

Refugee Law Project Working Paper No. 16

# “A DROP IN THE OCEAN”:

ASSISTANCE AND PROTECTION FOR FORCED MIGRANTS

IN KAMPALA



MAY 2005

The Refugee Law Project (RLP) was established in November 1999 with the aim of protecting and promoting the rights of forced migrants in Uganda. The RLP operates as an autonomous project within the Faculty of Law of Makerere University, and focuses on three main areas: legal assistance, training, and research and advocacy. The Refugee Law Project works towards ensuring that asylum seekers and refugees are, as specified under national and international law, treated with the fairness and consideration due fellow human beings.

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Front Cover: Interview with NGO representative, Kampala, 6 October 2004.

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## REPORT SUMMARY

This paper examines the social, economic, and political situation of urban refugees in Kampala. In Uganda, refugees are expected to become self-reliant, and refugees who live in refugee settlements are given initial assistance to help them achieve this objective. The majority of refugees who reside outside of settlements, however, are not eligible for such assistance. Furthermore, in refugee settlements, refugees are in theory provided with services such as healthcare and education. In contrast, refugees in Kampala must attempt to access overstretched and under funded city services. In some cases, such as access to healthcare, the problems experienced by refugees in accessing quality services are no different from the problems faced by other Kampala residents. However, in other areas, such as access to education and employment, discrimination exists and refugees in Kampala are left with few ways to improve their socio-economic situation. As the 1951 Convention Relating to the Status of Refugees provides for the right of refugees to choose their place of residence and to move freely within the territory of the country of refuge, such a policy, which makes assistance contingent on refugees residing in certain designated areas, is discriminatory and inconsistent with Uganda's international obligations. There is no basis in law for either UNHCR's protection mandate or Uganda's obligations to refugees to be restricted to refugees who agree to live in settlements.

Across all areas of assistance lack of knowing English or Luganda or both was seen by refugees as a major impediment to accessing services as well as interacting with Ugandans generally. Security issues also affected refugee livelihoods in Kampala, especially since some refugees do not officially register due to fears of alleged collaboration between the Ugandan government and rebel groups which operate in refugees' countries of origin. In most cases those who provide public services in Kampala had little if any knowledge of the presence of refugees within the city, and the rights accorded to refugees under national and international law. Refugees are not budgeted for within the larger Kampala development plan; elected leaders as well as Kampala city employees are struggling to understand and respond to the presence of refugees. As a result, many refugees depend on support from churches, religious leaders and private individuals. When assistance is provided in the personal realm, its continuity and dependability is no longer guaranteed. Moreover, in the absence of external monitoring, there is a risk that the beneficiaries of such assistance might become vulnerable to neglect and even abuse.

Research findings suggest that many refugees have talents, skills and abilities which would enable self-sufficiency in Kampala. However, these capabilities are undermined by the factors noted above—factors that could be overcome if refugee protection was not undertaken primarily through the settlement structure. In order to enhance refugees' overall human security, and to support refugees' own efforts to become independent and self-reliant, UNHCR and OPM must inform and educate members of Kampala's civil administration and civil society regarding the urban refugee population, as well as build the capacity of local service providers to enable service provision to refugees. This paper suggests two general types of interventions. First, resources are needed to assist refugees directly, for example by providing more English classes or helping refugees in attaining degree equivalent certificates. Such measures would ensure that refugees are able to use their own initiative to start businesses, apply for jobs, educate their children and live life like any other Kampala city resident. Second, interventions should be

targeted to benefit both refugees and the Ugandan urban poor, for example by providing assistance to schools and medical clinics. Thus this paper asserts that the overall policy on refugees in Uganda should support refugees' decisions to remain in Kampala rather than being aimed at relocating urban refugees to a rural settlement.

The study is based on field research conducted in Kampala from mid-September 2004 to January 2005. The research team consisted of Jesse Bernstein, Christina Clark, Kelly James Johnston, and Shaanti Razia. The study was done as part of a larger research project funded by the MacArthur Foundation entitled *Questioning the Settlement Policy for Refugees in Uganda: A Socio-Legal Analysis*. This paper was written by Jesse Bernstein with valuable research comments from Karen Cassidy, Lucy Hovil, Zachary Lomo, Moses Chrispus Okello, and Katinka Ridderbos. Feedback from UNHCR and JRS is also gratefully acknowledged. In addition, the author thanks the National Council for Science and Technology (NCST) and the Office of the Prime Minister, Directorate of Refugees for providing permission for this study to be conducted. The author is also grateful to the Sudanese Human Rights Association and the Windle Trust for providing research assistance and guidance during the course of the field research. Finally, the author would like to thank the many refugees who devoted their time to be interviewed for this study.

## **GLOSSARY OF ABBREVIATIONS**

CARA:	Control of Alien Refugees Act
GoU:	Government of Uganda
JRS:	Jesuit Refugee Services
KCC:	Kampala City Council
LC:	Local Councillor
LRA:	Lord's Resistance Army
OAU:	Organisation of African Unity
OPM:	Office of the Prime Minister
REC:	Refugee Eligibility Committee
RSD:	Refugee Status Determination
RLP:	Refugee Law Project
SPLM/A:	Sudan Peoples' Liberation Movement/Army
UNHCR:	United Nations High Commissioner for Refugees
UNOCHA:	United Nations Office for the Coordination of Humanitarian Affairs
UNRF(I & II):	Uganda National Rescue Front (I & II)
WFP:	World Food Programme

**RECOMMENDATIONS**

+ This study has shown that many refugees and asylum seekers in Kampala face immense difficulties meeting their basic needs, including access to shelter, food, medical care and education. This difficulty is compounded by claims of physical insecurity. Despite these difficulties, refugees choose to remain in Kampala for a variety of reasons. Such decisions made by refugees as to where they wish to reside should be supported rather than challenged. Policy on refugees in Uganda should be reformulated in a progressive manner on the basis of all the rights accorded to refugees under the 1951 Convention Relating to the Status of Refugees, including the right for refugees to choose their place of residence and the right to freedom of movement.

+ Refugees should be assisted in their efforts to access formal employment. This study has shown that different departments of government follow different rules relating to the need for refugees to apply for work permits. In particular, while according to OPM refugees are exempt from having to apply and pay for work permits, the Immigration Department maintains that work permits are required for refugees. OPM should ensure that the policy on work permits for refugees is consistently implemented by all departments of government.

+ OPM, UNHCR and other agencies working with refugees in Kampala should ensure that refugees have access to information regarding the requirements that refugees need to fulfil in order to access employment or to set up their own business in Uganda.

+ Clear information should be made available to employers regarding the regulations governing the employment of refugees.

+ The study found that refugee children attending secondary school in Kampala are excluded from applying for the scholarships that are made available to refugee children residing in settlements. This policy, which makes eligibility for scholarships contingent on residency in settlements, is discriminatory and inconsistent with the 1951 Convention and UNHCR's mandate. UNHCR and its implementing partners should change this policy so as to ensure that refugee children in Kampala are eligible for these scholarships.

+ This study has demonstrated that, while credit is an important means of improving people's socio-economic conditions, urban refugees have limited access to credit facilities. In most cases, refugees do not qualify for loans from Ugandan micro-finance institutions, because they are unable to meet requirements such as Ugandan citizenship or a permanent address. While in principle all urban refugees have access to the credit schemes operated by UNHCR's implementing partners, in practice refugees were either not aware of the existence of these schemes, or they were under the impression that they were not eligible for loans from these schemes. Efforts should therefore be made to increase awareness of the existing credit facilities for refugees in Kampala. Furthermore, avenues should be explored of broadening the eligibility criteria of Ugandan micro-finance institutions so as to include refugees.

+ The study has shown that the presence of urban refugees is not taken into account in planning exercises for services such as health and education in Kampala. OPM and UNHCR should assist Kampala City Council to build service providers' capacity to enable service provision to refugees.

+ Findings suggest that there is very little involvement of urban refugees in policy formulation and implementation. Both OPM, UNHCR and UNHCR's implementing partners should actively involve refugees in discussions and planning of programmes and policies relating to urban refugees.

+ This study found that once asylum seekers are granted refugee status, OPM's stated policy is to provide refugees identity documents only to those refugees who either opt to move to a refugee settlement, or who can prove self-sufficiency in Kampala. This policy has no basis in law. Article 27 of the 1951 Convention provides for the right of refugees to be issued with identity papers—it does not make provision for making the right to identity documents dependent on economic means or any other limiting factor. Thus OPM with support from UNHCR should provide identity documents to all refugees regardless of where they choose to reside or their economic means.

+ The study found that a number of asylum seekers complained of sexual harassment in the refugee status determination process. OPM and UNHCR must investigate these allegations as a matter of urgency in an open and transparent manner, and the findings must be communicated clearly to the refugee community. If necessary, appropriate action should be taken against the individuals involved. Furthermore, formal procedures must be put in place for lodging complaints about any misconduct of officials involved in the RSD process, and information about these procedures should be made available to all asylum seekers.

+ The study has shown that there is considerable confusion amongst refugees and asylum seekers regarding the respective roles of UNHCR and its implementing partners. This pertains both to the RSD procedure and to issues of protection and assistance. UNHCR information brochures stop short of explicitly defining the RSD procedure and explaining the role of each party within the RSD process. More information should be made available to the refugee community regarding the precise roles of each of the various agencies.

+ The study has shown that refugees experience difficulties in accessing UNHCR protection officers. While it is acknowledged that the protection officers are under considerable pressure because of the large caseload, UNHCR must make all possible efforts to ensure that refugees and asylum seekers have direct access to protection officers. The coordination between InterAid's reception officers and UNHCR's protection officers must be streamlined so as to make it easier for refugees and asylum seekers to book appointments with the protection officers.

+ OPM with support from UNHCR should ensure that trained interpreters are available at all stages of the refugee status determination process. The research findings revealed that when interviews are conducted at the Special Branch of the Police, no interpreters are made available to asylum applicants, apparently due to a lack of resources.

+ In addition, a scheme to train community interpreters should be set up for refugees. Trained community interpreters could then be employed to assist refugees who need to speak to officials at OPM, UNHCR, or UNHCR's implementing partners.

+ This study found that local councillors are often the first officials to interact with refugees upon their arrival in Kampala, making it imperative that they are familiar with the RSD procedures and with the systems that are in place to deliver refugee protection and assistance. However, this study has also shown that many local government officials are confused both

about the presence of refugees in Kampala and about the rights accorded to refugees under national and international legislation. Thus more information should be provided on refugees and refugee rights to local councillors in Kampala.

+ This study also found that in certain areas of Kampala xenophobia exists and refugees are often unfairly blamed for problems that affect the wider community. In an effort to combat xenophobia, local councillors, the police and service providers (such as health care workers and educators) in Kampala should be given training on refugee issues.

+ UNHCR should work together with local and international donors on raising funds for projects that would benefit urban refugees as well as the Ugandan urban poor. The Development Assistance for Refugees programme could be used to focus such efforts.



## 1 INTRODUCTION

Policies and procedures governing refugee protection and assistance in Uganda have always been and continue to be *ad hoc*.<sup>1</sup> Legally, Uganda derives its refugee management programmes from the Control of Alien Refugees Act (CARA),<sup>2</sup> which requires all refugees to reside in settlements.<sup>3</sup> Refugee settlements are maintained by the Directorate of Refugees under the Ministry of Disaster Preparedness and Refugees in the Office of the Prime Minister (OPM), and are located in rural areas where refugees are allocated plots of land for agricultural activities. Refugees must obtain permission from settlement commandants before leaving settlements.<sup>4</sup> While it has been acknowledged by OPM that the CARA is restrictive in its approach to refugee assistance and protection,<sup>5</sup> and that therefore OPM does not apply the CARA in practice, the law still is the legal basis for refugee settlements and remains the law governing refugees in Uganda. Although a new refugee bill was introduced by OPM in 2003, it has yet to be passed by the Ugandan parliament.<sup>6</sup> In practice, what exists today is a policy that focuses assistance and protection on those living in refugee settlements.

For many refugees, Ugandan refugee settlements do not offer the kind of environment in which they can use their abilities to support and sustain themselves.<sup>7</sup> Indeed, a significant body of literature exists on the negative consequences of providing assistance to refugees in closed political, social and geographical spaces such as settlements or camps.<sup>8</sup> Thus many refugees in Uganda live outside of settlements, with many of these so-called self-settled refugees residing in Uganda's capital, Kampala. While the Refugee Law Project (RLP) has previously documented the refugee status determination (RSD) process for refugees in

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<sup>1</sup> Within the government, there is a general lack of progressive and coherent thought on the implications of the presence of refugees in Uganda. This is reflected in the "continued movement of the department of refugees from one Ministry to the other. The department was transferred from the Ministry of Community Development to that of Defence and Internal Affairs in 1971 by Amin; in 1982, it was relocated to the Ministry of Internal Affairs because of the suspicions of Rwandese refugees, the National Resistance Movement (NRM) government first relocated it to the Ministry of Local Government and later to the new Ministry of Disaster Preparedness and Refugees under the Prime Minister's office." Ronald Kalyango, *Non governmental organisations and the Provision of Humanitarian Assistance to Urban Refugees in Kampala*, unpublished thesis, November 1999, p. 14 (on file with the Refugee Law Project).

<sup>2</sup> The Control of Alien Refugees Act, 1960, Laws of Uganda, Cap. 64.

<sup>3</sup> Section 8 of the CARA requires all refugees to reside in settlements.

<sup>4</sup> Section 7 of the CARA empowers Camp Commandants to give or deny permission to refugees who wish to move outside the settlements.

<sup>5</sup> Interview, OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>6</sup> While the draft version of the new bill grants refugees the right to freedom of movement, the bill also notes that freedom of movement is subject to "directions issued by the Commissioner" (Section 30). Numerous other problems exist with the bill; the Refugee Law Project plans to publish a brief on the bill in the coming months.

<sup>7</sup> As one example, the conditions in refugee settlements in the West Nile region of Uganda have most recently been documented and analysed in Tania Kaiser, Lucy Hovil and Zachary Lomo, "*We are all stranded here together*": *The Local Settlement System, Freedom of Movement, and Livelihood Opportunities in Arua and Moyo Districts*, RLP Working Paper No. 14, February 2005.

<sup>8</sup> As examples, see Richard Black, "Putting Refugees in Camps," *Forced Migration Review*, Vol. 2, 1998; Jeff Crisp and Karen Jacobson, "Refugee Camps Reconsidered," *Forced Migration Review*, Vol. 3, 1998; Barbara Harrell-Bond, "Are refugee camps good for children?," *New Issues in Refugee Research*, UNHCR Working Paper No. 29, 2000; Wim van Damme, "Do Refugees Belong in Camps? Experiences from Goma and Guinea," *The Lancet*, Vol. 346, Issue 8971 (1995), pp. 360–362. The United States Committee for Refugees and Immigrants (USCRI) is currently campaigning for an end to the practice of forcing refugees to live in camps and settlements; see [www.refugees.org](http://www.refugees.org).

Kampala,<sup>9</sup> this study focuses on the ability of refugees to sustain themselves while living in Kampala. However, this study demonstrates that the RSD process is integral to the experiences of refugees in Kampala. In this context therefore the study also re-examines the RSD process in relation to issues of refugee livelihoods in Kampala. Thus this study expands upon and updates the RLP's previous findings on the RSD process.

The status of refugees in Kampala is shrouded in uncertainty. Previously, OPM, in conjunction with the Office of the United Nations High Commissioner for Refugees (UNHCR) only officially allowed a few refugees to reside in Kampala. These 'exceptions' comprise the 'urban caseload'—a small group of refugees who have been referred to Kampala from refugee settlements due to healthcare needs that can only be addressed in Kampala, or because they are awaiting resettlement, or due to security concerns or other concerns regarding general 'vulnerability.'<sup>10</sup> Assistance, in terms of healthcare, assistance with the cost of education for refugee children, and to a small extent housing,<sup>11</sup> is provided to refugees on the urban caseload by InterAid, UNHCR's implementing partner in Kampala. At the time of writing, the urban caseload numbered 210 refugees.<sup>12</sup> All other refugees in Kampala are denied assistance by UNHCR.<sup>13</sup> This policy undermines the right of refugees to choose their place of residence in Uganda as stipulated in Article 26 of the 1951 UN Convention Relating to the Status of Refugees (hereinafter referred to as the 1951 Convention).

Recently, however, OPM has begun to allow refugees to remain in Kampala if they can prove "self-sufficiency."<sup>14</sup> Proof in this case requires evidence of employment in the form of a letter from an employer, and evidence of residency in the form of a letter from a local councillor from the area where the refugee resides.<sup>15, 16</sup> OPM has stated that it wishes to discourage those refugees who cannot support themselves in Kampala from remaining in the city.<sup>17</sup> Thus, even if refugee status has been granted, the identification document which acts as tangible proof of refugee status may be withheld if the refugee in question wishes to remain in Kampala without being able to prove self-sufficiency.

It is important to note that the only proof of the existence of this policy that the RLP was able to uncover came in the form of verbal statements on the part of both OPM officials and refugees. Furthermore, recently the RLP has received fewer complaints than in the past from refugees facing difficulties in obtaining identity documents.<sup>18</sup>

Regardless of the policy's implementation, limiting the issuing of identity documents to those who can prove 'self-sufficiency' is discriminatory and goes against the letter and spirit of the 1951 Convention. The Convention does not link refugee status with economic status; *ipso*

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<sup>9</sup> Kirk Huff and Ronald Kalyango, *Refugees in the City: Status Determination, Resettlement, and the Changing Nature of Forced Migration in Uganda*, RLP Working Paper No. 6, July 2002. For further interest also see Barbara Harrell-Bond and Guglielmo Verdirame, *Rights in Exile: Janus-Faced Humanitarianism*, (Oxford: Berghan Books, 2005).

<sup>10</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004.

<sup>11</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004.

<sup>12</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA) *Humanitarian Update Uganda*, Vol. VII, Issue IV, Kampala, Uganda, April 2005.

<sup>13</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 8<sup>th</sup> October 2004.

<sup>14</sup> Interview with OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>15</sup> Interview with OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>16</sup> In Uganda, locally elected officials at the parish level are known as local councillors or LCs.

<sup>17</sup> Interview with OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>18</sup> Interview with Senior Legal Officer, Refugee Law Project, 22<sup>nd</sup> February 2005.

*facto*, there is no link in the Convention between the entitlement to an identity document and economic status.

In contrast to the refugees living in settlements who receive initial assistance in the process of becoming self-reliant, refugees in Kampala who are not listed on UNHCR's urban caseload do not receive any targeted assistance, except in cases of medical emergency. NGOs that do provide assistance to refugees and asylum seekers in Kampala are limited both by capacity, and by the government's insistence that refugee assistance be provided in settlements. Thus any assistance that is provided to asylum seekers in Kampala stops once refugee status has been granted, except for cases of medical emergency. Thus, refugees who opt to remain in Kampala are left to access the same services as Kampala's Ugandan residents. There is, of course, nothing wrong with that *per se*. Indeed, in some areas, such as access to healthcare, findings suggest that the problems experienced by refugees in accessing quality medical care are no different from the problems experienced by Ugandans. However, in other areas, such as access to education and employment, findings indicate that refugees suffer from discrimination and other obstacles in accessing services that are over and above the difficulties faced by Ugandan nationals. As a result, refugees are left with few ways to improve their socio-economic situation. Across all areas of assistance, lack of knowing English or Luganda or both was seen by refugees as a major impediment to accessing services as well as interacting with Ugandans. Security issues also affected refugee livelihoods in Kampala, especially since some refugees do not officially register due to fears of alleged collaboration between the Ugandan government and rebel groups which operate in refugees' countries of origin. Thus the title of this paper refers deliberately to 'forced migrants,' as many have not officially claimed refugee status.

Findings indicate that Kampala city officials and service providers appear to be unaware and confused regarding the presence of refugees within the city. One Kampala City Council (KCC) official stated, "real refugees ... are unable to support themselves [and] go to the camps."<sup>19</sup> Other local officials were extremely frustrated with having refugees living in their areas—as one local leader stated in reference to Sudanese refugees, "Why aren't these people put in refugee camps? [We] can't get a clear answer from government."<sup>20</sup> Another service provider stated that refugees who are not officially recognised by UNHCR or the government are "stubborn" because "they do not follow procedures."<sup>21</sup> As a result of this situation, refugees are discriminated against. Moreover, refugees lack knowledge about what services are available to them. As one refugee put it, "Where are the organisations that help refugees here? We don't receive any help."<sup>22</sup>

Some refugees will always opt to live in a major city such as Kampala instead of going to a rural settlement. Policymakers are often afraid of offering services to refugees in cities as they do not want to create a 'pull factor.' However, this overlooks the fact that for some refugees, rural settlements will never offer an environment in which they can sustain and support themselves. Furthermore, many refugees have talents and abilities that could enable self-sufficiency in Kampala. Findings indicate that these abilities are undermined by factors that could be overcome if the presence of urban refugees was publicly acknowledged by the GoU. As part of their efforts to protect refugees, and to enhance refugees' own efforts to

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<sup>19</sup> Interview with Kampala Central Division official, Central Division offices, 5<sup>th</sup> October 2004.

<sup>20</sup> Interview with local official, Lubaga Division offices, 4<sup>th</sup> October 2004.

<sup>21</sup> Interview with social worker, 27<sup>th</sup> September 2004.

<sup>22</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

become independent and self-reliant, UNHCR and OPM must inform and educate local government officials, civil servants and civil society organisations regarding the refugee population. Efforts must also be made to build capacity of local service providers to enable service provision to refugees. For example, a small amount of resources made available to provide more English classes or assist refugees in obtaining degree equivalent certificates, would ensure that refugees were able to use their own initiative to start businesses, apply for jobs, educate their children and live life like any other Kampala city resident. Thus this paper asserts that the overall policy on refugees in Uganda should support refugees' decisions to remain in Kampala rather than aiming to relocate urban refugees to rural settlements.

## 1.1 Background and context

The origins of this research relate to the many refugees and asylum seekers approaching the RLP's legal aid clinic for socio-economic assistance. As legal officers at the RLP often found themselves listening to problems related to urban refugees' inability to meet their basic needs, the RLP began to question the effectiveness of the systems which are supposed to assist and support refugees in Kampala. This pointed to a clear need for a study aimed at gaining a better understanding of how refugees support themselves—a study that would also gauge the thoughts and viewpoints of urban refugees themselves regarding the types of challenges they face. The study was done as part of a larger research project funded by the MacArthur Foundation entitled *Questioning the Settlement Policy for Refugees in Uganda: A Socio-Legal Analysis*. It was conceived as a way to gain a better understanding of the impact of Uganda's settlement policy and its impact on urban refugees, and to suggest practical alternative approaches to refugee protection.

The number of refugees living in Kampala remains unknown. Previously, the RLP has published estimates that urban refugees in Kampala number between 10,000 to 15,000.<sup>23</sup> Human Rights Watch has estimated the urban refugee population in Kampala to be 50,000.<sup>24</sup> Urban refugees are under-researched generally—a quantitative demographic study of all urban refugees in Kampala is urgently needed to provide accurate statistics on the number of refugees living in Kampala, including the number of refugee women and children.

Kampala is a city of roughly 1.2 million people.<sup>25</sup> The city's population continues to grow at a rate of 4.5%.<sup>26</sup> In administrative terms, the city comprises five divisions.<sup>27</sup> Most of the population growth within Kampala, approximately 69%, is due to rural-urban migration.<sup>28</sup> Kampala City Council states that the urbanisation has been accompanied by an alarming growth in poverty levels.<sup>29</sup> As a result of the rapid population growth in Kampala, services are under immense strain. As noted in the KCC Development Plan, "The rate at which the

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<sup>23</sup> RLP Working Paper No. 6, p. 1. Estimates were provided by an independent researcher and by the Senior Protection Officer at OPM in 2001.

<sup>24</sup> Human Rights Watch, *Hidden in Plain View: Refugees Living Without Protection in Nairobi and Kampala*, New York, November 2002, p. 75. It should be noted that Human Rights Watch gives no source for its estimation.

<sup>25</sup> *District Development Plan: 2004/2005 – 2006/2007*, Planning Unit, Kampala City Council, p. 130 (on file with the Refugee Law Project).

<sup>26</sup> *Ibid*, p. 129.

<sup>27</sup> The divisions are: Lubaga, Makindye, Nakawa, Central, and Kawempe.

<sup>28</sup> *District Development Plan: 2004/2005 – 2006/2007*, Planning Unit, Kampala City Council, p. 129.

<sup>29</sup> *Ibid*.

city is developing is more than the capacity for the Kampala City Council to adequately plan and implement plans.”<sup>30</sup>

At the same time, in urban centres throughout sub-Saharan Africa, refugee populations are growing, and throughout the global south, the number of urban refugees has “increased considerably.”<sup>31</sup> Despite this increase, UNHCR’s 1997 policy on urban refugees states “as a rule, UNHCR’s assistance should be reduced to a minimum.”<sup>32</sup> While of course assistance in all settings should be focused on refugees attaining self-reliance, UNHCR’s global policies need to take into account the fact that “a significant and long-term investment may be required to promote self-reliance in an effective manner.”<sup>33, 34</sup>

## 1.2 Methodology

This study is based on 160 interviews with refugees, asylum seekers, city officials, representatives of UNHCR and OPM and NGOs that work with refugees. The study was conducted from mid-September 2004 to January 2005.<sup>35</sup>

Qualitative interviews and participant observation were the main methods used in conducting this study. Interview questions allowed for open-ended interactions and discussions. A small number of focus group discussions were also used to gather information. Due to time and capacity constraints, the methods employed do provide only a limited representation of the entire urban refugee population. However, this study raises several important issues which affect most urban refugees, and thus it will be of interest to refugee policy makers and those who provide assistance to refugees.

Throughout the study, a participatory approach was taken where the views and concerns of interviewees were taken into account. For instance, after speaking informally with Rwandese refugees at the RLP, these refugees made known that due to security concerns, they felt extremely uncomfortable with the prospect of researchers visiting their homes and conducting interviews in their neighbourhoods. In response, interviews with Rwandese refugees were conducted in a setting where they felt comfortable and safe. Participant observation was also used. For example, at the start of the study researchers introduced themselves to ‘ASSOREF,’ a francophone refugee association, and ‘FASSOREF,’ a women’s francophone refugee association, and attended a number of their meetings in an observational capacity. Members of these groups also provided helpful information as to where in Kampala other refugees could be located.

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<sup>30</sup> Ibid, p. 130.

<sup>31</sup> Naoko Obi and Jeff Crisp, *UNHCR Policy on Refugees in Urban Areas; Report of a UNHCR/NGO Workshop*, UNHCR Evaluation and Policy Unit, Geneva (EPAU/2002/09), 2002, p. 1. There is a growing literature on urban refugees, see for example Loren Landau, “Study Guide to Urban Refugees,” *Forced Migration Online*, [www.forcedmigration.org/guides/fmo024/](http://www.forcedmigration.org/guides/fmo024/). See also Gaim Kibreab, “Eritrean and Ethiopian Urban Refugees in Khartoum: What the Eye Refuses to See,” *African Studies Review*, Vol. 39, No. 3, December 1996, p. 132.

<sup>32</sup> *UNHCR Policy on Refugees in Urban Areas*, UNHCR, Geneva, December 1997.

<sup>33</sup> Obi and Crisp, 2002, p. 6.

<sup>34</sup> UNHCR is currently working on a revised policy on urban refugees.

<sup>35</sup> Specifically, interviewees included 9 elected local government officials, 12 civil servants, 11 representatives from international organisations and non-governmental organisations, and 5 refugee leaders. The number of interviews with refugees, asylum seekers, and forced migrants was 117. Finally, 6 focus group discussions with refugees were conducted.

Areas of Kampala where refugees reside were located through the many refugees and asylum seekers who spend considerable amounts of time at the RLP. Research was carried out in the following areas of Kampala: Bakuli, Kasubi, Kilombe, Kisenyi II, Lubaga, Makindye, Mengo, Mengo Kisenyi, Mulago, Muyenga, Najjanankumbi, Nakulabye, Namirembe, Nsambya, Nsambya Kevina, Old Kampala, and Owino.<sup>36</sup> Other organisations that work with refugees also provided information about where refugees reside, as well as contacts in those areas. Upon arrival in each area, introductions were made to local councillors as well as to refugee leaders. While initially refugee leaders and local councillors watched closely who we interviewed and where interviews were conducted, our prolonged presence in each area eventually allowed a greater degree of flexibility, and thus it is hoped that a broad spectrum of responses was gathered. The different language skills of the researchers, including English, French, and Kiswahili were also an asset in gaining a variety of opinions. On a few occasions, interpreters were used in the course of research. Interpreters were either staff members of other organisations who work with refugees and volunteered their time, or were individuals who had been recommended to the RLP by related organisations and who were given a small stipend.

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

In addition, two other empirical issues need highlighting. First, it had originally been planned to interview refugees on the urban caseload and compare the findings with the findings related to those refugees who are not on the urban caseload and who thus do not receive any formal assistance. This proved impossible, because it was difficult to determine with any degree of certainty who was on the urban caseload and who was not. It may be that refugees are hesitant to reveal that they are on the urban caseload, because they fear the possible repercussions if they acknowledge support from multiple sources. In addition, the urban caseload fluctuates due to some refugees being resettled to third countries, and other refugees being returned to refugee settlements after medical treatment has been completed in Kampala.

The second issue to note is that even though it was made clear at the outset of every interview that we as researchers could not provide any assistance or formal registration, many refugees did not understand this and insisted on showing us their documents. Some refugees also assumed that an interview with us would improve their chances of being resettled. Often researchers found themselves explaining how the refugee registration process functioned. These experiences directly relate to our research findings: many refugees stated that they lacked direct access to government and UNHCR officials and many were also confused about the registration process.

The structure of this paper attempts to mirror the process of refugees arriving in Kampala and establishing themselves. Section 2 begins by explaining why refugees choose to arrive in

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<sup>36</sup> See the Appendix for a map of Kampala which indicates areas where interviews were carried out.

Kampala and Section 3 outlines how refugees survive upon immediate arrival. Section 4 analyses the refugee status determination process, while Section 5 considers how refugees access employment, healthcare and education within Kampala. Finally, Section 6 examines protection issues faced by refugees while being in Kampala.

## 2 METHODS OF ARRIVAL IN KAMPALA

Officially, when asylum seekers arrive in Uganda they are expected to report to the nearest police post at the point of entry.<sup>37</sup> However, in practice many asylum seekers travel directly to Kampala for a variety of reasons. First, many asylum seekers reported that as they crossed the border into Uganda, they were unaware of registration procedures and, due to the lack of information regarding registration at border entry points, they felt that they had to travel to Kampala to officially register as refugees. Thus one Congolese refugee explained, when asked why he decided to live in Kampala, that due to the lack of refugee registering facilities in border areas, he “had no choice” but to travel directly to Kampala.<sup>38</sup> For registration as well as protection purposes, asylum seekers also expressed a desire to be physically proximate to the offices of UNHCR.<sup>39</sup>

Second, for asylum seekers who fled violence and conflict in their own country in a large group, with the group headed for Kampala, often no explicit decision to register in Kampala rather than at the border was made.<sup>40</sup> A number of refugees from the eastern Democratic Republic of Congo (DRC) stated that they entered Uganda riding on lorries transporting goods headed directly for Kampala,<sup>41</sup> and thus the method of flight did not allow for registration in border areas. Refugees and asylum seekers were also acutely aware of security issues, and felt that remaining in a border area would continue to jeopardise their physical safety. A Sudanese refugee stated: “when you run away from the dangers, you cannot go to other dangers ... when you see it is safe for children, you may go there.”<sup>42</sup> Kampala was generally thought to offer safer conditions than rural districts, especially those districts that border countries from which asylum seekers are fleeing.<sup>43</sup> Finally, many asylum seekers reported to have friends or relatives already living in Kampala, and thus it was logical for them to travel to Kampala and make use of personal networks for gaining access to support and assistance.<sup>44</sup>

In addition, numerous refugees move to Kampala after first residing in refugee settlements for reasons relating both to their physical safety and to access to employment and services. For instance, much of northern Uganda continues to remain insecure due to the nineteen-year long insurgency between the Ugandan government and the Lord’s Resistance Army (LRA), with refugee settlements in districts such as Adjumani, Moyo, and Pader having come under attack

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<sup>37</sup> Interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>38</sup> Interview with refugee, Mengo Kisenyi, Kampala, 29<sup>th</sup> September 2004.

<sup>39</sup> Interview with refugee, Mengo Kisenyi, Kampala, 29<sup>th</sup> September 2004; interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>40</sup> Interview with refugee, Mengo, Kampala, 28<sup>th</sup> September 2004.

<sup>41</sup> Interview with refugee, Mengo Kisenyi, Kampala, 29<sup>th</sup> September 2004.

<sup>42</sup> Interview with refugee couple, Kasubi, Kampala, 15<sup>th</sup> October 2004.

<sup>43</sup> Interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>44</sup> Interview with refugees, Mengo, Kampala, 27<sup>th</sup> September 2004.

by the LRA.<sup>45</sup> In addition, in the past refugee settlements in Yumbe and Arua district have been attacked by rebels operating in the West Nile region.<sup>46</sup> Thus many refugees interviewed in Kampala reported having fled from settlements due to threats related to their physical security. For instance, one refugee who had come to Kampala from a settlement in Adjumani stated that “our places were burned by the Kony rebels” and in response he had decided to move to Kampala without delay.<sup>47</sup> Another refugee who had previously lived in a refugee settlement in Arua district stated that he came to Kampala because rebels attacked his camp and killed all of his relatives.<sup>48</sup>

Refugees who fled armed insurgents never ‘decided’ to leave settlements, rather they fled in the midst of an armed attack.<sup>49</sup> The alleged presence of Congolese and Rwandese rebel groups in refugee settlements also motivated refugees to move to Kampala.<sup>50</sup> For example, a Congolese refugee stated that he “would never return to the camps ... there is too much insecurity ... Rwandese agents are there.”<sup>51</sup> Another Rwandese refugee stated that he “wouldn’t return to Nakivale [refugee settlement] because of safety issues.”<sup>52</sup>

Some refugees stated that they had left settlements due to the harsh social and economic conditions in the settlements.<sup>53</sup> For instance, one refugee leader stated that “no one can say that they like life in the camp. I have been and know what they are like. If you tell them [refugees] to go to the camp, they will not go.”<sup>54</sup> Another refugee described camps as “prisons.”<sup>55</sup> Yet other refugees left settlements to access employment opportunities in Kampala.<sup>56</sup> As one refugee stated, “I would never return to a camp because of a job in Kampala.”<sup>57</sup> There were also refugees who had left their settlements in order to access certain services or to take advantage of commercial markets—they planned to return to their respective settlements upon completion of their mission.<sup>58</sup> This raises the possibility that some refugees may be benefiting from services that are offered in settlements while

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<sup>45</sup> For more information on incidents where refugee settlements have come under attack by the LRA and other rebel groups, see Lucy Hovil and Alex Moorehead, *War as Normal: The Impact of Violence on the Lives of Displaced Communities in Pader District, Northern Uganda*, RLP Working Paper No. 5, June 2002; and Lucy Hovil, *Refugees and the Security Situation in Adjumani District*, RLP Working Paper No. 2, June 2001.

<sup>46</sup> For more information on the conflict in West Nile, see Zachary Lomo and Lucy Hovil, *Negotiating Peace: Resolution of Conflicts in Uganda’s West Nile Region*, RLP Working Paper No. 12, June 2004.

<sup>47</sup> Interview with refugee, Makindye, Kampala, 14<sup>th</sup> October 2004.

<sup>48</sup> Interview with refugee, Lubaga, Kampala, 11<sup>th</sup> October 2004.

<sup>49</sup> This observation was also made in RLP Working Paper No. 14, p. 15.

<sup>50</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004. This complaint is also commonly heard in the RLP’s legal aid clinic and usually relates to settlements, such as Kyaka II and Nakivale, that house Rwandese and Congolese refugees.

<sup>51</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>52</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>53</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004. See also for example, Lucy Hovil, *Free to Stay, Free to Go? Movement, Seclusion and Integration of Refugees in Moyo District*, RLP Working Paper No. 4, May 2002; and Eric Werker, *Refugees in Kyangwali Settlement: Constraints on Economic Freedom*, RLP Working Paper No. 7, November 2002.

<sup>54</sup> Interview with refugee leader, Lubaga, Kampala, 11<sup>th</sup> October 2004.

<sup>55</sup> Interview with refugee, Kasubi, Kampala, 15<sup>th</sup> October 2004.

<sup>56</sup> Interview with refugee, Makindye, Kampala, 14<sup>th</sup> October 2004.

<sup>57</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

<sup>58</sup> Interview with refugee, Lubaga, Kampala, 11<sup>th</sup> October 2004; focus group discussion with refugees, Lubaga, Kampala, 12<sup>th</sup> October 2004.



simultaneously exploiting their creative abilities in a major commercial centre such as Kampala.<sup>59</sup>

### 3 ASSISTANCE AND SUPPORT AVAILABLE TO ASYLUM SEEKERS UPON ARRIVAL

Upon arrival in Kampala, the majority of new asylum seekers face immense difficulties accessing basic services such as healthcare, shelter, and food. As noted above, some asylum seekers already have friends or relatives in Kampala who may provide initial support. The majority of refugees and asylum seekers interviewed, however, appeared to be without such support networks. Thus upon arrival, many asylum seekers randomly inquire from people in bus stations and on the street where other people of the same nationality could be found. For example, one Somali refugee stated that when she arrived at the bus park, she inquired “where people can find Somali nationals,” and then was directed to Mengo Kisenyi and “one of them [another Somali] gave us a place.”<sup>60</sup> A Congolese asylum seeker had a similar experience—she stated that when “someone told me that Congolese are in Kisenyi, that is where I went and found a woman to take me in.”<sup>61</sup>

#### 3.1 Access to shelter, medical care and food upon arrival

Asylum seekers who are unable to access informal networks of support are left with few options in terms of accessing shelter and other necessities. Even if asylum seekers are willing to move to refugee settlements, the process of registering as an asylum seeker and being accorded refugee status takes at least two months, leaving asylum seekers stranded in Kampala in the intervening time.<sup>62</sup> There are only two organisations, InterAid and the Jesuit Refugee Services (JRS) that specifically assist asylum seekers in Kampala; both are overstretched and readily admit that they lack capacity to assist and provide for all asylum seekers in Kampala.<sup>63</sup> The capacity of these two organisations is primarily affected by government policy, supported by UNHCR, that assistance for refugees should mainly be provided in refugee settlements. In other words, the assistance offered in Kampala terminates once refugee status has been accorded, and in some cases even before that due to lack of resources. The limited extent to which assistance is provided in Kampala is specifically intended to encourage refugees to go to settlements as soon as they have been given refugee status.

The only assistance provided to asylum seekers in Kampala by InterAid, UNHCR’s implementing partner in Kampala, is assistance in cases of medical emergency. InterAid provides housing, food, medical and educational allowances, but this support is reserved for refugees who have been referred to Kampala by settlement commandants and who are listed on UNHCR’s urban caseload.<sup>64</sup> Without such a referral from a settlement commandant, in

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<sup>59</sup> Previous research conducted by the RLP resulted in similar findings: see RLP Working Paper No. 14, p. 33.

<sup>60</sup> Interview with refugee, Mengo Kisenyi, Kampala, 27<sup>th</sup> September 2004. Other Somali refugees related similar experiences: interviews with refugees, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004.

<sup>61</sup> Interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004.

<sup>62</sup> Interview with Senior Legal Officer, Refugee Law Project, 22<sup>nd</sup> February 2005. The refugee status determination process is described in detail in Section 4.

<sup>63</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004; interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>64</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004. InterAid maintains a house for refugees with security concerns and a second house for refugees who need health treatment in Kampala, but again, these houses are reserved for those refugees who are on the urban caseload.

theory a refugee does not qualify for any type of assistance provided to refugees on the urban caseload.<sup>65</sup> However, there are cases where InterAid has provided medical assistance to refugees who were not on the urban caseload.<sup>66</sup>

JRS offers asylum seekers emergency assistance through coupons which they can exchange in local shops for food, stipends for rent, healthcare, legal counselling and psychosocial support.<sup>67</sup> JRS only has the capacity to assist 350 asylum seekers per month, while they receive up to 450 requests for assistance every month.<sup>68</sup> In addition, in October 2004, when the RLP interviewed the Project Director of the Urban Programme at JRS, the JRS medical assistance budget for 2004 had already been completely depleted. Thus JRS is clearly over-stretched. In addition, JRS can only afford to provide food coupons for six months, and stipends for housing are only provided for two months.<sup>69</sup> The money that is provided for accommodation is very little, resulting in refugees facing difficulties in locating adequate housing.<sup>70</sup> JRS also refers asylum seekers to Agape House, a house maintained by a church, St. Matia Mulumba in Old Kampala, which provides shelter for asylum seekers. Agape has room for 30 asylum seekers at any one time and, due to high demand and the GoU's and UNHCR's insistence on focusing the provision of assistance in settlements, asylum seekers can only stay for up to three months.<sup>71</sup> In essence, JRS is the only real provider for urban asylum seekers, and when asylum seekers are accorded refugee status, in most cases JRS stops all support.<sup>72</sup> The duration of the assistance provided to refugees in Kampala is thus directly tied to the time it takes for an asylum seeker to be granted refugee status—in some cases asylum seekers are granted status after one or two months, and in such cases JRS can only provide assistance for that limited period of time.<sup>73</sup>

### 3.2 Methods of survival upon arrival

Due to the considerable gap between the demand for assistance and the amount of assistance that is actually available, many asylum seekers sleep out on the streets and in other public places.<sup>74</sup> Numerous asylum seekers stated that they slept outside Old Kampala Police Station,

<sup>65</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 8<sup>th</sup> October 2004.

<sup>66</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004.

<sup>67</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>68</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>69</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>70</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004. Stipends provided to asylum seekers are as follows: 20,000/month for four people or less; 25,000/month for five people; 30,000/month for six people. All amounts are in Ugandan shillings.

<sup>71</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>72</sup> JRS cannot continue to support asylum seekers once they have been granted refugee status due to the government policy of focusing refugee assistance in settlements. In 1998 JRS started its urban refugee programme which initially did offer assistance to asylum seekers after they had been granted refugee status. OPM was concerned that this assistance might draw increased numbers of refugees out of settlements to Kampala, and thus put pressure upon JRS to re-think its assistance strategy. For three months in 2004 JRS closed to reassess their objectives and capacity, and then decided to only assist asylum seekers. Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>73</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004. Some asylum seekers, such as many Congolese and Sudanese asylum seekers, are granted *prima facie* refugee status. Since it only takes a relatively short amount of time for their claims to be decided, they only receive assistance from JRS for a correspondingly short time. *Prima facie* refugee status is discussed in detail in Section 4.1.

<sup>74</sup> The lack of shelter available to asylum seekers was also found to be an issue of concern in RLP Working Paper No. 6, p. 16.

the RLP or InterAid. One refugee stated that he used to sleep outside Old Kampala Police Station but was told that if he continued to sleep there he would be taken to Luzira prison.<sup>75</sup> Even when assistance is made available, the amount is so small that it may not be enough to rent a room. One refugee explained that he was provided with a housing allowance by JRS, but he maintained that the amount was too little to afford a rented room and therefore he was sleeping outside the offices of the RLP.<sup>76</sup> InterAid, RLP and Old Kampala Police station are all located in Old Kampala, which is already a congested area even without the presence of refugees and asylum seekers.<sup>77</sup> There appear to be increasing levels of concern amongst the local population in Old Kampala regarding the presence of refugees in the area, with refugees being accused of crimes such as petty thefts.<sup>78</sup> However, in reality, the number of crimes committed by foreign nationals in Old Kampala, including refugees, is far smaller than the number of crimes committed by nationals.<sup>79</sup> Furthermore, as the police statistics do not indicate whether or not the foreign nationals who are convicted of committing crimes are refugees, it is impossible to attribute these crimes specifically to refugees. However, as the community in Old Kampala “is not sensitised to what a refugee is,”<sup>80</sup> it comes as no surprise that refugees have become scapegoats for general problems affecting the wider community.

In response to the limited assistance available from the official refugee agencies, some asylum seekers seek help from individuals who offer support in their personal capacity. A Rwandese asylum seeker stated “a born-again man helps me and gives me a place to stay.”<sup>81</sup> A female Burundian refugee had found support from a Congolese man, but she stated, “The main problem is staying in someone’s house and depending on [this] man for food,” and worrying that “he may get tired of us and send us away.”<sup>82</sup> A group of Sudanese asylum seekers stated that they stayed at the home of a religious leader in Lubaga and “all pool money together” for rent.<sup>83</sup> A Somali refugee told the RLP that he lived in a mosque in Kisenyi.<sup>84</sup> While it is positive that individuals are willing to extend personal support to asylum seekers and refugees, once assistance is provided in the personal realm, its continuity and dependability is no longer guaranteed. Moreover, in the absence of external monitoring, there is a risk that the beneficiaries of such assistance might become vulnerable to neglect and even abuse.

When issues related to physical safety and security arise for refugees in Kampala, access to social support and other protective mechanisms is limited because of the GoU’s policy of focusing refugee assistance and protection in rural settlements.<sup>85</sup> Often, the only solution offered to refugees who experience protection issues in Kampala is relocation to settlements. The result is that many refugees find themselves facing an impossible dilemma. On the one

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<sup>75</sup> Interview with refugee, Lubaga, Kampala, 11<sup>th</sup> October 2004.

<sup>76</sup> Interview with refugee, Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>77</sup> Interview with Kampala City Council official, 12<sup>th</sup> October 2004.

<sup>78</sup> Interview with Kampala City Council official, 12<sup>th</sup> October 2004; interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>79</sup> Records in Old Kampala Police Station indicate that foreign nationals committed 29 crimes in 2004, compared to approximately 40 crimes committed in 2003. The types of crime committed by foreign nationals, including theft, defilement and rape, are no different from the crimes committed by Ugandans. Police records, at least in Old Kampala, only indicate the nationality of criminals—the records do not show the legal status of foreign nationals. Records were examined at Old Kampala Police Station on 21<sup>st</sup> April 2005.

<sup>80</sup> Interview with Kampala City Council official, 12<sup>th</sup> October 2004.

<sup>81</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>82</sup> Interview with refugee, Mengo Kisenyi, 28<sup>th</sup> September 2004.

<sup>83</sup> Interviews with refugees, Lubaga and Old Kampala, Kampala, 11<sup>th</sup> October 2004.

<sup>84</sup> Interview with refugee, Mengo Kisenyi, 28<sup>th</sup> September 2004.

<sup>85</sup> Section 6 of this paper analyses protection and security issues in detail.

hand they fear for their safety in Kampala and have no access to protection in Kampala, whereas if they relocated to a settlement they would have access to protection mechanisms. On the other hand, they often also have compelling reasons for wanting to remain in Kampala, since that is where they feel they are able to utilise their skills so as to support themselves, because of access to employment and markets. In light of the fact that the ultimate objective of the GoU's refugee policy is for refugees to become self-reliant, the GoU and UNHCR should support decisions by refugees who, for economic reasons, wish to remain in Kampala. To this end, adequate arrangements to address refugees' security concerns in Kampala should be put in place.

#### 4 THE REFUGEE STATUS DETERMINATION PROCESS

This section highlights some persistent problems in the Refugee Status Determination (RSD) process and the limited extent to which issues raised previously by the RLP have been addressed by OPM and UNHCR. In July 2002, the RLP published a report on the RSD process which described a largely unstructured RSD process, with multiple processes built into one supposedly 'standard' process.<sup>86</sup> In addition, previous research found that the GoU had different RSD procedures for different nationality groups.<sup>87</sup> The current study found that to some small extent, RSD procedures have since been standardised and the practice of officially employing different procedures for different nationality groups has ended. Such developments are welcome improvements. Previous RLP research also found that there was ambiguity between the roles of the GoU and UNHCR in the RSD process.<sup>88</sup> The current study found that refugees often did not understand the different responsibilities of UNHCR and the GoU in the RSD process, and neither did they understand the specific role of UNHCR's implementing partners. Another recurring issue relates to the provision of humanitarian assistance to urban refugees, which to a large extent is intricately linked to the RSD process.<sup>89</sup>

##### 4.1 The official process

When asylum seekers first arrive in Uganda, they are supposed to report to the nearest police post at the point of entry.<sup>90</sup> If asylum seekers register in Kampala, the first point of registration is also with the police, at Old Kampala Police Station in Old Kampala.<sup>91</sup> The Special Branch of the police holds initial interviews at Old Kampala Police Station, where initial biographical facts are recorded as well as the reasons for the refugee's flight. After an initial interview has been conducted, special branch police officers write a summary, and the case file is sent to InterAid.<sup>92</sup> Although Old Kampala Police Station is the official first point of registration, if asylum seekers happen to arrive at OPM first, OPM also conducts initial interviews and the files are also sent to InterAid.<sup>93</sup> At InterAid, UNHCR protection officers conduct interviews on Tuesdays and Thursdays. If an asylum seeker is granted *prima facie*

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<sup>86</sup> RLP Working Paper No. 6, p. 7.

<sup>87</sup> *Ibid.*, p. 11.

<sup>88</sup> *Ibid.*, p. 7.

<sup>89</sup> *Ibid.*, p. 16.

<sup>90</sup> Interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>91</sup> Interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>92</sup> Interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>93</sup> Interview with Protection Assistant, OPM, 22<sup>nd</sup> April 2005.

refugee status, UNHCR writes a letter acknowledging that status has been granted and stating which settlement the refugee is being referred to. OPM endorses such letters and then, through InterAid, refugees are sent to the appropriate settlement.<sup>94</sup> *Prima facie* status is derived from the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (hereinafter referred to as the 1969 OAU Convention), which broadens the definition of a refugee so as to encompass people who flee conflict and generalised violence.<sup>95</sup> While asylum seekers from Sudan and the eastern Democratic Republic of Congo (DRC) are usually granted *prima facie* status, if initial interviews raise the possibility that these asylum-seekers are not in fact fleeing violence, or that their presence in Uganda might represent a threat to national security, they are sent by OPM to the headquarters of the Special Branch of police for an interview.<sup>96</sup> Additionally, asylum seekers from countries where no armed conflict is taking place, such as Rwanda, are also sent to Special Branch headquarters for an interview. Notes taken during this interview, and notes from the initial interview at Old Kampala Police Station, are then sent to the Refugee Eligibility Committee (REC), which is an inter-ministerial committee that decides on claims for refugee status.<sup>97</sup> The amount of time it takes for the refugee status determination process to be completed ranges from one or two months for *prima facie* cases, to two years for cases that have to be determined by the REC.<sup>98</sup> At the time of writing, the REC was still deciding cases dating back to 2003.<sup>99</sup>

#### 4.2 Step two: permission to remain in Kampala

Once refugee status is granted, refugees who wish to remain in Kampala begin a second process. Although previously refugees were only officially allowed to stay in Kampala if they were on the urban caseload, currently if refugees can prove 'self-sufficiency' they are issued a refugee identity document that enables them to remain in Kampala.<sup>100</sup> According to OPM, for a refugee to be considered 'self-sufficient', he or she must show proof of residency in the form of a letter from a local councillor (LC), and proof of employment in the form of a letter from an employer.<sup>101</sup> OPM has stated that it does not wish to encourage "desperate" refugees to remain in Kampala, and wants to limit permission to reside in Kampala to professionals, students and others who have viable means to support themselves.<sup>102</sup> It is important to note that this policy has only been verbally articulated by both OPM officials and refugees and has been extremely difficult to monitor.<sup>103</sup> While initially refugees reported difficulties in obtaining identification documents if they wished to remain in Kampala, recently the level of complaints of this nature appears to have been minimal.<sup>104</sup>

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<sup>94</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 8<sup>th</sup> October 2004.

<sup>95</sup> Article 1(2) of the 1969 OAU Convention states: "The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

<sup>96</sup> Interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>97</sup> Interview with Divisional Special Branch Officer, Old Kampala Police Station, Kampala, 5<sup>th</sup> October 2004.

<sup>98</sup> Interview with Senior Legal Officer, Refugee Law Project, 22<sup>nd</sup> February 2005.

<sup>99</sup> Interview with Immigration Officer, Immigration Headquarters, Kampala, 24<sup>th</sup> February 2005. This officer is a member of the REC.

<sup>100</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 8<sup>th</sup> October 2004.

<sup>101</sup> Interview with OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>102</sup> Interview with OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>103</sup> Interview with Senior Legal Officer, Refugee Law Project, 22<sup>nd</sup> February 2005.

<sup>104</sup> Interview with Senior Legal Officer, Refugee Law Project, 22<sup>nd</sup> February 2005.

Regardless of the way the policy is implemented in practice, the policy creates a link between refugee status and ‘self-sufficiency’ which undermines the meaning of a refugee as defined in international refugee law.<sup>105</sup> For those refugees who wish to stay in Kampala, the policy makes the issuing of identity documents dependent on refugees being able to prove self-sufficiency. In these circumstances, the inevitable result of the policy is that even if refugee status has been granted, the identity document which acts as tangible proof of refugee status may be withheld if the refugee in question wishes to remain in Kampala without being able to prove self-sufficiency. This is contrary to Uganda’s obligations under the 1951 Convention, according to which Uganda must accord to all refugees the right to choose their place of residency and to move freely within its territory (Article 26), and must issue identity papers to all refugees in its territory who do not possess valid travel documents (Article 27).

Furthermore, the research findings demonstrate that self-sufficiency is not necessarily permanent—indeed, self-sufficiency is a state that can easily slip away due to a number of circumstances. In one instance, the RLP was informed of a female refugee who was initially able to support herself and her family in Kampala because of remittances she was receiving from a relative in Canada. This relative then became sick and was unable to continue sending money, resulting in the refugee in Kampala being no longer ‘self-sufficient.’<sup>106</sup> Refugees, like other individuals, lose jobs, have children who may become ill, and have fluctuating incomes. Self-sufficiency, especially regarding refugees from countries in the Great Lakes region, cannot be used as a basis for deciding if a refugee can remain in Kampala.

Finally, even for those refugees who manage to prove their ‘self-sufficiency’ and who are given identity documents, the problems do not necessarily end. The only services that they can continue to access as refugees are emergency medical assistance offered to all refugees by InterAid, and InterAid’s credit schemes.<sup>107</sup> For all other services, they have to rely on Kampala’s municipal services. However, local government officials and civil servants in Kampala do not appear to be aware of the presence of refugees in the city, and refugees are not budgeted for in city planning provisions. Section 5 of this paper discusses in detail the response of Kampala City Council to the urban refugee population, as well as the difficulties faced by urban refugees in accessing services in Kampala.

### **4.3 Flaws in the RSD process**

Every refugee who seeks asylum in Uganda goes through the RSD process. Although the RSD process is accessible to the majority of asylum seekers in Kampala, findings indicate that there are a number of fundamental flaws in the process that must be addressed by UNHCR and OPM.

In addition, serious flaws that were documented previously by the RLP have yet to be addressed by OPM and UNHCR. First, asylum seekers are not allowed legal representation in the first instance.<sup>108</sup> Second, asylum seekers who are denied refugee status by the REC are

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<sup>105</sup> International refugee law denotes treaty law, in particular the 1951 Convention and the 1969 OAU Convention; and soft law, including the Statute of UNHCR, ExCom Conclusions, United Nations General Assembly resolutions and Security Council resolutions.

<sup>106</sup> Interview with refugee, Bakuli, Kampala, 14<sup>th</sup> October 2004.

<sup>107</sup> Interview with Director, InterAid Uganda, Kampala, 6<sup>th</sup> October 2004. Our findings indicate that in practice, refugees who remain in Kampala lack access to credit facilities. This is discussed in detail in Section 5.1 of this report.

<sup>108</sup> RLP Working Paper No. 6, p. 15.

not provided with a legal reasoning as to why their claim was denied.<sup>109</sup> As a result, appeals are drafted with limited understanding of the reasons why particular cases were denied in the first instance. Furthermore, an independent appeals process separate from the REC is non-existent; asylum seekers may only request that their case be reviewed by the REC for a second time.<sup>110</sup> The Control of Alien Refugees Act does not include an express right to appeal refugee status determinations made in the first-instance.<sup>111</sup> Although the new refugee bill includes a provision for a Refugee Appeals Board to be established separately from the REC,<sup>112</sup> this Appeals Board would only have the power “to set aside the decision of the Eligibility Committee [the REC] and refer the matter back to the Committee for further consideration and decision.”<sup>113</sup> In other words, the Board may offer an opinion on a case, but it is not granted the power to substitute its own decision for the REC’s decision at first instance. An express provision for a right to appeal to a court of law does not yet exist in the proposed legislation. Despite the fact that these issues were raised in 2002, they are still waiting to be addressed by the relevant actors.

#### **4.3.1 Lack of information and confusion regarding the RSD process**

Findings demonstrate that refugees do not receive clear information about the RSD process, and as a result many of them question the integrity and impartiality of the process. Confusion exists regarding the workings of the RSD process, especially in relation to the roles of UNHCR and InterAid. In a group discussion, one refugee stated “we need more information on [the] role of UNHCR and the whole problem of getting protection interviews.”<sup>114</sup> Furthermore, some asylum seekers were totally unaware of the RSD process: they either had no idea that it existed, or thought they could just register with the LC official in their area of residence.<sup>115</sup> During the course of the research, interviewees often thought that we were there to register them. We then found ourselves not only researching these issues but also providing information as to how the RSD process works. This confusion was exacerbated by the fact that local government officials in areas where refugees reside were also found to be unaware of the RSD process for asylum seekers. A local leader in Lubaga, an area of Kampala where many refugees reside, stated that refugees had to register with the “refugee society,” and that they are not officially registered with anyone.<sup>116</sup> Even at the City Council level, officials were confused about the presence of refugees in Kampala. The head of the department of Welfare and Community Services in Kampala City Council stated, “We don’t handle refugees in Kampala.”<sup>117</sup>

#### **4.3.2 Lack of access to decision makers**

Even if asylum seekers knew how the RSD process worked, a number of asylum seekers reported being denied access to the process. For example, one Kenyan asylum seeker stated,

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<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Control of Alien Refugees Act, 1960, Laws of Uganda, Cap. 64.

<sup>112</sup> The Refugees Bill 2003, s. 17, *Bills Supplement No. 8*, Uganda Gazette No. 58 XCVI, 21 November 2003.

<sup>113</sup> The Refugees Bill 2003, s. 17(2B).

<sup>114</sup> Focus group discussion, ASSOREF (Association of Francophone Refugees), Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>115</sup> Interviews with refugees, Mengo, Kampala, 29<sup>th</sup> September 2004.

<sup>116</sup> Interview with local official, Lubaga, Kampala, 14<sup>th</sup> October 2004.

<sup>117</sup> Interview with Kampala City Council official, Kampala, 12<sup>th</sup> October 2004.

“UNHCR keeps telling me to come back,” and that InterAid “refused to register me.”<sup>118</sup> According to UNHCR, protection interviews are held at InterAid in order to make UNHCR more accessible to refugees.<sup>119</sup> However, asylum seekers do not understand why they must “pass through” InterAid to see UNHCR protection officers.<sup>120</sup> Generally, asylum seekers felt that direct access to UNHCR was severely limited and they did not understand why this was the case.<sup>121</sup> Many refugees and asylum seekers expressed anger towards InterAid, suggesting the need for careful thought on the setting in which UNHCR protection interviews are conducted. Refugees also stated that UNHCR and other NGOs interacted with refugees on the basis “that they were all liars.”<sup>122</sup> One Sudanese refugee stated “most people don’t even try to register. UNHCR threatens you—they know about rebels and force you onto the bus, send you back to camps, they are not even secure.”<sup>123</sup>

Overwhelmingly, the lack of direct access to those who make refugee status decisions caused anger and confusion amongst refugees and asylum seekers. On occasion such situations may lead to extreme frustrations on the part of refugees. As Naoko Obi and Jeff Crisp rightly point out, “if UNHCR staff members regard and treat all urban refugees as potential trouble makers, then they are all the more likely to act in such a manner.”<sup>124</sup>

Refugees and asylum seekers also require access to UNHCR protection officers for issues related to security concerns in Kampala. They experience the same difficulties in accessing protection officers as in the case of the RSD process. For example, a Burundian refugee said he wanted to see a UNHCR protection officer but was repeatedly told to come back later—he has yet to receive an appointment.<sup>125</sup>

#### 4.3.3 Security in the RSD process

Many asylum seekers and refugees stated that, due to Uganda’s alleged involvement in conflicts in neighbouring countries, they were extremely fearful of registering as refugees. The registration process requires the disclosure of reasons for flight and asylum seekers were unsure of OPM’s ability to keep their information confidential. A number of Sudanese asylum seekers stated that they had not registered because they suspected Uganda of supporting the Sudan People’s Liberation Army (SPLA).<sup>126</sup> Given that many of these asylum seekers were SPLA deserters, they feared reprisals from the SPLA. One Sudanese refugee expressed his concern that the SPLA has access to information pertaining to refugees in Uganda.<sup>127</sup> Sudanese asylum seekers also stated that they did not wish to register since registering would result in being sent to northern Uganda where the SPLA is known to operate. One Sudanese asylum seeker stated that if he registered as a refugee “they’ll send me

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<sup>118</sup> Interview with refugee, Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>119</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 8<sup>th</sup> October 2004.

<sup>120</sup> Focus group discussion, ASSOREF (Association of Francophone Refugees), Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>121</sup> Focus group discussion, ASSOREF (Association of Francophone Refugees), Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>122</sup> Focus group discussion, ASSOREF (Association of Francophone Refugees), Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>123</sup> Interview with refugee, Nsambya, Kampala, 14<sup>th</sup> October 2004.

<sup>124</sup> Obi and Crisp, 2002, p. 8.

<sup>125</sup> Interview with refugee, Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>126</sup> Interview with refugee, Lubaga, Kampala, 12<sup>th</sup> October 2004; interview with refugee, Nsambya, Kampala, 14<sup>th</sup> October 2004.

<sup>127</sup> Interview with refugee, Lubaga, Kampala, 13<sup>th</sup> October 2004.



to Kitgum and to a camp. It is not safe there because of the SPLA. I would register if I could stay here.”<sup>128</sup> Even if only a rumour, the relationship between the SPLA and the Ugandan government is a real fear amongst many Sudanese refugees and asylum seekers. In addition, this fear is hard to dispel and appears to be a factor that influences some Sudanese asylum seekers’ decisions about accessing RSD procedures.

Both Rwandese and Congolese refugees also expressed fears that the refugee status determination process might expose them to danger. For instance, one Rwandese refugee stated, “OPM said they lost my paperwork, but I think the governments of Rwanda and Uganda are sharing information.”<sup>129</sup> A Congolese asylum seeker stated that he did not want to register with the police because of the sensitivity of his case. Instead, he wished that he could report directly to UNHCR.<sup>130</sup> The relationship between elements within the Ugandan government and rebel groups in the eastern DRC has also been independently documented.<sup>131</sup> Some Congolese asylum seekers are clearly aware of this dynamic, and, like Sudanese asylum seekers, are reluctant to report to Ugandan government representatives. In places where asylum seekers congregate, such as InterAid, asylum seekers were also mindful of the presence of agents either from their home country or from other rebel groups.<sup>132</sup> For example, a Rwandese refugee stated that while he was at InterAid he was approached by another Rwandese national who said he could help him to find a job. The refugee stated that he made an appointment to meet this man the next day, and that he was then taken to meet the First Secretary of the Rwandese Embassy in Kampala—they allegedly wanted this refugee to become a spy. The refugee refused, and he claimed that since this interaction he has been followed.<sup>133</sup>

When asylum seekers do not register, often the result is that they go without identity papers and become vulnerable to arrest and detention. It is therefore of paramount importance that issues of confidentiality are taken into account at every stage of the RSD process, so that refugees’ confidence in registering with the authorities in Uganda is not undermined by their fear of information being leaked to the authorities in their own countries. When the RLP visited Old Kampala Police Station, researchers were shown into a room where a Somali asylum seeker was in the process of being interviewed by a Special Branch police officer. As the RLP began its own interview with a different Special Branch officer, a Ugandan couple was brought in to explain a civil dispute to the officer who was interviewing the Somali asylum seeker. Thus in one small room a Somali asylum seeker was trying to explain why she had fled Somalia, the RLP was trying to gather information on the RSD process, and a Ugandan couple was trying to sort out a dispute with their neighbours. This situation illustrates the need for increased sensitivity in interviewing asylum seekers at every stage of the RSD process.

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<sup>128</sup> Interview with refugee, Lubaga, Kampala, 12<sup>th</sup> October 2004.

<sup>129</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>130</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>131</sup> In a recent report by an UN-appointed panel of experts, Uganda was cited as continuing to provide weapons and military support to groups in the eastern Congo. The Ugandan government denied such accusations. *DRC-Uganda: Kampala Denies Arms Embargo Violation Charges in UN Report*, IRIN, 1<sup>st</sup> February 2005.

<sup>132</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee leader, Old Kampala, Kampala, 14<sup>th</sup> December 2004; focus group discussion, ASSOREF (Association of Francophone Refugees), Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>133</sup> Interviews with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

#### 4.3.4 Language issues

The research findings suggest that language issues also impede refugees' access to the RSD process. For instance, a number of Congolese refugees stated that more services needed to be offered in French.<sup>134</sup> While InterAid provides interpretation in Arabic, Kiswahili, French and Amharic,<sup>135</sup> the Special Branch of the police is unable to provide interpreters for interviews conducted there, due to a lack of resources.<sup>136</sup> Previous research has noted that asylum seekers have no choice in accepting interpreters at InterAid, despite the fact that there may be legitimate concerns on the part of the asylum seeker which may lead to him or her feeling inhibited to reveal sensitive or personal information. Such concerns could for example be related to the interpreter's gender, ethnicity, or nationality.<sup>137</sup>

One way of addressing these difficulties is to allow asylum seekers to bring their own interpreters. However, due to the sensitivity of the information that is revealed in RSD interviews, it is of overwhelming importance that even in such a scenario, confidentiality is maintained by everyone involved.

Given the extremely serious consequences of deciding a claim for asylum wrongly, and the importance therefore of a refugee's account being translated correctly, as well as the necessity of maintaining confidentiality during asylum interviews, all interpreters involved in the RSD process should receive training on the requirements of formal interpretation. In Cairo, the Forced Migration and Refugee Studies Programme of the American University in Cairo organises a Community Interpreters Project that trains members of the refugee community in professional interpretation. Trained interpreters are then used by various organisations and institutions working with refugees, including UNHCR and legal aid clinics. Refugees in Kampala would similarly benefit from the presence of trained interpreters during their asylum interviews, and serious consideration should therefore be given to replicating such a project in Kampala.

#### 4.3.5 Sexual harassment

A number of female refugees and asylum seekers reported sexual harassment at different stages of the RSD process. Upon further inquiry, often these claims could not be substantiated. In addition, UNHCR, the Special Branch of police, and OPM have not received official complaints regarding sexual harassment. Nevertheless, the researchers were repeatedly presented with allegations about instances of sexual harassment on the part of officials involved in the RSD process. For instance, one female Rwandese refugee stated that the man who interviewed her at OPM tried "to get me to be with him. He said he could help me only if I was with him. I said no and he sent me to Special Branch."<sup>138</sup> In another example, a female Ethiopian refugee stated "I have been delayed because one of the officers at the Special Branch says that I was stubborn. He wanted me to get me in an interview in a restaurant, when I refused, he delayed my process maliciously."<sup>139</sup> Other refugees reported

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<sup>134</sup> Interviews with refugees, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>135</sup> Interview with Director, InterAid Uganda, Kampala, 6<sup>th</sup> October 2004.

<sup>136</sup> Interview with Superintendent of Police and Head of Refugee and Aliens Desk, Special Branch Headquarters, Kampala, 15<sup>th</sup> October 2004.

<sup>137</sup> RLP Working Paper No. 6, p. 15.

<sup>138</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>139</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

hearing rumours regarding sexual misconduct by officials who are involved in the RSD process. One Congolese refugee stated that it was easier for young beautiful women to advance their files as they could prostitute themselves to officials charged with determining their status.<sup>140</sup> Another Congolese refugee stated that if you gave money and sexual favours to workers at InterAid your case would be handled faster.<sup>141</sup> Again, while none of these claims could be independently verified, and recognising the power of rumours, the fact that the above complaints exist are worrying and show the need for careful monitoring of the RSD process by both OPM and UNHCR. Mechanisms and procedures for filing formal complaints regarding any misconduct on the part of interviewers should also be instituted and information about such procedures should be made available to all refugees and asylum seekers, especially females.

#### 4.4 The RSD process for unaccompanied minors

When unaccompanied minors arrive in Kampala, their claims for refugee status are expedited and are not heard by the REC.<sup>142</sup> Both UNHCR, OPM, and Special Branch lack specifically trained officers to interview children,<sup>143, 144</sup> which, according to OPM, is due to a lack of capacity.<sup>145</sup> While unaccompanied minors are waiting for their claims to be decided and then for transport to a refugee settlement, temporary shelter is not available, although occasionally unaccompanied minors are housed in InterAid's medical or security house.<sup>146, 147</sup> Although InterAid has recently received new instructions to integrate unaccompanied asylum seeker minors into the Ugandan foster care system, this policy has yet to be implemented.<sup>148</sup> One UNHCR official expressed scepticism about such a policy: "In an ideal world, these children would be taken up by the Ugandan child protection system. But although the law says that there should be no discrimination between refugee and Ugandan children, in reality, it is difficult for Ugandan families to take them in."<sup>149</sup> As the new foster care system has yet to take effect, unaccompanied refugee children are sent to settlements where foster families are then found,<sup>150</sup> which in theory makes it easier for UNHCR to monitor cases of unaccompanied minors and ensure that exploitation is not taking place.<sup>151</sup> In practice, it is not clear if and how such monitoring is implemented. Further research in this area is required.

The situation of unaccompanied refugee minors in Kampala is also in need of further research and monitoring. UNHCR has publicly recognised that "the emotional development of children may be adversely affected by remaining for years in the artificial environment of a refugee centre or camp where normal life activities are impossible."<sup>152</sup> If that is true for children who are living in refugee settlements with their parents, it is true even more so for unaccompanied minors. At the same time, the effect of the 'self-sufficiency principle' on

<sup>140</sup> Interview with refugee community leader, Owino Market, Kampala, 12<sup>th</sup> October 2004.

<sup>141</sup> Interview with refugee, Old Kampala, Kampala, 28<sup>th</sup> September 2004.

<sup>142</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

<sup>143</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

<sup>144</sup> Interview with OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>145</sup> Interview with OPM Senior Protection Officer, OPM, Directorate of Refugees, 3<sup>rd</sup> October 2004.

<sup>146</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

<sup>147</sup> Interview with Director, InterAid Uganda, Kampala, 6<sup>th</sup> October 2004.

<sup>148</sup> Interview with Director, InterAid Uganda, Kampala, 6<sup>th</sup> October 2004.

<sup>149</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

<sup>150</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

<sup>151</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

<sup>152</sup> *UNHCR Policy on Refugee Children*, UNHCR, Geneva, 1994, p. 47.

accompanied minors remains unclear. As was noted earlier, officially UNHCR does not assist those refugees who remain in Kampala but who are not on the urban caseload. It is not clear whether the same policy is also applied to unaccompanied minors, so that when unaccompanied refugee minors decide to stay in Kampala after having been granted refugee status, for example because they receive material assistance from a church or an individual, UNHCR then considers that it is under no further obligation to support these minors. The systems that are in place to protect and care for unaccompanied minors need to be subjected to further scrutiny by all those responsible for the well-being of refugees and unaccompanied refugee minors in particular.

## 5 REFUGEES IN KAMPALA: LIVELIHOODS AND SUSTAINABILITY

Once asylum seekers are given refugee status, assistance and support is extremely limited if they opt to remain in Kampala. The assistance that is provided to refugees in Kampala is reserved for refugees on the urban caseload, and as noted above, this group of people represents an exceedingly small fraction of the entire urban refugee population. In light of this fact, the following section explores how urban refugees who are not on the urban caseload support themselves, and how they relate to the Ugandan urban community around them. Refugees' ability to access employment, education, and health is further examined.

Many refugees report difficulties in accessing city services for two principal reasons. First, it was revealed by one refugee service provider that many Ugandan service providers associate the term 'refugee' with 'UN' or 'NGO'.<sup>153</sup> It is assumed that refugees are not only well provided for, but in fact better off than Ugandan nationals as they are thought to be under the care of UNHCR.<sup>154</sup> This assumption is not completely unfounded, as UNHCR does provide a minimal level of assistance to refugees in settlements. However, as has been mentioned above, due to the 'self-sufficiency principle,' refugees who opt to live in Kampala when they are not on the urban caseload are in fact unable to access any material support from UNHCR, JRS, or InterAid. Nevertheless, as a result of service providers' mistaken perception of the assistance supposedly made available to urban refugees, services may be denied to refugees in Kampala, or refugees may be charged for what are usually free services. Thus, when attempting to access city services that are available to Ugandan nationals, JRS advises refugees not to identify themselves as refugees.<sup>155</sup> Perhaps because of this situation, numerous refugees of all nationalities stated that they rely on support and assistance from religious institutions and religious leaders who provide school fees, payment for medical assistance and food. Religious institutions provide such support to refugees on the same basis as the support they offer to the Ugandan urban poor.<sup>156</sup>

Secondly, it is assumed by Kampala's elected leaders and service providers that all refugees live in settlements. For example, one KCC official stated "real refugees ... are unable to support themselves [and] go to the camps."<sup>157</sup> The Chief Town Planner of Kampala stated that although he believed there were refugees in Kampala, neither he nor his department had

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<sup>153</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>154</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>155</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>156</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>157</sup> Interview with Kampala Central Division Official, Central Division offices, 5<sup>th</sup> October 2004.

recorded them; he thought they were looked after by the Ministry of Internal Affairs.<sup>158</sup> The Head of the Department of Welfare and Community Services at KCC informed the RLP that foreigners are referred to the central government, and that if they assisted refugees, they would be “encroaching on [the] central government’s responsibility.”<sup>159</sup> Another KCC official said the City only budgets according to the Local Governments Act of 1997, and providing service to refugees is not a delegated service found in the Act.<sup>160</sup>

Research discussed below shows that in some areas of service provision, such as healthcare, refugees do not report any discrimination and are able to access services like any Ugandan resident of Kampala. However, in other areas access for refugees is severely limited, specifically in areas such as accessing credit and education where refugees may have special requirements, for example to overcome language barriers. These issues are discussed in detail below.

### **5.1 Access to employment, credit, and other business opportunities**

On paper, the Ugandan constitution gives everyone in Uganda the right to employment and the right to practise professions.<sup>161</sup> Moreover, the 1951 Convention states that Contracting States “shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.”<sup>162</sup> In terms of Ugandan domestic legislation, Section 15 of the CARA states that “arrangements may be made for offering employment to refugees who shall be paid for such employment at the appropriate rate of wages prevailing in Uganda for the performance of similar work.”<sup>163</sup> According to the Immigration Department, the ‘arrangements’ referred to amount to the requirement that refugees provide three documents: a letter of recommendation from OPM which states that a work permit should be issued for a certain refugee, a confirmation letter from the employer, and finally proof of refugee status.<sup>164</sup> According to the Immigration Department, the cost of the work permit is paid for by the employer.<sup>165</sup> However, OPM asserts that they do not issue recommendation letters because refugees are exempted from having to apply and pay for work permits. OPM is aware that the high cost of work permits, which range from 300,000 to 400,000 Ugandan Shillings (approximately \$165-225), is prohibitive for most refugees. According to OPM, this is why refugees are exempt from applying for work permits.<sup>166</sup> OPM stated that if a refugee is requested by his or her employer to provide a work permit, OPM will write a reference

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<sup>158</sup> Interview with Kampala City Council official, Kampala, 4<sup>th</sup> October 2004.

<sup>159</sup> Interview with Kampala City Council official, Kampala, 12<sup>th</sup> October 2004.

<sup>160</sup> Interview with Kampala City Council official, 4<sup>th</sup> October 2004. Part 1(5) of the Second Schedule of the Local Governments Act, 1997, lists refugees as being the responsibility of the central government.

<sup>161</sup> Article 40 the 1995 Constitution provides for the “right of persons” to work and for the right of “every person in Uganda” to practise professions.

<sup>162</sup> 1951 Convention, Article 17. It should also be noted that Uganda has entered a reservation to Article 17, which states that refugees shall not benefit from preferential treatment granted to nationals of states who enjoy special privileges due to current or future treaties between Uganda and other countries, especially states of the East African Community and the Organization of African Unity. It is unclear if this reservation has any practical consequences—neither OPM nor UNHCR referred to this reservation when asked about access to employment for refugees.

<sup>163</sup> CARA, Section 15.

<sup>164</sup> Interview with Immigration Officer, Immigration Department, Kampala, 24<sup>th</sup> February 2005.

<sup>165</sup> Interview with Immigration Officer, Immigration Department, Kampala, 24<sup>th</sup> February 2005.

<sup>166</sup> Interview with Assistant Commissioner of Refugees, Office of the Prime Minister, 28<sup>th</sup> February 2005; interview with Protection Assistant, Office of the Prime Minister, 22<sup>nd</sup> April 2005.

letter to that employer which states that refugees are exempt from having to apply for work permits and are allowed to work if they are in possession of a refugee identity document.<sup>167</sup>

Thus the study found that different sectors of the government have different views on whether refugees do or do not need to apply for work permits. In practice, the study demonstrated that many refugees are understandably confused about the process of obtaining work permits. It is thus not surprising that few refugees reported having jobs in the formal economy. It may also be the case that employers are ignorant regarding the legality of employing refugees. For instance, one Sudanese refugee stated: “I was a teacher in nursery school. When they realised I was a refugee, they let me go.”<sup>168</sup> In another example, a representative from an NGO that works with refugees also stated that if someone identifies himself or herself as a refugee, obtaining employment is almost impossible.<sup>169</sup> The President of the Congolese Hair Dressers Association, who perhaps is better informed than other refugees, stated that the “one thing we appreciate from Uganda is that we don’t require work permits.”<sup>170</sup> This statement exemplifies the level of confusion as it implies that refugees are exempt from the legal requirements of the Immigration Department discussed above.

The study also found that many refugees work in the informal sector where refugees themselves are job creators. They do not appear to be aware that even work in the informal economy requires clearance from the Immigration and local authorities, particularly from local councillors in terms of tax collection. Work in the informal sector includes clearing land,<sup>171</sup> selling cassava,<sup>172</sup> or plaiting hair.<sup>173</sup> In addition to formal or informal employment, refugees survive by getting donations from churches, friends,<sup>174</sup> and by receiving remittances from family members who live abroad.<sup>175</sup>

All of these issues require further research. Findings suggest that if refugees have enough capital to start a business and pay all of the costs associated with the process of setting up a business, they appear to be able to work without going through the formal process of applying for a work permit, even if work permits are required in theory.<sup>176</sup> If, however, a refugee wishes to apply for a job in an already existing business or other enterprise, difficulty arises due to the perplexing regulatory situation explained above. For refugees who wish to use educational or vocational degrees and diplomas earned in their home countries, degree equivalent certificates must be obtained from the Ugandan National Examination Board (UNEBC).<sup>177</sup> This process costs UgShs 100,000, a sum that is beyond the reach of the majority of refugees. Furthermore, UNEBC often has difficulty establishing the authenticity of the original transcripts.<sup>178</sup>

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<sup>167</sup> Interview with Protection Assistant, Office of the Prime Minister, 22<sup>nd</sup> April 2005.

<sup>168</sup> Interview with refugee couple, Kasubi, Kampala, 15<sup>th</sup> October 2004.

<sup>169</sup> Interview with Administrator, Sudanese Human Rights Association, Lubaga, Kampala, 13<sup>th</sup> October 2004.

<sup>170</sup> Interview with refugee community leader, Owino Market, Kampala, 12<sup>th</sup> October 2004.

<sup>171</sup> Interview with refugee, Lubaga, Kampala, 12<sup>th</sup> October 2004; interview with refugee, Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>172</sup> Interview with refugee, Nsambya Kevina, Kampala, 14<sup>th</sup> October 2004.

<sup>173</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>174</sup> Interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004; interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>175</sup> Interview with refugees, Nsambya, Kampala, 14<sup>th</sup> October 2004.

<sup>176</sup> This issue has been investigated previously and again the findings demonstrated clearly the confusion that surrounds the issue of refugees accessing employment; see Harrell-Bond and Verdirame, 2005.

<sup>177</sup> Interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

<sup>178</sup> Interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

It must also be remembered that, given the precarious socio-economic situation faced by most refugees in Kampala, work is intricately connected to other needs being fulfilled. For instance, a Sudanese female refugee stated that she made a living by sewing clothes and selling them in open markets.<sup>179</sup> However, the woman was having problems with her eyes and was afraid she would be unable to continue sewing, and because of her family's economic situation she lacked funds for medical treatment.<sup>180</sup> As refugees can only be assisted in Kampala if they are on the urban caseload, those who have been assumed to be self-sufficient are expected to fend for themselves. In practice, they often have difficulties making ends meet on their own. A Somali refugee explained that she "used to cook in small restaurant but [the] place was broken into three months ago and everything was stolen," and thus all economic support and income was lost.<sup>181</sup>

Of course, many of these problems, such as lack of savings and inadequate medical care, affect all of Kampala's residents. However, there are a number of specific issues that impact on refugees' ability to engage in income-generating activities. Therefore, special assistance should be provided to refugees to the extent that is required to overcome these specific difficulties. The specific problems affecting refugees are of a varied nature. First, many refugees have endured trauma and, on occasion, physical torture. Some of these experiences make it difficult to maintain a state of normalcy, a difficulty which in turn affects all other aspects of daily life, including work.<sup>182</sup> Many refugees also lack contacts and relatives in Kampala, whereas for many people in Uganda this is the main avenue for securing employment. As one Sudanese refugee put it: "Ugandans don't look for quality, they look for family."<sup>183</sup> In other words, in the Ugandan context, it is not necessarily the qualifications an individual possesses, but his or her personal connections that help to secure employment.

Second, the study showed that many refugees struggle with language barriers. Not only do language barriers play a significant role in limiting access to employment opportunities for refugees, but refugees also reported experiencing discrimination at shops and markets due to their inability to conduct transactions in Luganda, the Ugandan language widely spoken in the central region of Uganda, including Kampala. One refugee observed that when refugees try to get around this obstacle by conducting transactions in Kiswahili instead of Luganda, they still were more likely to be overcharged.<sup>184</sup> This is due to the fact that while Kiswahili is spoken by many Ugandans, the Kiswahili spoken in for example the DRC is noticeably different from Ugandan Kiswahili.

The study also found that refugees had difficulties starting their own businesses for some of the same reasons as experienced by refugees trying to access formal employment: lack of clear regulations, traumatic personal experiences, and language barriers. While refugees

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<sup>179</sup> Interview with refugee couple, 15<sup>th</sup> October 2004.

<sup>180</sup> Interview with refugee couple, 15<sup>th</sup> October 2004. In principle, this woman should be able to access health care at either Mulago Hospital, the main government hospital in Kampala, or at a city-run clinic. Refugees' ability to access city healthcare services is discussed in detail in Section 5.3 of this report.

<sup>181</sup> Interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004.

<sup>182</sup> Interview with Chief Executive Officer, African Centre for the Rehabilitation and Treatment of Torture Victims (ACTV), Kisementi, Kampala, 12<sup>th</sup> October 2004.

<sup>183</sup> Interview with refugee couple, Kasubi, Kampala, 15<sup>th</sup> October 2004.

<sup>184</sup> Interview with refugee, Old Kampala, Kampala, 5<sup>th</sup> October 2004. Language barriers were also referred to by other interviewees: interview with refugee, Bakuli, Kampala, 14<sup>th</sup> October 2004; interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

recognised that being in Kampala offered business opportunities, most refugees lacked capital or other means to even think about starting up a business. One refugee business owner stated that other refugees could set up businesses if only they had start-up capital.<sup>185</sup> Lack of training in the basics of conceptualisation and running a business and lack of vocational skills were also factors that impeded refugees in the process of starting a business.<sup>186</sup> A Sudanese refugee explained that she made a living by sewing bed sheets and table clothes and “would like to learn how to use a sewing machine to improve the quality of production, which would then improve income.”<sup>187</sup> Although InterAid offers business training,<sup>188</sup> findings indicate that unfortunately facilities for refugees to receive information on training courses and other services are either unknown or non-existent. Additionally, some refugees were under the impression that the government did not allow refugees to start businesses,<sup>189</sup> and others were fearful regarding possible taxes.<sup>190</sup>

Having access to credit is one way in which many Ugandans are able to start businesses and improve their livelihoods.<sup>191</sup> In contrast, most refugees that we talked to in the course of the research had either never applied for credit or had applied and been denied. For example, one refugee explained that when she applied for credit, she had been asked for identification, which revealed she was not a citizen. She had then been denied credit, apparently also for being unable to provide a fixed address.<sup>192</sup> Numerous refugees stated that they simply did not know if refugees could obtain credit.<sup>193</sup> They also did not know where they could go to inquire if they could apply.<sup>194</sup> An inability to speak the appropriate language was also mentioned as a barrier to accessing credit.<sup>195</sup> One refugee stated that Ugandans would be hesitant to “loan to strangers.”<sup>196</sup> Although in theory InterAid offers access to credit to refugees through a revolving fund, even to refugees who are not on the urban caseload,<sup>197</sup> not one of the interviewees mentioned InterAid as a credit provider. Additionally, JRS stated that they refer their clients to other micro-finance organisations such as FINKA and Pride Africa.<sup>198</sup>

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<sup>185</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>186</sup> Interview with refugee, Nysamba Kevina, Kampala, 14<sup>th</sup> October 2004; Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>187</sup> Interview with refugee, Nsambya Kevina, Kampala, 14<sup>th</sup> October 2004.

<sup>188</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004.

<sup>189</sup> Focus group discussion, refugees, Namirembe, Kampala, 7<sup>th</sup> October 2004.

<sup>190</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>191</sup> In March 2004 the Private Sector Donor Group requested a review of the micro-finance sector in Uganda. The result, the “Uganda Micro Finance Effectiveness Review,” states that “urban markets are becoming saturated with micro credit and, for the first time, micro finance institutions (MFIs) are starting to compete for clients” (p. 3). In addition, the Review states that at the end of 2003, there were approximately 1,500 MFIs serving 935,000 small savers and close to 400,000 borrowers in Uganda (p. IV). Goodwin-Groen, R., Bruett, T., and Latorture, A., *Uganda Micro Finance Sector Effectiveness Review*, Consultative Group to Assist the Poor, October 2004 (on file with the Refugee Law Project).

<sup>192</sup> Interviews with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>193</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>194</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>195</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

<sup>196</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

<sup>197</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004.

<sup>198</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.



Thus the study demonstrates that a number of factors limit refugees' ability to advance themselves in economic terms. As a result of an unclear regulatory regime, refugees and potential refugee employers are confused regarding the application for work permits and the broader legal implications of refugee employment. Language barriers also limit refugees' prospects of employment. Furthermore, refugees lack access to credit facilities as they often do not have a fixed address and cannot provide the security frequently required from borrowers by lending institutions. Moreover, refugees appear to lack information about the credit schemes that are open to them. Efforts should therefore be made to increase awareness of the existing credit facilities for refugees in Kampala. Furthermore, avenues should be explored of broadening the eligibility criteria of Ugandan micro-finance institutions so as to include refugees. Finally, the findings also suggest that more needs to be done to provide information to refugees regarding their employment rights—the GoU must state clearly its policy on work permits both to employers and to refugees wishing to seek employment.

## 5.2 Access to education

In Uganda, education is enshrined as a right for “all persons.” The Ugandan Constitution explicitly states, “All persons have a right to education.”<sup>199</sup> The 1951 Convention states that Contracting States “shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.”<sup>200</sup> The 1989 Convention on the Rights of the Child (CRC), to which Uganda is a party, also provides for the right to education.<sup>201</sup> The CRC has a non-discrimination clause,<sup>202</sup> from which it follows that the right to education cannot be denied to refugee children. Thus the GoU must ensure that refugee children have equal access to education as Ugandan children.

In 1997, Universal Primary Education (UPE) was introduced in Uganda, which exempts four children per family from paying primary school fees.<sup>203</sup> However, “the existence of UPE does not mean that primary school education in Uganda is completely free. Parents or guardians must often support the cost of school buildings, books, writing materials, school meals and uniforms.”<sup>204</sup> These hidden costs especially affect children in Kampala, where costs such as water, power, staff salaries and staff accommodation are higher than in rural areas.<sup>205</sup> As a result, all parents must pay UgShs 10,400 per term per child at the primary level for their children to enrol in Kampala primary schools.<sup>206</sup>

As there is no equivalent system of universal secondary education in Uganda, school fees must be paid for all children wishing to enrol in secondary school.

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<sup>199</sup> Constitution of the Republic of Uganda, 1995, Article 30.

<sup>200</sup> 1951 Convention, Article 22.

<sup>201</sup> CRC, Article 28.

<sup>202</sup> Article 2 of the CRC states: “State parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, or other status.”

<sup>203</sup> Sarah Dryden-Peterson, *Education of Refugees in Uganda: Relationships Between Setting and Access*, RLP Working Paper No. 9, p. 6.

<sup>204</sup> *Ibid.*

<sup>205</sup> Interview with Kampala City Council official, Kampala, 8<sup>th</sup> October 2004.

<sup>206</sup> Interview with Kampala City Council official, Kampala, 8<sup>th</sup> October 2004.

Findings indicate that most urban refugee families are unable to meet the cost of education for their children and, as a result, many refugee children in Kampala are unable to access education. InterAid provides financial assistance to refugee families to help meet the cost of educating their children, but only to families who are on the urban caseload.<sup>207</sup> As noted above, the urban caseload represents only a very small fraction of the entire urban refugee population.

UNHCR does offer a few scholarships through its educational implementing partner, the Windle Trust, for refugee children attending secondary school.<sup>208</sup> As an implementing partner of UNHCR, the Windle Trust only awards scholarships to students in refugee settlements who hold ration cards.<sup>209</sup> At its Kampala offices, however, the Trust receives weekly requests from refugees in need of educational assistance—all of which are denied due to UNHCR's residency requirements, stating that recipients of UNHCR scholarships must be living in settlements.<sup>210</sup> The result of this policy is that urban refugee children are not considered for scholarships.<sup>211</sup> This policy is discriminatory because it makes assistance dependent on where a refugee child resides, and not on the child's legal status as a refugee. The policy is especially unjust considering that the Windle Trust cannot fill all of its scholarship quotas in settlements.<sup>212</sup> The Trust reported that settlements lack qualified applicants for scholarships, yet in Kampala there are many who meet the requirements for scholarships to be awarded.<sup>213</sup> There is no legal basis for this discriminatory way of allocating scholarships.

Besides the financial constraints which prevent refugee children from attending school in Kampala, the study found that a lack of fluency in Luganda and English also prevented refugee children from attending school.<sup>214</sup> This particularly affects refugees from francophone countries, and may lead to the placement of refugee children in lower classes so that they learn English.<sup>215</sup> Furthermore, in addition to these language barriers, refugee parents reported cases of discrimination against refugee children in admission procedures.<sup>216</sup> UNHCR officials also expressed concern about reports of refugee children paying fees for primary education that nationals are not required to pay.<sup>217</sup>

Finally, findings demonstrate that refugees lack information regarding tertiary education. The study revealed that, in addition to refugees facing financial obstacles and suffering from a lack of information, some refugees actually believed that they were not entitled to tertiary education. One Sudanese refugee stated: "I can't have access to University. They told me

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<sup>207</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004.

<sup>208</sup> The Windle Trust was previously named the Hugh Pilkington Charitable Trust.

<sup>209</sup> Interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

<sup>210</sup> Interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

<sup>211</sup> Interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

<sup>212</sup> Interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

<sup>213</sup> Interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

<sup>214</sup> Interview with Kampala City Council official, Kampala, 8<sup>th</sup> October 2004; interview with Programme Manager, Windle Trust, Kampala, 6<sup>th</sup> October 2004.

<sup>215</sup> RLP Working Paper No. 9, p. 28

<sup>216</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004; focus group discussion with FASSOREF (Women's Association of Francophone Refugees), Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>217</sup> Interview with UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

refugees are not entitled.”<sup>218</sup> Similarly, one refugee mentioned that he did not anticipate that his children would attend university because the “government denies access.”<sup>219</sup>

It is important to note that, although research findings indicate that most refugee children do not attend school, the study also demonstrates that refugees attach great significance to education as a way toward their future development. The importance attached to education by refugees was revealed when refugees were asked about the future: many stated that they wished that they could find a way to attend school or university.<sup>220</sup> An 18-year-old Congolese refugee stated: “I do not want to have hopes for the future because a refugee’s life is so hard. If I could hope, I would want to study at university.”<sup>221</sup> One refugee family decided that, with the resources they had available, they would send one child to school while the others remained at home.<sup>222</sup> Another family received support from a religious leader, enabling them to send one of their children to school.<sup>223</sup> These findings demonstrate the difficult choices refugees must make, given that official policy does not support education for refugees in urban centres. Furthermore, there is a need for further research on the gender implications of this issue, in particular, whether refugee girls are denied access to education more often than refugee boys.

In response to the finding that many urban refugee families find it very difficult, if not impossible, to find the means to pay for their children’s education, officials from one refugee agency suggested that the obvious solution was for these families to relocate from Kampala to refugee settlements, where education is provided for refugees.<sup>224</sup> In relation to this suggestion, two issues should be kept in mind. First, decisions by refugee parents to remain in Kampala instead of moving to a refugee settlement are based on a variety of factors, of which their children’s education is but one. Often, the overriding factor will be the parents’ ability to take care of their children’s basic needs, in terms of providing such items as food and health care. It may well be that parents feel that they are better able to meet these needs in Kampala than in a refugee settlement. Second, it must be emphasised that while refugees do in theory have access to education in refugee settlements, and to the UNHCR scholarships referred to above, in practice there are severe limitations on the educational facilities provided in settlements. For example, on a recent visit to Kyaka II refugee settlement, the RLP found that while there were 4268 children between the ages of 5 and 17 in the settlement, there were only three primary schools and one secondary school.<sup>225</sup> Refugee parents can therefore not realistically expect to have their children’s educational needs addressed as a matter of course simply by moving to a refugee settlement.

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<sup>218</sup> Interview with refugee, Old Kampala, Kampala, 5<sup>th</sup> October 2004.

<sup>219</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>220</sup> Interview with refugee, Bakuli, Kampala, 14<sup>th</sup> October 2004; interviews with refugees, Old Kampala, Kampala, 5<sup>th</sup> and 6<sup>th</sup> October 2004; interview with refugee, Kilombe, Kampala, 7<sup>th</sup> October 2004.

<sup>221</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

<sup>222</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004

<sup>223</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>224</sup> Conversation with officers from the Urban Programme, Jesuit Refugee Services, Kampala, who had kindly agreed to provide feedback on a draft version of this report; offices of the RLP, Kampala, 18<sup>th</sup> May 2005.

<sup>225</sup> These statistics were provided to the RLP by the GTZ Settlement Officer in Kyaka II on 7 April 2005. The UNHCR Emergency Field Officer in Kyaka II stated that the educational facilities in Kyaka II are currently in the process of being expanded. However, even after the expansion programme will be completed, there will not be a sufficient number of classrooms to meet UNHCR’s own guidelines, according to which there should be one classroom for every forty children in refugee settlements. Interview with UNHCR Emergency Field Officer, Kyaka II Refugee Settlement, 8 April 2005.

### 5.3 Access to healthcare

The study found that, generally speaking, refugees in Kampala had access to healthcare on a par with nationals, without notable discrimination. However, the study also found that health services in Uganda are under great pressure. The demand for healthcare within the public healthcare system far outweighs supply. Health clinics and hospitals in Kampala not only care for patients from within the city, but are also under “immense pressure from other districts such as Wakiso, Mpigi, Mukono, and Luwero.”<sup>226</sup>

In this context, many refugees and Ugandan nationals experience similar problems in gaining access to the healthcare system. Examples of common problems are a lack of prescription drugs<sup>227</sup> and extensive waiting times in clinics, hospitals, and doctors’ offices.<sup>228</sup> Due to a general lack of resources, the main public hospital in Kampala, Mulago Hospital, must charge all patients for more expensive services and drugs, with the result that many people, refugees and nationals alike, do not receive the treatment they need.<sup>229</sup> Access for everyone, regardless of nationality, depends on their personal financial resources. In regards to the treatment of refugees, a hospital official stated: “they [refugees] come here like any other patient, the problem comes when they want any special treatment. Mulago can’t help them, because [we] have no capacity, they need financial assistance which we don’t have. For free services, hospital management does not discriminate.”<sup>230</sup>

As to particular problems faced by refugees, language barriers were cited as the main factor impeding refugees’ access to health services. In fact, a hospital official acknowledged that language barriers limit refugees’ access to services at Mulago Hospital.<sup>231</sup>

Organisations with programmes for assisting refugees with medical needs and costs are extremely limited. The study found only two NGOs that provide health services specifically to refugees in Kampala: JRS and InterAid. Although InterAid has a clinic within its premises, services are reserved for those on the urban caseload, except for cases of medical emergency.<sup>232</sup> JRS provides medical assistance only to asylum seekers, by paying for treatment at Mulago and Nsambya hospitals.<sup>233</sup> However, when the RLP visited JRS in October 2004, its medical budget for 2004 had already been depleted, though efforts were underway to continue service provision through the reallocation of funds.<sup>234</sup> On occasion, the African Centre for the Rehabilitation and Treatment of Torture Victims (ACTV) assists refugees by paying for a portion of refugees’ medical treatment.<sup>235</sup>

As a result of this situation, many refugees stated that they had had to use their own methods for raising the cash needed for medical treatment. A number of refugees obtained assistance

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<sup>226</sup> *District Development Plan: 2004/2005 – 2006/2007*, Planning Unit, Kampala City Council, p. 92.

<sup>227</sup> Interviews with refugees, Mengo, Kampala, 27<sup>th</sup>–29<sup>th</sup> September 2004.

<sup>228</sup> Focus group discussion with FASSOREF (Women’s Association of Francophone Refugees), Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>229</sup> Interview with social worker, Mulago Hospital, 27<sup>th</sup> September 2004.

<sup>230</sup> Interview with social worker, Mulago Hospital, 27<sup>th</sup> September 2004.

<sup>231</sup> Interview with social worker, Mulago Hospital, 27<sup>th</sup> September 2004.

<sup>232</sup> Interview with Director, InterAid Uganda, 6<sup>th</sup> October 2004.

<sup>233</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>234</sup> Interview with Project Director, Urban Programme, Jesuit Refugee Services, Kampala, 4<sup>th</sup> October 2004.

<sup>235</sup> Interview with Chief Executive Officer, African Centre for the Rehabilitation and Treatment of Torture Victims, 12<sup>th</sup> October 2004.

from churches or religious leaders,<sup>236</sup> while others had the means to pay for private treatment at local clinics.<sup>237</sup> In some cases, refugees hoped to raise money from their respective nationality groups to pay for treatment needed.<sup>238</sup> However, some refugees had no choice but to let diseases and injuries go untreated, having no way to pay for the required treatment. For instance, one refugee mother stated “we have no money for treatment. Even the boy is sick now with malaria and we can’t take him anywhere.”<sup>239</sup> In another case a female refugee visited Mulago Hospital with gynaecological problems. The medication she had been prescribed was not helping. She was told she needed surgery to address the problem, but she could not afford to pay for it.<sup>240</sup> In another case, a refugee stated that he had had a severe headache for several weeks. All he could afford in the way of treatment was aspirin.<sup>241</sup>

#### 5.4 Access to shelter

As noted in Section 3, upon arrival in Kampala, most asylum seekers are not provided with shelter and as a result they sleep out on the streets and outside of offices in Old Kampala. Refugees who opt to remain in Kampala after having been recognised as a refugee, often access housing through informal networks, such as their own nationality group. In some instances refugees come together as a group in order to rent accommodation. For example, a group of approximately twenty Ethiopian refugees living in Old Kampala share the cost of a house and related expenses.<sup>242</sup> A Congolese refugee stated that, when he first arrived in Kampala, he lived in a house with sixteen other families.<sup>243</sup> Many of these homes are located in the poorest areas of Kampala, and residents often live in squalid conditions. A refugee stated that he shared one room with nine other refugees.<sup>244</sup> As with assistance for accessing healthcare and education, many refugees rely on help from church leaders, members of congregations, and faith-based organisations.<sup>245</sup> For example, one refugee stated that “a born-again man helps me and gives me a place to stay.”<sup>246</sup> Refugees in receipt of remittances from family members living abroad use this financial assistance to meet their housing needs.<sup>247</sup>

In some cases, refugees are charged higher rents than Ugandan nationals. One Congolese refugee stated that this practice represented “social injustice.”<sup>248</sup> As noted above, refugees are often associated with the ‘UN’ or NGOs, and they are therefore assumed to be better off financially than Ugandan nationals. A local leader commented that the presence of Sudanese refugees in his area had led to an increase in rental costs; he stated that a house that used to be

<sup>236</sup> Interviews with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>237</sup> Interview with refugee, Nsambya, Kampala, 14<sup>th</sup> October 2004; interview with refugees, Makindye, Kampala, 14<sup>th</sup> October 2004.

<sup>238</sup> Interviews with refugees, Mengo Kisenyi, Kampala, 27<sup>th</sup> September 2004.

<sup>239</sup> Interview with refugee family, Makindye, Kampala, 7<sup>th</sup> October 2004.

<sup>240</sup> Interview with refugee, Nsambya Kevina, Kampala, 14<sup>th</sup> October 2004.

<sup>241</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>242</sup> Focus group discussion with refugees, Namirembe, Kampala, 7<sup>th</sup> October 2004.

<sup>243</sup> Interview with refugee, Refugee Law Project, Kampala, 8<sup>th</sup> October 2004.

<sup>244</sup> Interview with refugee couple, Kasubi, Kampala, 15<sup>th</sup> October 2004.

<sup>245</sup> Interviews with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Kilombe, Kampala, 7<sup>th</sup> October 2005; interview with refugees, Lubaga, Old Kampala, 11<sup>th</sup> October 2004.

<sup>246</sup> Interviews with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>247</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004; interview with refugees, Makindye, Kampala, 14<sup>th</sup> October 2004; interview with refugee, Nsambya, Kampala, 14<sup>th</sup> October 2004.

<sup>248</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

rented for UgShs 50,000 now costs UgShs 200,000.<sup>249</sup> As noted above, some refugees receive support which enable them to afford such prices.

Many refugees living in the more impoverished areas of Kampala, such as Mengo or Kisenyi, stated that they have to share toilets or latrines with many other people. For instance, a Congolese refugee stated she has “a toilet but share[s] it with 11 other families in Mengo Kisenyi.”<sup>250</sup> Another refugee family said they did not even have a toilet and they could only wash themselves with difficulty.<sup>251</sup> In another example, a refugee explained that the cost of the accommodation he rented did not include access to a toilet; as a result he had to pay to use public toilets which he feared were dangerous for his daughter.<sup>252</sup> The lack of rubbish facilities was another commonly cited problem.<sup>253, 254</sup> Some refugees lacked running water in their houses, and thus had to pay extra for water for their daily needs.<sup>255</sup> Many of the dwellings where refugees reside have no electricity.

Again, many of these problems also affect the Ugandan nationals who reside in the urban slums. Moreover, residents of urban slums, Ugandan nationals and refugees alike, face the problem that many urban slums are built on public land and that the properties they live in are rented out by landlords without occupancy permits.<sup>256</sup> Additional research is required to examine how this situation affects the population of urban refugees.

## 5.5 Social integration<sup>257</sup>

Numerous refugees reported difficulties integrating into the Ugandan community, mainly due to language problems.<sup>258</sup> As noted above, refugees often felt that language barriers were an obstacle in their attempts to access services. It comes as no surprise that in their everyday relationships and interactions with Ugandans, refugees in Kampala were also disadvantaged by not knowing English or Luganda. One Congolese refugee stated that she felt “handicapped

<sup>249</sup> Interview with local official, Lubaga Division Headquarters, 4<sup>th</sup> October 2004.

<sup>250</sup> Interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004. Other refugees reported living in similar conditions: one refugee family stated that they shared a toilet with eight other families (interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004), another family shared a toilet with four other families (interview with refugee, Mengo, Kampala, 28<sup>th</sup> September 2004), yet another family shared a toilet with six other families (interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004).

<sup>251</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>252</sup> Interviews with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>253</sup> Interviews with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>254</sup> Kampala City Council’s District Development Plan states: “More than 55% of the inhabitants [of Kampala] live in dwellings with very poor sanitation conditions. Waste disposal is very poor leading to high incidences of environmental sanitary related diseases.” *District Development Plan: 2004/2005 – 2006/2007*, Planning Unit, Kampala City Council, p. 129.

<sup>255</sup> Focus group discussion with FASSOREF (Women’s Association of Francophone Refugees), Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>256</sup> Jacline Kabahinda, Uganda Debt Network, “Land Policy is a Raw Deal to the Urban Poor,” Letter to the Editor, *The New Vision*, 30<sup>th</sup> November 2004, p. 10.

<sup>257</sup> As noted in the Introduction, a shortfall of this study is that Ugandan members of the urban communities that host refugees were not interviewed. While this section presents the opinions of refugees and of Ugandan community leaders on the subject of refugees’ integration into the community, further research is needed to gauge the opinions of ordinary Ugandan community members.

<sup>258</sup> Focus group discussion with FASSOREF (Women’s Association of Francophone Refugees), Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004; interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

by language” because she could not express herself properly in English.<sup>259</sup> An Eritrean refugee observed that “different people don’t share things or mix with each other ... due to language barriers.”<sup>260</sup> Language barriers were also given as a reason as to why inter-marriage between Ugandans and refugees is not a common practice.<sup>261</sup> In addition to language barriers between Ugandans and refugees, diverse cultural backgrounds also caused “different mentalities” between refugees and their Ugandan hosts.<sup>262</sup> For many, religion was seen as a way to bridge these language and cultural gaps. A number of refugees stated that they attended the same churches and mosques as Ugandans.<sup>263</sup> Others reported that they attended Ugandan funerals and weddings.<sup>264</sup> Refugee families also reported that occasionally their children would play football with Ugandan children.<sup>265</sup>

A sense of personal insecurity stemming from the geopolitical conflicts in the region seemed to influence the development of inter-personal relationships between refugees and their hosts. This was also a factor in shaping interactions between refugees of different national and ethnic backgrounds. For example, one Congolese refugee stated that she did not interact with Rwandese nationals because they are “enemies.”<sup>266</sup> A Rwandese refugee said she interacted with her neighbours but feared other Rwandese.<sup>267</sup> Another Rwandese stated “there are different types of people here but I don’t choose to know them. I’m afraid to.”<sup>268</sup> Thus it is clear that a feeling of personal insecurity among refugees acts as an inhibiting factor impeding social integration between refugees and hosts and between refugees of different backgrounds.

There generally seemed to be little interaction between refugees of different nationalities. One Congolese refugee explained that there was little interaction between different nationality groups as “everyone lives for him or herself.”<sup>269</sup> This refugee also believed that UNHCR helped Somali and Sudanese refugees but not Congolese refugees, reflecting the general tension between refugees of different nationalities.<sup>270</sup> While this study was not able to probe these aspects in detail, there clearly is a need for further research into the relationships between refugees of different nationalities.

In a small but significant minority of cases, refugees stated that they had heard xenophobic statements relating to their presence in Kampala. A Somali refugee said that a Ugandan national told “us to go back to our countries of origin.”<sup>271</sup> A local leader reported that complaints were made against the Somali community in regards to their cleanliness.<sup>272</sup> No

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<sup>259</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004

<sup>260</sup> Interview with refugee, Lubaga, Kampala, 12<sup>th</sup> October 2004.

<sup>261</sup> Interview with refugee, Mengo, Kampala, 28<sup>th</sup> September 2004.

<sup>262</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

<sup>263</sup> Interview with refugee, Kilombe, Kampala, 7<sup>th</sup> October 2004; interview with refugee, Nsambya, Kampala, 14<sup>th</sup> October 2004; interview with refugee, Makindye, Kampala, 14<sup>th</sup> October 2004; interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004; interview with refugee, Bakuli, Kampala, 14<sup>th</sup> October 2004.

<sup>264</sup> Interview with refugee, Nsambya, Kampala, 14<sup>th</sup> October 2004; Interview with refugee, Mengo, Kampala, 28<sup>th</sup> September 2004; interview with refugee, Bakuli, Kampala, 14<sup>th</sup> October 2004.

<sup>265</sup> Interview with refugee couple, Kasubi, Kampala, 15<sup>th</sup> October 2004; interview with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>266</sup> Interview with refugee, Mengo, Kampala, 28<sup>th</sup> September 2004.

<sup>267</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>268</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>269</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>270</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>271</sup> Interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004.

<sup>272</sup> Interview with Kampala City Council official, Kampala, 5<sup>th</sup> October 2004.

explanation was offered as to why Somalis were singled out when there were also other refugee groups residing in the area. Again, further research is needed to study host views towards refugees by nationality.

Finally, in the course of the research a number of informants voiced complaints against “Karamojong refugees”. The Karamojong are an ethnic group who reside in the Karamoja region in eastern Uganda. The Karamojong are known to conduct cattle raids. Cattle raiding often results in displacement, and the Karamojong have indeed caused the internal displacement of large numbers of Ugandan civilians. The Karamojong also experience cattle raiding themselves by groups residing in neighbouring Kenya and Sudan, and as a result some of the Karamojong have themselves been displaced.<sup>273</sup> Karamojong living in Kampala are not refugees, as they have not crossed the borders of their country of nationality to seek refuge. Instead, they are internally displaced people (IDPs). They were therefore not a subject of study for this research. Nevertheless, they were seen as refugees by some of our informants. When asked about the general presence of refugees in Kampala, a number of informants cited the presence of Karamojong “refugees” who had difficulty integrating into the wider community.<sup>274</sup> This suggests that the experience of IDPs in urban centres is another area in need of research.

## 5.6 Crime and refugees

In general, the study did not establish a pattern of complaints against refugees as a factor in crime rates. However, in Lubaga division, the study found that there were many complaints made of refugees committing crimes. In particular, complaints came from local leaders and were directed at Sudanese refugees. One serious crime is alleged to have taken place in September 2004, with a group of Sudanese refugees being accused of gang-raping a Ugandan schoolgirl.<sup>275</sup> Sudanese refugees were also alleged to have committed crimes of robbery and murder.<sup>276</sup>

These allegations, coupled with a lack of knowledge of general refugee issues, have caused frustration and anger amongst local leaders. One local leader in Lubaga expressed extreme frustration by stating, “why aren’t these people [Sudanese refugees] put in refugee camps? [We] can’t get a clear answer from government.”<sup>277</sup> Another local leader stated the number of Sudanese in Lubaga was rising everyday, which was causing security and public health concerns as many were thought to arrive with handguns and diseases.<sup>278</sup>

Further investigation showed that claims of increased risks to public health and security caused by the presence of Sudanese refugees could not in fact be substantiated. First, as was noted in Section 3.2, records in Old Kampala Police Station show that the number of crimes committed by foreign nationals did in fact decrease in 2004 as compared to 2003. Second, although the police keep a record of the nationality of criminal suspects, the suspects’ legal

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<sup>273</sup> For more information on Karamoja, see Pearl Chin and Marlene Siedlarz, *Small Arms and Light Weapons: The problem of Guns in Karamoja and The Legal Aspects of Disarmament*, University of Illinois, College of Law, April 2003 (on file with the Refugee Law Project).

<sup>274</sup> Interview with Kampala City Council official, 4<sup>th</sup> October 2004; interview with social worker, 27<sup>th</sup> September 2004.

<sup>275</sup> Interview with local official, Lubaga Division headquarters, 4<sup>th</sup> October 2004.

<sup>276</sup> Interview with key informant, Kampala, 13<sup>th</sup> October 2004.

<sup>277</sup> Interview with local official, Lubaga Division Headquarters, 4<sup>th</sup> October 2004.

<sup>278</sup> Interview with local official, Lubaga, Kampala, 14<sup>th</sup> October 2004.



status is not recorded, making it impossible to attribute crimes committed by foreign nationals specifically to refugees.<sup>279</sup> Thus for example, the case file of the alleged rape that took place in September 2004 was examined in Lubaga police post, but the file did not contain copies of the suspects' identity documents, nor was the alleged perpetrators' legal status recorded.

Regarding the public health concerns in relation to the presence of Sudanese refugees, according to the Lubaga Division Medical Officer, Sudanese refugees at first were reluctant to receive immunisations as part of the national immunisation programme.<sup>280</sup> However, after information campaigns were conducted and the Lubaga Division enlisted Sudanese volunteers to help explain to the Sudanese community the benefit of free immunisations provided by the GoU, Sudanese participated actively in the programme.<sup>281</sup>

The levels of anxiety in Lubaga Division regarding the presence of foreigners, and refugees in particular, have reached such high levels that new measures have been implemented in an effort to monitor the presence of foreigners in the area. Lubaga Division has stated that the presence of "aliens" in the division, "especially the Sudanese because of their insubordination towards the indigenous Ugandans and LC officials in particular,"<sup>282</sup> needed to be addressed. Thus Lubaga Division now requires all aliens to register with the District Internal Security Officer (DISO); they must be "sensitised in liaison with the area LC officials"; and they must produce "introduction letters from where they have come from, as other Ugandans do, to the LC Chairpersons."<sup>283</sup> It is unclear if and how these procedures are being implemented. It is furthermore unclear what, if any, coordination efforts are made between the local government on the one hand and on the other hand UNHCR and OPM. In any case, while the requirement of registration does not itself pose any problems to refugees, refugees who have newly arrived in Uganda, having fled threats to their security in their country of origin, cannot be expected to produce letters of introduction. Of course, if an asylum seeker has arrived and is living with a friend or relative, that person should introduce his or her guest to the appropriate local councillor.

The findings show that local leaders in Lubaga appear not to be aware of the rights accorded to refugees under domestic and international law. Moreover, officials at the city council level appear to be unaware of the urban refugee population, and as a result refugees are not budgeted for in city development plans. Also, elected leaders in high positions appear to have encouraged the perception that refugees are responsible for committing crimes, as evidenced for example by the decision by Hon. John Ken Lukyamuzi, Member of Parliament for Lubaga South, to commission a report on the complaints regarding Sudanese refugees in Kampala from the Minister of Internal Affairs.<sup>284</sup> In these circumstances, it is hardly surprising that xenophobic attitudes towards urban refugees have emerged and that as a result, refugees have been made scapegoats for problems affecting the wider community.<sup>285</sup>

The attitudes of local leaders in Lubaga regarding the Sudanese population have in fact filtered down to the local population. Findings demonstrate that there is a high level of

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<sup>279</sup> Records were examined at Old Kampala Police Station and Lubaga Police Post on 21<sup>st</sup> April 2005.

<sup>280</sup> Interview, Lubaga Medical Division Officer, 21<sup>st</sup> April 2005.

<sup>281</sup> Interview, Lubaga Medical Division Officer, 21<sup>st</sup> April 2005.

<sup>282</sup> Letter from Chairman of Lubaga Parish to the District Internal Security Officer (DISO), headed: "Registration of Aliens," 5<sup>th</sup> March 2004 (on file with the Refugee Law Project).

<sup>283</sup> *Ibid.*

<sup>284</sup> Interview with Hon. John Ken Lukyamuzi, Kampala, 13<sup>th</sup> October 2004.

<sup>285</sup> The situation in Lubaga is very similar to the situation in Old Kampala referred to in Section 3.2.

xenophobia on the part of Ugandan nationals with respect to the Sudanese population. One Sudanese refugee stated that Sudanese refugees are often told “to return home.”<sup>286</sup> Another Sudanese refugee said that sometimes Ugandans insult Sudanese refugees by saying that they are Kony’s people.<sup>287</sup> While some of the ill-feelings towards Sudanese refugees were attributed to the alleged actions of Sudanese refugees as described above, other local leaders appeared to question why refugees should be in Kampala in the first place. This illustrates the urgent need for further sensitisation of local leaders in Kampala, and in Lubaga in particular, on refugee management systems in Uganda and the rights accorded to refugees under national and international law.

## 6 PROTECTION AND SECURITY: THE NEED FOR A BROADER PROTECTION STRATEGY

Protection of refugees is the ultimate responsibility of the GoU and UNHCR. When asked about their main problems, many refugees reported concerns relating to their physical security and the difficulties they experienced in seeking redress when a crime had been committed against them. A number of refugees stated that when they reported crimes such as assault and theft to the police, they were asked for money<sup>288</sup> or simply no action was taken.<sup>289</sup> One Congolese refugee told the RLP that when she was robbed, she reported the incident to the police but they refused to pursue the matter unless she engaged in sexual intercourse with one of the officers.<sup>290, 291</sup> While it may be argued that Ugandans also experience crime<sup>292</sup> and difficulties with the police,<sup>293</sup> refugees face specific obstacles in seeking redress for crimes committed against them. Many refugees stated that they were wary of reporting criminal incidents to the police because of fears of Uganda’s alleged relationships with rebel groups in their countries of origin. As a result of this situation, a number of refugees stated they preferred to solve disputes and problems amongst themselves.<sup>294</sup> This is a cause for concern, because situations of groups of people using extra-legal means to solve disputes and attempting to solve criminal incidents on their own often lead to further violations of rights.

As noted above, refugees stated that they had fears relating to the presence of members of foreign rebel factions in Kampala.<sup>295</sup> One refugee expressed his concern that rebels were allowed to enter Uganda from the DRC and that as a result, refugees were at risk of physical

<sup>286</sup> Interview with refugee, Nsambya Kevina, Kampala, 14<sup>th</sup> October 2004.

<sup>287</sup> Interview with refugee, Lubaga, Kampala, 7<sup>th</sup> October 2004.

<sup>288</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>289</sup> Interview with refugee, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004.

<sup>290</sup> Interview with refugee, Mengo, Kampala, 29<sup>th</sup> September 2004.

<sup>291</sup> A similar case was reported in *The East African*. This case involved a Congolese female refugee who reported a crime to the police. Because she did not have any money, and “since she was a woman,” the refugee was requested to remove her clothes. David Kaiza, “You Can Run, But You Can’t Hide,” *The East African*, Magazine Section, August 16–22, 2004, p. 1.

<sup>292</sup> Kampala City Council’s District Development Plan notes that that crime in urban slums is a problem. *District Development Plan: 2004/2005 – 2006/2007*, Planning Unit, Kampala City Council, p. 131.

<sup>293</sup> See *Report of the Judicial Commission of Inquiry into Corruption in the Uganda Police Force*, The Republic of Uganda, May 2000 (on file with the Refugee Law Project).

<sup>294</sup> Interview with refugee, Old Kampala, Kampala, 6<sup>th</sup> October 2004; interview with refugees, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>295</sup> Interview with refugees, Mengo and Bakuli, Kampala, 29<sup>th</sup> September 2004; interview with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

violence from the very people they fled from.<sup>296</sup> Rwandese refugees in particular expressed concerns relating to their physical security. Some Rwandese refugees stated that they had been interrogated by Ugandan security agents,<sup>297</sup> while others claimed to have received threats from Rwandese agents in Kampala.<sup>298</sup> One Rwandese refugee claimed that Ugandan intelligence agents had attempted to deport him.<sup>299</sup> Another Rwandese refugee stated that his physical appearance caused him to have concerns for his safety, because he resembled Rwandese Tutsis.<sup>300</sup> Somali refugees also reported ethnic differences causing security concerns.<sup>301</sup> A number of refugees expressed concerns that security agents from their countries of origin used refugee registration points, such as InterAid, as a method of locating particular refugees.<sup>302</sup> Many refugees stated that they were fearful to report to and register with the government of Uganda.

These findings illustrate the need for both the GoU and UNHCR to be actively involved in efforts to ensure that refugees' safety is protected at all times. First, all possible efforts should be made to ensure that all information relating to the identity and status of asylum seekers and refugees is kept confidential at all times. Second, allegations of Ugandan security agents or intelligence agents interrogating refugees, or threatening to deport them, should therefore be investigated without delay. Third, Uganda is a party to the International Covenant on Civil and Political Rights (ICCPR). Article 2 of the ICCPR states that each party to the Covenant must "ensure to all individuals within its territory and subject to its jurisdiction" the rights recognised in the ICCPR without any distinction.<sup>303</sup> The GoU can therefore not ignore claims of human rights abuses committed on its territory against foreign nationals by foreign security agents. Indeed, reports of foreign agents operating in Uganda and threatening the physical security of refugees should be investigated as a matter of urgency.

In addition to concerns about their physical security, refugees face constant obstacles in relation to their ability to secure their basic needs, including food security, health and shelter. Any refugee protection strategy should not be focused exclusively on refugees' physical security, but should also address the difficulties faced by refugees in meeting their basic needs. As discussed above, currently this aspect of refugee protection in Uganda is restricted to those refugees who reside in settlements. However, findings suggest that urban refugees have limited access to the mechanisms that are commonly utilised by Ugandan citizens to improve their ability to meet their basic needs, such as education, employment, and credit facilities. The difficulties experienced by urban refugees in accessing these mechanisms and services have a direct impact on the human security situation of urban refugees. The refugee protection strategy in Uganda should therefore be reconsidered, with a view to including the needs of urban refugees, not just in terms of physical security, but also in terms of their ability to meet their basic needs.

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<sup>296</sup> Interview with refugee community leader, Najjanakumbi, Kampala, 21<sup>st</sup> October 2004.

<sup>297</sup> Interviews with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>298</sup> Interviews with refugees, Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>299</sup> Interview with refugee Old Kampala, Kampala, 6<sup>th</sup> October 2004.

<sup>300</sup> Interview with refugee, Mengo, Kampala, 27<sup>th</sup> September 2004.

<sup>301</sup> Interviews with refugees, Mengo Kisenyi, Kampala, 28<sup>th</sup> September 2004.

<sup>302</sup> See section 4.3.3, where the case of a Rwandese refugee who claimed to have been approached by a Rwandese security agent is set out in detail.

<sup>303</sup> Article 2 of the ICCPR states: "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

In this respect, it is instructive to recall the definition of protection put forward by the International Committee of the Red Cross, which defines protection as “encompassing all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. HR law, IHL, refugee law).”<sup>304</sup> Notice should also be taken of the words of UNHCR’s Senior Protection Officer in Kampala, who stated: “in the developing world, assistance is protection. If you don’t feed them [refugees], they die. There is no clear division.”<sup>305</sup> We would call upon the GoU and UNHCR to adopt a protection strategy that is aimed at ensuring the protection of all the rights accorded to refugees under international refugee law, including the 1951 Convention. Thus the GoU and UNHCR should adopt a protection strategy that is aimed not only at ensuring access to fair RSD procedures and guaranteeing the observance of the principle of non-refoulement, but also at ensuring that refugees and asylum seekers have adequate means to meet their basic material needs. In light of the fact that UNHCR’s protection mandate extends to working in collaboration with governments to ensure that the 1951 Convention is fully implemented, UNHCR should work with the GoU to ensure the enjoyment by all refugees in Uganda of all the rights accorded to them by the Convention. In particular, given that the 1951 Convention provides for refugees’ right to freedom of movement,<sup>306</sup> UNHCR should work together with the GoU to ensure that refugee protection in the widest sense is extended not only to refugees residing in settlements, but also to the urban refugee population.

## 7 CONCLUSION

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

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

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

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

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<sup>304</sup> International Committee of the Red Cross, *Background Paper*, Third Workshop on Protection, 7<sup>th</sup> January 1999. “HR law” refers to human rights law; “IHL” refers to international humanitarian law.

<sup>305</sup> Interview, UNHCR Senior Protection Officer, UNHCR Kampala, 12<sup>th</sup> October 2004.

<sup>306</sup> 1951 Convention, Article 26.

including lack of legal status, language barriers, and discrimination in respect of their attempts to access education and employment. Refugees' access to employment is made more difficult by the contradictory nature of regulations regarding work permits. In addition, refugees also experience difficulties in accessing credit services due to a variety of factors, including language barriers and a lack of knowledge on the part of refugees both about their eligibility for the credit schemes and about the process of applying for credit. Physical safety was another issue raised by refugees as hampering their efforts to improve their situation.

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

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



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