address real needs in later phases of a given refugee situation. However, it would be better able to adjust its programmes if it adopted the concept of “essential needs” as its guiding parameter. Of course, such a shift will depend upon full donor and host country commitment to provide the additional resources and political resolve required to meet the essential needs of refugees.

III. DEFINITION OF A PROTRACTED REFUGEE SITUATION

7. In light of the crucial distinction between “minimum standards” and “essential needs” as guiding parameters for UNHCR’s activities, the following working definition is proposed for adoption: “A protracted refugee situation is one where, over time, there have been considerable changes in refugees’ needs, which neither UNHCR nor the host country have been able to address in a meaningful manner, thus leaving refugees in a state of material dependency and often without adequate access to basic rights (e.g. employment, freedom of movement and education) even after a substantial number of years spent in the host country”.

IV. OPTIONS FOR DURABLE SOLUTIONS

8. Inevitably, the policy options for dealing with protracted refugee situations revolve around the three traditional durable solutions of voluntary repatriation, resettlement and local integration, as well as self-reliance pending return. In situations involving large refugee populations, UNHCR should use a comprehensive and integrated approach to draw up a strategy which envisages the three durable solutions as applicable to different groups within the same refugee caseload, and to work out a comprehensive package of accompanying assistance measures in cooperation with governments.

a. Voluntary repatriation

9. Even in the absence of a comprehensive political settlement justifying promotion of voluntary repatriation, UNHCR should pursue efforts to examine options for voluntary repatriation. This may well include the identification of particular sub-groups sharing certain characteristics (e.g. political affiliation, ethnic, religious,

language and/or cultural background) and/or originating from a specific part of the country of origin where conditions may be more conducive for return.

10. However, the key to ensuring that conditions in countries of origin are conducive for promotion of large-scale voluntary repatriation, will remain the political commitment of the international community as a whole to address root causes of refugee movements for both prevention and solution purposes. Short of this, the preliminary conditions for ensuring safety and security upon return, and sustainable reintegration in the country of origin, will not be attained.

b. Resettlement

11. A similar exercise should be conducted vis-à-vis the possibility of resorting to resettlement as a durable solution for at least some individuals or groups for whom voluntary repatriation is not an option. Resettlement on a group basis for certain categories of particularly vulnerable refugees should be pursued, in view of the increasing priority that is being given to African refugees in certain key resettlement countries. In this connection, UNHCR should promote the notion that victims of conflict who are recognized as refugees under the broader definition set forth in the 1969 OAU Convention should benefit from resettlement as much as victims of persecution who are granted refugee status on the basis of the 1951 UN Convention. The possibility of group resettlement to other African countries should also be considered in certain circumstances.

c. Local integration

12. Refugees for whom it is concluded that neither voluntary repatriation nor resettlement may be pursued in a meaningful manner in the foreseeable future may constitute the majority of protracted refugee caseloads. Given that they have been residing in their host countries for a considerable time, "local integration" may be the only viable option for these persons. However, depending on the context, "local integration" may be interpreted in a number of different forms, ranging from attainment of economic self-reliance, to the granting of permanent residence status and naturalization.

13. In most protracted refugee situations, the promotion of self-reliance pending voluntary repatriation appears to be the form of local integration on which some agreement can generally be reached with the authorities in host countries. The most important elements in facilitating the attainment of self-reliance are the full enjoyment of civil and socio-economic rights (particularly crucial are the rights to freedom of movement, access to employment markets, self-employment and education). The right to freedom of movement is fundamental for both urban-based as well as rural caseloads, since, for example, agricultural activities may not be economically viable if refugees are not able to move freely outside the camp/settlement to look for markets to sell their produce. In certain circumstances, at the other end of the scale, permanent residence status or naturalization may be promoted.

14. For the past decade, UNHCR has put great emphasis on voluntary repatriation as the preferred durable solution to refugee problems. However, it is a fact that, in the last five years or more, fewer refugee-producing situations in Africa have been comprehensively and durably addressed, and thus the scope for applying this solution has remained rather limited. It is therefore suggested that the Office should dedicate itself to promoting self-reliance of refugees more vigorously, as this, in many instances, is the only available option to ensure that they can lead a meaningful and dignified life while they remain in exile. In addition to the fact that

self-reliance is obviously better than dependency, a response that capacitates refugees, benefits host communities and saves resources should be in the interest of all concerned. It will also contribute to facilitating their eventual reintegration and, as such, make them “agents of development” in their own country when the time comes for repatriation.

15. An inventory of best practices on integrated approaches to self-reliance in Africa could be a useful tool for assessing the lessons learned from successes and failures in drawing up such strategies at country level.

d. Refugee participation and empowerment

16. In all the scenarios described above, refugees’ participation in the planning, design, implementation, monitoring and evaluation of a programme to promote voluntary repatriation, resettlement, local integration or self-reliance, and their commitment to achieving this, are essential ingredients if such an approach is to succeed. Indeed, human development as a wider basic right for all is a vital element in striving for self-reliance. The gender and age dimensions of refugee participation should not be underestimated either: in Africa, on average 50% of the refugee population is female, 17% is under 5 years and 56% under 18 years. The proportion of refugee women and children in Africa should shape UNHCR’s programmes as a matter of course, starting with the issue of refugee participation.

V. LINKING REFUGEE ASSISTANCE TO NATIONAL DEVELOPMENT

17. The presence of refugees has a socio-economic impact on the host country. Socio-economic empowerment of refugees leading to self-reliance cannot be achieved in isolation; it is dependent on links with local populations and access to local economy and local development opportunities. Every measure that UNHCR may take to address protracted refugee situations will have to be presented in a comprehensive package providing concrete benefits for the host communities in the form of development projects. This, in turn, will better guarantee the sustainability of any solution by linking it to long-term development initiatives. It will require partnership with other actors, including host country governments, inter-governmental organizations, the UN agencies, international and regional developmental and banking institutions, donor countries, non-governmental organizations, civil society and the private sector.

18. Valuable lessons have been learned from previous experiences and ongoing processes linking the presence of refugees and returnees to developmental initiatives aimed at closing the gaps between relief, rehabilitation, reconstruction and development activities. The Office should build upon these experiences and continue to pursue broad political and regional approaches, which in turn should hopefully act as catalysts for finding solutions.

19. Activities such as the promotion of empowerment and self-reliance in the country of asylum are clearly “core concerns” of UNHCR under its mandate to achieve durable solutions. However, to ensure full synergy with agencies possessing the expertise and resources required for activities linked to seeking solutions to protracted refugee situations, UNHCR will have to forge stronger strategic partnerships with developmental actors. The best way to do so is to present refugees as active and productive members of society and “agents of development” if given

the opportunity, thus making them part of the development programmes of governments and other partners.

20. Indeed, it can reasonably be said that protracted refugee situations are part and parcel of the development landscape of many countries. Accordingly, UNHCR should make an extra effort to ensure that developmental actors understand the development aspects of protracted refugee situations. In particular, the Office should underline the fact that refugees often form part of the more marginalized segments of the population: they are impoverished and usually dependent on aid, while their legal status subjects them to many restrictions. Therefore, assistance measures should address both socio-economic marginalization (poverty and dependence), and legal marginalization (lesser civil and socio-economic rights) which often hampers human development.

21. Should the notion of the refugee/returnee presence as a development issue be accepted, the required partnerships could most appropriately be pursued within the framework of the Common Country Assessment (CCA) at the analytical level, and the UN Development Assistance Framework (UNDAF) at the planning level.

VI. CONCLUSION

22. For all the sense of urgency that has prompted the Office to focus on protracted refugee situations, it is clear that there is no magic formula for dealing with this. Because of the political and socio-economic factors which come into play, a multifaceted approach involving a series of different actors over a number of years, is required to meaningfully address such situations, both from the protection and assistance point of view. This also means that more resources will be required in the short to medium term to implement these programmes before savings can be realized.

23. The proposed policy options point towards the adoption of a more incremental approach which, assuming host governments agree to cooperate, should enable the Office to address a protracted refugee situation holistically in the medium to long term. On the basis of a shared vision with a clear strategy agreed upon with host countries, UNHCR should be able to maintain focus and momentum until such a strategy has been successfully implemented. To facilitate this, a full inventory of various protracted situations should be made, and the different types of solutions that could be developed for each group should be identified, on the basis of the options proposed in this document.

24. In case of future large-scale refugee influxes, the Office should proactively elaborate a strategy for attaining durable solutions, in partnership with development actors, as soon as the emergency phase is over. In the initial stages, such a strategy should focus on the promotion of empowerment and self-reliance, whether or not voluntary repatriation might eventually appear to be feasible. In this way, we would avoid the type of protracted refugee situations that we have today, where the majority of refugees have no alternative but to survive on the minimum assistance provided by UNHCR and other agencies, supplemented by their own limited coping mechanisms.

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