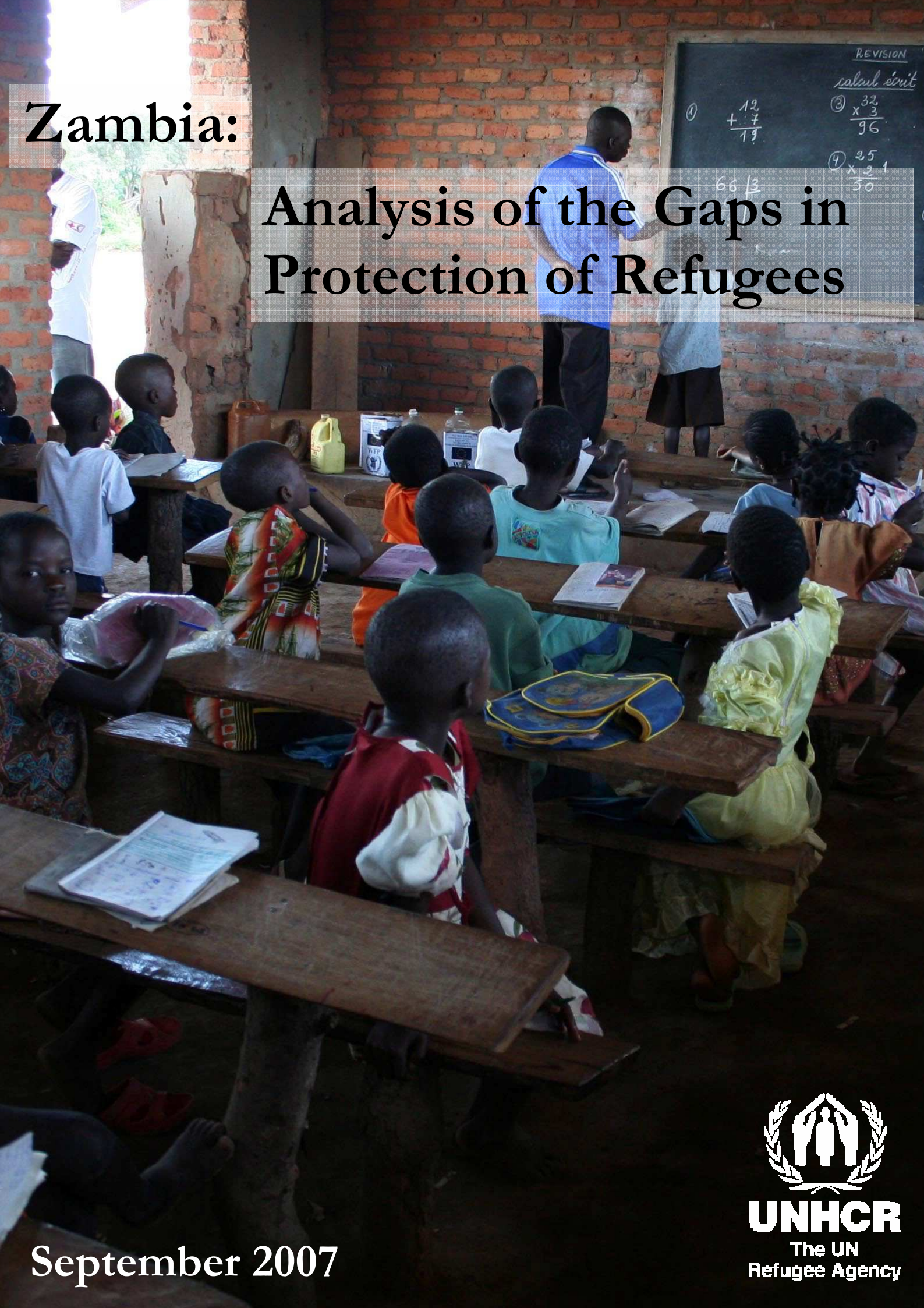


Zambia:

Analysis of the Gaps in Protection of Refugees



September 2007

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LIST OF ABBREVIATIONS

ACHPR	- African Charter on Human and Peoples' Rights
Act	- Refugees Control Act
AGDM	- Age, Gender, and Diversity Mainstreaming
ART	- Anti-Retroviral Treatment
BID	- Best Interest Determination
CAT	- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	- Convention on the Elimination of All Forms of Discrimination Against Women
CERD	- Convention on the Elimination of All Forms of Racial Discrimination
Commissioner	- Office of the Commissioner for Refugees (Zambia)
CORD	- Christian Outreach Relief and Development
CRC	- Convention on the Rights of the Child
CTD	- Convention Travel Documents
DRC	- Democratic Republic of Congo
FAO	- United Nations Food and Agriculture Organisation
ICCPR	- International Covenant on Civil and Political Rights
ICESCR	- International Covenant on Economic, Social and Cultural Rights
ICRC	- International Committee of the Red Cross
IMCI	- Integrated management of childhood illnesses
IOM	- International Organisation for Migration
IRIN	- Integrated Regional Information Networks
JRS	- Jesuit Refugee Service
LDC	- Local Development Cooperative
LRF	- Legal Resources Foundation
LWF	- Lutheran World Federation
MHA	- Ministry of Home Affairs
NEC	- National Eligibility Committee
NGO	- Non-Governmental Organization
OAU	- Organisation of African Unity
PTA	- Parent Teacher Association
RCMS	- Resettlement Case Management System
RICS	- Registration for Individual Case System
SGBV	- Sexual and Gender-Based Violence
SOP	- Standard Operating Procedure
Sub-Committee	- Sub-Committee on Urban Residency
UNDAF	- United Nations Development Assistance Framework
UNFPA	- United Nations Population Fund

UNHCR	- United Nation High Commissioner for Refugees
UNICEF	- United Nations Children's Fund
UNOPS	- United Nations Office for Project Services
USCRI	- United States Committee for Refugees and Immigrants
VCT	- Voluntary Counselling and Testing
WHO	- World Health Organization
YMCA	- Young Men's Christian Association
Zambia	- Republic of Zambia
ZI	- Zambia Initiative
ZIPU	- Zambia Initiative Programme Unit
ZMK	- Zambian Kwacha (As of 31/05/2007, 4000 ZMK = 1 USD)
ZRCS	- Zambia Red Cross Society

EXECUTIVE SUMMARY

For over four decades, Zambia has provided refuge to millions who sought asylum. Today, Zambia hosts an estimated 120,000 refugees, including 70,000 refugees in two camps, two settlements, and in urban areas. The remaining 50,000 refugees are self-settled and dispersed across the country. The refugees in Zambia originate from across Africa, with the largest groups being from the Democratic Republic of Congo and Angola.

While this report notes the contributions of the Zambian government in refugee protection over many years, it focuses primarily on current protection gaps and challenges so as to provide a working document for collaborative work to follow.

The following, therefore, is a summary of some of the key gaps which are highlighted in this report.

Legal and administrative framework

The principle legislation governing refugee affairs in Zambia is the 1970 *Refugees Control Act*, which reflects the reservations the government has made to the 1951 Convention pertaining to rights to employment, education, freedom of movement and travel documents. Other aspects of the Act are not fully in line with international protection standards. The Government of Zambia intends to bring national legislation in line with international protection principles by replacing the *Refugee Control Act*. There is also a need to harmonise other Zambian legislation impacting on refugees.

On statelessness, Zambia has not incorporated the Stateless Conventions it has ratified into national law. There is no provision for maintaining statistical information regarding the number of stateless and potentially stateless persons in the country

Migration policies

Risks associated with irregular migration, and in particular those pertaining to trafficking of women and children are believed to exist but the precise magnitude of the problem has not yet been determined.

Environmental impact

The relationship between refugees and host communities has been a harmonious one. However, the presence of refugees in some areas has led to some negative environmental impact, which although not a source of tension between refugees and local population is nonetheless of concern. This is particularly the case in regard to the effects of slash and burn agriculture.

Refugees and development plans

Although the National Development Plan (2006-2011), includes refugees within its Social Protection section, current district and provincial development plans—including those of the Western and North-western provinces where ZI has been piloted—have not included refugees in the population figures and by extension in their development strategies.

Reception and return

Zambia's open door policy towards asylum-seekers ensures that those arriving at the frontier seeking protection are admitted into its territory and screened. However, there is a severe lack of female officials to interview women, especially in remote border areas.

Registration

Several problems have been identified with current registration practices in Zambia. These include the absence of a unified electronic registration data base; considerable variation from office to office in the quality of data collection; insufficient training and supervision of data entry clerks; an absence of sufficient female registration officers; lack of individual

identification; lack of information on spontaneously settled refugees and no standard criteria for assessing who is vulnerable; and under-reporting and recording of deaths in the camps.

Restrictions on movement

Zambia requires all refugees to reside in designated refugee camps and settlements. Refugees must receive permission from the Commissioner for Refugees to live in urban areas. Many refugees, who were resident in urban areas prior to the imposition of restrictions on urban residency, remain illegally there on account of their business, their inability lack of experience with rural living and/or because of certain vulnerabilities.

Restriction on the freedom of movement is the primary concern and source of discontent among the refugee population as it limits their access to essential goods, sources of income and education options.

Refugee status determination (RSD)

The substance of individual status determinations generally meets international standards, with the exception of gender related persecution which is not a commonly accepted ground for claiming refugee status.

There are several procedural shortcomings with RSD in Zambia. These include the non provision to applicants of the preliminary transcript either before or during the interview with the National Eligibility Committee (NEC) and the lack of entitlement to legal counsel during the interview. There are no specific procedures for the determination of refugee status of unaccompanied or separated children, or for women asylum-seekers. Written decisions and reasons for negative determinations are provided only in English and the right to appeal negative decisions is communicated orally, leaving room for omission and misunderstanding. Appeals are heard by the same Committee that made the initial decision.

Those awaiting refugee status determination in urban areas face serious problems on account of their being not entitled to assistance and their children not being permitted to attend public schools. Moreover, they also risk being mistakenly detained for being prohibited immigrants.

Arrest and/or detention

Many immigration and police officers have not received training in refugee protection and arrest refugees and asylum seekers for illegal presence. Some immigration officers are reported to threaten refugees and asylum-seekers with detention unless they pay bribes and to abuse those considered to be illegal immigrants while detained. While UNHCR Protection Officers and implementing partners conduct regular prison visits there is no systematic means of reporting of and monitoring the detention of refugees and asylum-seekers.

Conditions of detention fall short of international standards and national legislation. Refugees and asylum-seekers in pre-trial detention are not separated from the general convicted prison population, and juveniles are often are not separated from adults. Access to legal aid is severely limited for detained refugees and asylum-seekers and their detention is not subject to judicial review by an independent tribunal.

Risks to security from violence and exploitation

Refugee women and girls are prone to being subjected to harmful treatment within and outside the family, including battery, sexual exploitation, sexual abuse, neglect, and marital rape.

Working children are exposed to the risk of abuse and lack of security, especially from 'bandits' when they travel to do piecework or collect water. Teenage girls fear rape because of its common occurrence and a large number of girls are engaged in prostitution to meet their basic food and clothing needs.

Current means to prevent and respond to SGBV including through policing, SGBV Task Forces and Victim Support Units have not been able to fully address the security problems

faced by women and children. Among the shortcomings are the high turn over of police officers, a lack of female police officers, the preference of some mediators to recommend reconciliation over prosecution and under-reporting of crimes. There is no standard reporting and follow-up mechanism.

Essential services

Although mechanisms exist to identify persons with specific mobility needs and some assistance is provided through the ICRC in certain locations, the needs of refugees with disabilities remains largely unaddressed.

Participatory assessment in the northern Congolese camps, revealed the concern of minority ethnic groups that the majority group dominates the management of camp affairs as well as in-camp employment¹.

There are insufficient means to combat preventable diseases within camps, including malaria which is the main cause of mortality and morbidity. Reinforced reproductive health messages are required in camps and settlements to reduce the risk of unwanted pregnancy and unsafe abortion among adolescent girls and refugee women. Access to health care is a concern for urban refugees due to the costs of services.

Chronic malnutrition affects 50% of camp based refugees due to both the quantity and quality of food rations and, as well, the limited opportunities to supplement their diet through self-reliance activities. There are no data available on the health of urban refugees.

Access to adequate housing is a problem for the majority of urban refugees compounded by residence and work permit requirements. Refugee housing in Meheba and Mayukwayukwa is often located far from essential health and educational services, making it difficult and costly for refugees to access basic assistance.

There is no legislative provision guaranteeing the right to primary education to refugee children on the same level as nationals. In practice, most refugee children have access to primary education however low attendance rates in some camps and the shortage of school supplies are cause for concern. Many children are forced to engage in menial work instead of attending school. The illegal status of some urban refugee children prevents their enjoyment of their right to education. Secondary education is unavailable to most refugees due to school fees.

Documentation

Refugees in camps and settlements are not issued identity cards. Food ration cards are only issued to heads of households, although they do contain information on other family members

Birth certificates are not automatic. No death certificates are issued to camp refugees. Refugees married to Zambian citizens do not acquire Zambian citizenship and therefore risk having to leave Zambia should the cessation clause be invoked.

Access to effective remedies in law

Refugees can be tried for criminal offences in Zambian courts, and legal counsel is provided for those who are unable to pay. Many refugees are fearful of reporting crimes committed against them. Moreover, those who would like to seek legal remedies may be unable to do so because of the absence of affordable legal counsel. As a result, professional male refugees with economic means are more likely to have access to the courts than other less well off refugees, including women, children and elderly persons.

¹ For instance, almost all the teachers employed at the camp schools are Tabwas

Other dispute resolution mechanisms

In the camps/settlements, refugees may rely on traditional methods of dispute resolution. While these mechanisms could be effective in resolving conflicts they often disadvantage the victim particularly in cases of SGBV.

Employment

Refugees must obtain work permits before they can engage in employment, including self-employment activities. The criteria for issuing work permits are difficult for most refugees to meet and the process is lengthy, complex and expensive. For many urban refugees, restrictions on employment can have severe consequences. With no access to assistance, many must, therefore, resort to illegal employment in the informal sector and face risks of detention, deportation and exploitative working conditions.

Limited income generating opportunities for refugees in the camps is also debilitating. Although land has been allotted for cultivation to refugees in the settlements, the farmland in the northwest is of poor quality.

While the national development plan recognises the contributions of refugees, this has not been reflected in employment regulations which, in many respects, limit rather than exploit refugees' productive potential.

Right to own property

Refugees and asylum-seekers in Zambia do not have the right to own real property while foreigners are allowed to possess land on leasehold basis which is renewable every 99 years.

Comprehensive durable solutions strategy

As yet there is not a sufficiently comprehensive solutions strategy which encompasses measures aimed at enhancing refugee self-reliance and settlement in Zambia in concert with voluntary repatriation and the strategic use of resettlement. To date, the Government of Zambia has favoured the latter two options. This has left remaining caseloads of refugees, without a solution in sight, including those who have been in Zambia for as long as three decades; those who were born in Zambia and consider it their home; and those who have established family links with the local Zambians.

In regard to repatriation, a continued constraint is the inaccessibility of areas of return due to poor infrastructure including deficits in primary healthcare, education and access to potable water. These areas require sustained humanitarian and development assistance.

Resettlement remains a time and resource intensive protection tool, involving complex screening procedures by resettlement States. Sustained partnership is required with resettlement countries to maintain the potential of resettlement as a tool to provide protection to vulnerable refugees and to assist Zambia in finding comprehensive solutions for its refugee population.

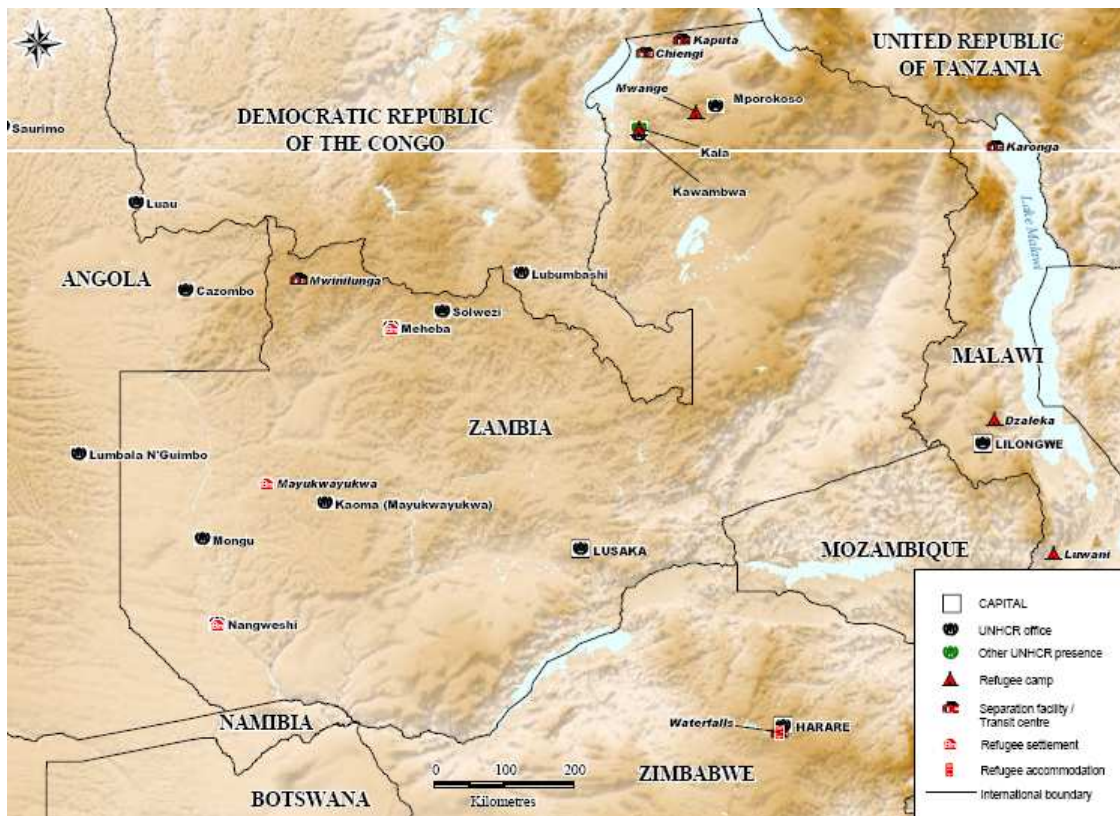
1. FAVOURABLE PROTECTION ENVIRONMENT

Current demographic profile

The Republic of Zambia (Zambia) has a long and generous history of hosting refugees despite belonging to the group of least developed countries: it ranked 166 out of 177 countries in the UNDP Human Development Report 2005. For over four decades it has responded to strife and civil war in surrounding countries by providing refuge to hundreds of thousands of displaced persons.

In 2001 Zambia hosted over 280,000 refugees. Numbers have declined markedly since then, largely as a result of political stabilisation in neighbouring countries, notably Angola. This has enabled tens of thousands of refugees to repatriate to their countries in safety and dignity.

Today, Zambia is host to some 120,253 refugees. Refugees reside in settlements, camps, rural and urban areas. Those who reside in official settlements, have access to farmland for cultivation whereas those who reside in camps do not. There are two settlements in the north and northwest; Meheba and Mayukwayukwa respectively. In the north are two camps Kala and Mwanje. Together the settlements and camps accommodate over 60,000 refugees.



There are an estimated 50,000 refugees who are self-settled and dispersed across the country. Approximately 48% of these unregistered refugees are from Angola and roughly a quarter is from the Democratic Republic of the Congo (DRC).

The population of urban refugees legally residing in Lusaka has been fairly constant over the years at just over 5,000. However it is estimated that the total number of refugees residing in Lusaka could be between 10 and 15 thousand.

The majority of registered refugees in Zambia come from the DRC (65%). Refugees from Angola comprise just over one quarter of the total (27%). The remainder come from Rwanda, Burundi and other African countries.

The camps/settlements have a young population with 55 percent below 18 years of age, and merely 3 percent above 60. Half of the camp/settlement residents are female. Many Congolese are able tradesmen. Angolan refugees tend to be from rural background and have farming skills. In contrast, a high proportion of those from the Great Lakes areas are urban professionals and businessmen. They often have difficulty adjusting to the rural conditions of designated settlements and camps.

The registered urban refugee population in Lusaka is a typical urban caseload with a slightly larger male population—about 60 percent of the population. Approximately 60% of the population is aged between 18 and 59 years and 38% percent of the total are children and the remaining 2% are older persons above 60 years of age. The relatively higher representation of male population and of the adult age group (18-59 years) may be in reflection of the government policy largely to limit the number of refugees legally entitled to reside in urban areas to those who have the necessary skills and financial assets to obtain a work permit or to be self-employed.

Registered refugees are not included in the official Population and Housing Census. Their needs and potentials are not incorporated in the national, provincial or district development plans.

Statistical data on the refugee population is maintained and updated at the Office of the Commissioner for Refugees under the Ministry of Home Affairs.

Major international and regional protection instruments

A summary list of the international treaties that Zambia has signed and ratified is provided in Annex 1.

Zambia is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. It has, however, made reservations in regard to the right to employment, education, free movement and travel documents.

Zambia is also a party to the 1969 Organisation of African Unity (OAU) Convention governing Specific Aspects of Refugee Problems in Africa, and it is under the provisions of this Convention that the majority of recognised refugees in Zambia have been granted status.

In addition, Zambia has signed and ratified a number of international and regional human rights instruments, including: the 1966 International Covenant on Civil and Political Rights (ICCPR), its Optional Protocol (I), International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Geneva Conventions, their Optional Protocols (I and II only), and the African Charter on Human and Peoples' Rights (ACHPR).

On statelessness, Zambia is a party to the 1954 Convention Relating to the Status of Stateless Persons but has not incorporated it into its national law nor has it acceded to the 1961 Convention on the Reduction of Statelessness. Zambia has made no provision for maintaining statistical information regarding the number of stateless and potentially stateless persons in the country. Currently, all registered refugees in Zambia are listed as having a nationality.

National legal and administrative protection framework

The principal legislation governing refugee affairs is the 1970 *Refugees Control Act* (the 'Act'). This Act reflects the reservations the government has made to the 1951 Convention but as well is not fully in line with international protection standards in other areas. For example, the Act does not explicitly provide for non-*refoulement*. Moreover, it grants broad discretion to the Minister of Home Affairs and the authorised officers to detain and deny status to asylum-seekers without justification. Furthermore, the Act codifies Zambia's camp-based refugee policy, providing for the confinement of refugees in designated camps and settlements and limiting exceptions to this policy. The Act does not provide for local integration.

The government of Zambia has recognized the need to replace the *Refugee Control Act* with comprehensive legislation that is more in line with international protection principles.

Moreover, the *Immigration and Deportation Act* and the *Extradition Act* also impact on refugees and asylum seekers. In particular many of the provisions of the former overlap with those of the *Refugee Control Act*, and refugees and asylum seekers can be dealt with under the former act in ways that are not consistent with international protection principles. For example, they may be deemed 'prohibited immigrants' under the Immigration and Deportation Act and subject to deportation in processes that are not fully transparent and that do not necessarily consider the protection risks that might be involved.

Additionally, the *Immigration and Deportation Act* permits immigration officers to detain suspected 'prohibited immigrants' for an indefinite period of time 'pending completion of the arrangements for his deportation from Zambia at the first reasonable opportunity'. For some nationals of non-neighbouring countries, this can result in an extended period of detention due to the authorities' lack of resources to transport them.

The *Immigration and Deportation Act* also authorises courts to order the deportation of refugees convicted of offences irrespective of the gravity of such offences. The only exceptions relate to cases where the Minister, or the court, is of the opinion that the refugee may be tried, detained, restricted or punished without trial for an offence of a political character upon return or is likely to be subjected to physical attacks. This is a much narrower provision than provided by the non-*refoulement* principle.

Another problem in regard to the legislative framework is that while by law all international treaties and conventions must specifically be incorporated into national legislation to be legally binding, many are not. The provisions of these international treaties can therefore be difficult to enforce. There are, however, examples of Zambian Courts exceptionally taking judicial notice of ratified but as yet not domestically incorporated international instruments and interpreting legislation in conformity with international treaties. For example, in 1995 the Zambian High Court referred to provisions in the 1951 Convention and the Geneva Conventions that had not been incorporated into national legislation in support of granting a habeas corpus petition by seven Rwandan refugees against the Attorney General of Zambia (1995/HP/4595).



One of the obstacles to the full enjoyment by women and children of rights without discrimination is the invocation of customary law which can be discriminatory, even in the face of national laws providing for equal treatment. As a result, women are in practice severely disadvantaged in inheritance, marriage, formal employment, education, and access to credit facilities. Zambian civil organisations have campaigned for the inclusion of rights set out in

the CEDAW and CRC, to be explicitly enshrined in the current Bill of Rights (Part III of the Constitution).

Moreover, the new draft Constitution of 2006 is expected to establish a Gender Commission. Administration of refugee affairs falls within the Office of the Commissioner for Refugees ('the Commissioner') within the Ministry of Home Affairs (MHA). It maintains statistics and a registration database on refugees. The National Eligibility Committee ('the NEC'), chaired by the Commissioner, conducts individual refugee status determination, while the Sub Committee on Urban Residency (the 'Sub-Committee') accords refugees the right to live outside the designated areas. UNHCR is an observer with an advisory role on both the Committee and the Sub-Committee.

The Government welcomes and recognizes the role and involvement of UNHCR in refugee matters, and it permits UNHCR access to government files and database on the refugee population. UNHCR has full access to all refugee camps/settlements and some access to prisons, and is unobstructed in meeting persons of concern.

Partnerships to strengthen protection capacity

Strong partnerships exist between the Government, donor countries, UNHCR, other UN agencies, and local and international NGOs to strengthen refugee protection capacity in Zambia.

The Zambia Initiative (ZI) is an example of such multilateral cooperation. It is a Government-led model programme to address poverty reduction in refugee hosting areas while supporting development assistance to refugees and opening the possibility of Development through Local Integration of refugees. Although its implementation encountered several difficulties as explored later in greater detail, the concept and objectives of ZI were, and continue to be, well-received by all stakeholders.

Implementation began in early 2003 as a pilot in the Western province (subsequently expanded to the North Western Province in 2005) with strong support from donors, including: Denmark, Japan, USA, Sweden, the European Commission, UN Human Security Trust Fund, and Japan International Cooperation Agency, in collaboration with UNHCR and UNOPS. One of the remaining challenges of ZI is additional and more visible engagement of the UN Country Team in providing its expertise in long-term development projects.

In parallel with ZI, UN agencies have been providing targeted assistance to the refugee population. Aside from the UNHCR whose functions are detailed elsewhere in this report, WFP has been distributing food items to refugee camps since 1999. Starting in August 2005, it partnered with UNICEF and UNHCR in the integrated HIV/AIDS-food and nutrition pilot activities in the northern Kala and Mwange camps. UNICEF, in collaboration with the Ministry of Health, has provided vaccines to refugees and maintained the vaccine cold chain—apparatus to maintain the ideal temperature for vaccine storage, equipped with a monitoring device. Furthermore, it has been the focal point for malaria prevention and treatment activities in the western settlements. UNFPA has been offering youth-friendly reproductive health services in the Meheba settlement.

Also, in addition to and as part of ZI, respective Government departments, in collaboration with UNHCR and other UN agencies, provide essential services to the refugees in areas such as water and sanitation, education and health care in the camps/settlements and Lusaka,.

Among the NGOs active in refugee protection and assistance are: *Afrika Aktion Hilfe*, Africa Humanitarian Action, Africare, Christian Outreach Relief and Development (CORD), FORGE, Hodi, Jesuit Refugee Service (JRS), Catholic Relief Services (CRS), Legal Resources Foundation (LRF), Lutheran World Federation (LWF), Right to Play, World Vision International and Young Men's Christian Association (YMCS).

In cooperation with the government and UNHCR, the International Organisation for Migration (IOM) has been undertaking cross-border transportation and logistical assistance for the

voluntary repatriation of Angolan refugees and resettlement of refugees to third countries. IOM conducts HIV/AIDS awareness campaigns at departure centres during repatriation and technical assistance to the government in border management and counter-trafficking measures.

International Committee of the Red Cross (ICRC), in cooperation with the Zambia Red Cross Society (ZRCS), assists with family reunion for those separated in armed conflicts; monitors prison conditions and addresses general protection needs of refugees in the urban areas. Moreover, ZRCS, in close cooperation with UNHCR, provides material assistance (food and clothing) to refugees and asylum seekers in detention.



Migration policies and refugee protection principles

Centrally located in the region, Zambia experiences various migration flows to, from and through its territory. Individuals moving in an irregular manner, both refugees and economic migrants from Angola, DRC and the Great Lakes, have used Zambia as a transit and destination country.

Risks associated with irregular migration, and in particular those pertaining to trafficking of women and children are currently being studied. IOM has undertaken awareness campaign activities on trafficking and has conducted a survey in major towns and cities to determine the extent of the problem. The results of the survey have not yet been made public. The government has attempted to address related concerns about forced prostitution and labour through the creation of new committee/offices on child welfare and sexual crimes. It is not clear that the refugee population has been involved in this initiative.

Zambia has not entered into a readmission agreement with any state.

Local population receptivity towards refugees

Zambia's open door policy to refugees has by and large received support from the host communities which have over the years welcomed and integrated the refugees. The relationship has by in large been a harmonious one and refugees have joined community groups, such as churches and agricultural societies.

The good relations can in part be attributed to the growing awareness among the Zambians of the refugees' potential to contribute to socio-economic development of local communities. An independent evaluation of the ZI ('Evaluation of the Zambia Initiative,' February 2006) found the ZI to have contributed to an improved relationship between refugees and host communities, noting that the latter now regards the refugees as partners in development and not a burden. The report documents that this improved relationship has led to increased inter-marriages, exchange of cultural values, reduced xenophobia and social integration. Also, news items documenting the severe food shortages in refugee settlements and surrounding areas occasioned by the repatriation of a large number of Angolan refugees, testified to the refugees' past contribution as productive farmers. Rwandans also brought in improved agricultural techniques to the host areas and contributed to diversification of food production.

It has been alleged that there are sporadic incidents of hostility and discrimination against refugees and other foreigners. These have included reports that refugee businesses have been destroyed. Immigration officials have conducted enforcement operations in major cities and towns from time to time. In May 2006, refugees reported that some of their business had been destroyed in the course of such an operation in Lusaka. Refugees also report that some

employers categorically reject refugees' requests for jobs. Such incidents coupled with the absence of a means to legally locally integrate, fuels concerns among the refugees on their long-term security in Zambia.

The presence of refugees in some areas has led to some negative environmental impact. Although this environmental impact has by and large not been a source of tension between refugees and local population it is nonetheless of concern as it could lead to tensions in the future. This is particularly the case in regard to the effects of slash and burn agriculture. In addition, some camp-based refugees have resorted to charcoal burning as a source of income, contrary to government policy that prohibits indiscriminate cutting of trees. To address this issue, the ZI included forestry interventions, but they had little impact on restoration of the environment. Ecology Clubs in refugee schools promote improved natural resource management and nursery management to children. These clubs aim to provide immediate awareness of environmental issues and promote long-term conversational practices.

Refugees and national and regional development agendas

The Transitional Development Plan (2002-2005) acknowledged that 'Zambia has been hosting refugees without realising their productive capacities. Development, thereby poverty reduction, has had no direct link to refugee operations'.

To address this shortcoming, the National Development Plan (2006-2011), which replaced the Transitional Plan, included the refugees within its Social Protection section. Social Protection refers to policies and practices that protect and promote the livelihoods and welfare of people suffering from critical levels of poverty and deprivation and/or are vulnerable to risks and shocks. This provides a strong basis for the inclusion of refugees in development planning and for resource allocation to refugee hosting districts. Unfortunately, the current district and provincial development plans—including those of the Western and North-western provinces where ZI has been piloted—have not included refugees in the population figures and by extension in their development strategies.

As noted earlier, the ZI is designed to coordinate development assistance in refugee hosting areas in a manner that engages both refugees and hosting communities in joint and comprehensive development efforts. Its key objectives include strengthening the infrastructure, enhancing agricultural productivity, and improving health care, education and vocational training. The goal is to accelerate development and reduce poverty by combining the capacities and potential of local communities and refugees. Other long-term benefits include equipping refugees, who have a reasonable prospect of repatriation, with the skills necessary for their reintegration once home and providing for the smooth local integration of those refugees for whom remaining in Zambia is the most appropriate solution. The initiative has entered the fourth year of implementation, covering the Western and the North-western Provinces.

Although its achievements to date are mixed, both the government and UNHCR are determined to expand the area coverage of the ZI to include Northern and Luapula Provinces in 2007 in the Initiative's Phase II pending additional support from the international community. To succeed, however, it is of vital importance that the ZI be fully integrated into the respective District Strategic Development Plans and the line Ministry plans upon the launch of Phase II.

The United Nations Development Assistance Framework (UNDAF) process has been carried out within the UN country team as part of its contribution towards the National Development Plan (2006-2011). Refugees fall under the target area 'vulnerable groups' in the UNDAF document (2007-2010). UN efforts to support self-reliance of vulnerable groups focus on four priority areas: food security, access to basic social services, HIV/AIDS and governance.

2. ADMISSION IN SAFETY AND REGISTRATION

Access to the territory

Immigration authorities control access to Zambia at airports and land border points. Zambia's open door policy towards asylum-seekers ensures that those arriving at the frontier seeking protection are admitted into its territory.

Refugees arriving in refugee-prone border districts are brought before the District and Provincial Joint Operations Committees for screening. The Committees are made up of primarily immigration and/or police officers. The screening conducted by these Committees focuses on identity, reasons for departure from country of origin and identifying combatants and separating them from the rest of the population. The committees are responsible for determining whether the arrivals are eligible for *prima facie* status, based on the 1969 OAU Convention criteria, a responsibility conferred by government policy rather than by statute.

During situations of mass influxes from neighbouring countries refugee arrivals are found by the Committees to have *prima facie* status under the OAU refugee convention, having fled

generalised violence rather than claiming individual persecution. Their cases are referred directly to the nearby camps/settlements to proceed with registration. Refugee Officers based at the camps/settlements as representatives of the Commissioner for Refugees are present during the Committees' screening exercise. Once the committee makes a recommendation that a group of persons be transferred to the camp, the



Refugee Officer will send a report on the recommendation to the Commissioner for Refugees who will study and endorse the recommendation. Those who are not so found or who arrive not in situations of mass influxes are referred to a preliminary interview with the Office of the Commissioner for Refugees in Lusaka and go through the individual status determination process as outlined in Section '3.2 Individual Refugee Status Determination'.

Asylum-seekers who do not initially appear before the Committees are required by law to obtain a permit to remain in Zambia within seven days of arrival either with the immigration authorities, police, UNHCR or the Commissioner for Refugees. They may also approach officers at formal border entry points. Upon laying claim to refugee status, the asylum-seeker is issued with a 'report order' and is asked to appear before an Immigration Officer within a specified period of time. The Immigration Officer will in turn refer the individual to the Office of the Commissioner for Refugees where s/he undergoes an individual status determination.

In general, there is a severe lack of female officials to interview women for the screening, especially in remote border areas. The screening committees are comprised of government officials from immigration, army, police and office of the President. It is by virtue of their positions in their respective departments that they sit on these committees. While women are represented in these different institutions, few are posted to work in the border areas.

Non-refoulement at point of entry

Refoulement at point of entry has not been a practice of the Government of Zambia. Nevertheless, the fact that the Refugee Control Act contains no provisions that specifically protect asylum-seekers against *refoulement* is a notable gap in the legal protection framework. This is particularly so since the Act empowers the Minister of Home Affairs to order the deportation of any refugee at any time.

The new draft Constitution awaiting adoption is expected to incorporate the right of non-*refoulement* into Zambian Law.

UNHCR access to new arrivals at entry points

UNHCR has unhindered access to the border posts.

Individual registration of refugees and asylum-seekers

The government of Zambia is responsible for the registration of refugees and asylum-seekers both in the camps/settlements and in the urban areas. The Office of the Commissioner for Refugees in Lusaka maintains and updates the national refugee registration database.

UNHCR plays an advisory role in the government registration exercises by providing technical assistance, formulating standard operating procedures and supervising the registration process. A UNHCR registration officer is usually present whenever registration is conducted. Also, the UNHCR Office in Lusaka maintains protection records of individual cases in a separate registration database from that of the government. The UNHCR records allow its protection officers to quickly access information on individual cases and track protection problems. The database was developed in accordance with the UNHCR standard operating procedures developed in 2002.

In the designated camp/settlement areas, refugees and asylum-seekers are registered by the government as members of a family. The head of household receives a ration card and a camp address. Single women and female heads of household are the only women in the camps who get their own cards, as married women are registered under their husband. The registration forms, therefore, are per family unit, but separate data on each individual member is collected and recorded in the form.

There is considerable variation from office to office in the quality of the government-collected registration data, reflecting the discrepancy in the technical capacity of registration officers. A UNHCR registration mission in February 2006 identified poor data quality in the 2001/2002 registration exercise at the Meheba settlement. Among the problems identified was the fact that there were many instances of missing and/or erroneous information and there was confusion in the fields into which the information should be entered. Moreover, some fraudulent practices were also uncovered including cards in the name of non-existent families, tampered cards and the buying and selling of cards.

The mission recommended intense supervision of data entry clerks. In the other camps and settlements, to a varying degree, additional capacity is needed to develop appropriate means and registration practices.

Regular and continuous registration and updating of database are conducted by predominantly male registration officers with assistance from a UNHCR team which also tends to have higher proportion of male staff members. Only during mass verification exercises are gender-balanced teams of registration clerks and officers available. These teams are usually hired by the government with UNHCR providing the funds.

Each camp/settlement is equipped with an adequate office building to conduct administrative matters in security and privacy, including registration. Registration processes in Zambia, both

by the government and UNHCR, record the minimal required data, including: name, date of birth, sex, country of origin, marital status, and children.

Other problems relate to the fact that electronic registration data are held in three different systems: RAPID in the designated camps/settlements, RICS (Registration for Individual Case System) and the Government's Microsoft Field Kit in the urban areas. In the camps/settlements, there are separate Excel sheets used for food distribution, and these food lists are not necessarily generated from the electronic database, causing discrepancies in the data. Consolidation of these various systems is an urgent requirement.

Although UNHCR's database contains photos of refugees and information on those with special needs, there are no standard criteria used to classify a person as falling within the 'vulnerable' category and when to include/delete their names from the 'vulnerability' list. In general those with disabilities, single heads of household, separated children and unaccompanied elders and minors are considered to be 'vulnerable' groups, but not their family members. There is a recognised need for clearly defined and applied criteria for assistance and as well additional staff training on data entry.

In addition registration review missions in 2003 revealed a noticeable under-reporting and recording of deaths in the camps. This is believed to be on account of the reluctance of refugees to report deaths of family members due to the reduction in the food ration that will follow. A recent mission in February 2006 noted that there are also some backlogs in data entry, as well as the problem of unregistered refugees who are residing in the camps.

Furthermore information on spontaneously settled refugees is generally lacking. A registration exercise conducted in 2005 revealed that 22,298 spontaneously settled refugees are scattered in different parts of Zambia. However the registration exercise was halted before it was completed due to shortages of funds and the numbers are expected to be much higher than the indicated figure. Information on the needs and vulnerabilities of spontaneously settled refugees is almost non-existent.

A comprehensive registration exercise (verification of database, photocapturing) and profiling of refugees will be undertaken in 2007 which would cover spontaneously settled Angolan refugees, urban based refugees (those legally residing in urban areas) as well as camp based refugees in Maheba and Mayukwayukwa. This will prepare the ground for the planned consolidation of all data under one software—ProGres—by early 2008. The consolidated data will be handed over incrementally to the Zambian government in the spirit of promoting national ownership of the refugee registration exercise.

A group of refugees who will be left out of the registration exercise are those refugees who have been residing in Lusaka without obtaining the necessary permits required of them to reside in Lusaka. It is estimated that around 5000 refugees were residing in Lusaka for many years prior to the adoption of the encampment policy in 2000 and hence were reluctant to move to camps/settlements.

Information on rights and responsibilities

Information is provided to refugees and asylum-seekers on their rights and responsibilities in a language they can understand. In both the camps and urban areas this is primarily done through workshops, regular meetings, individual counselling, radio broadcasts and/or distribution of mass information materials.

In camps and settlements UNHCR conducts regular workshops mainly focusing on issues such as SGBV, and age and diversity mainstreaming. Information on rights and responsibilities is also provided during regular meetings with refugees, especially zone/section leaders and in individual counselling sessions by protection and resettlement staff of UNHCR. In addition, written leaflets are provided on specific subjects such as on voluntary repatriation to Angola and the DRC, on the handling and reception of individual cases at BO Lusaka, and on the issuance of United Nations Convention Travel Documents (CTD), which are issued by the Zambian Passport and Citizenship Office.

In Lusaka, information is communicated to refugees through monthly meetings with refugee leaders and occasional meetings which are open to all refugees to attend. These meetings are attended by protection and community services officers and refugees are free to bring up any issue which is of concern to them. In addition to the distribution of the aforementioned leaflets, workshops, individual counselling sessions and communication with refugee leaders takes place on regular basis. Women are however not well represented. One reason for this is that many have businesses to attend to sustain themselves and their families and that the committee of refugee leaders is dominated by men with token women representation.

Limited restrictions on movement

Zambia made reservations to the 1951 Convention with regard to Article 26, according the right of freedom of movement to refugees. Zambia requires all refugees to reside in designated refugee centres, the camps and settlements of Mayukwayukwa, Meheba, Kala and Mwange.

In order to leave one of these designated areas, a refugee must obtain a gate pass from the Refugee Officer. Refugees are allowed to leave the camps



for family visits, to study, to sell their farm products and for medical reasons for a specified period of time. If the gate pass expires before the person is ready to return, the person has to travel back to the camp to get it extended. Passes specify the reasons for leaving the camps and can be valid for up to 60 days, allowing travel to major towns, including Lusaka, but not to border areas.

Refugees are, as a rule, not entitled to reside in Lusaka or other cities. The exceptions are

those who have obtained authorisation from the Commissioner for Refugees. In 2000, a new policy was introduced on the right to reside in the Lusaka as a means of controlling the number of residents given the difficult economic situation there.

To live in Lusaka, refugees must demonstrate that they fall within one of the following permissible categories: those who have needed professional skills; those who have the assets to become self-employed; those who need to reside in Lusaka for medical, study or protection reasons; those who are awaiting resettlement; and those whose cases fall under the family unity scheme. Urban refugee residents wishing to travel within the country must obtain permission from the Commissioner.

UNHCR's estimates that up to 5,000 refugees—who had lived in Lusaka before the new policy on urban residency was introduced (some for over 10 years)—were deemed ineligible to do so under the new regulation. Some of them continue to live in Lusaka illegally because they have small businesses in Lusaka markets; have no experience of rural living; or have refused to move to the camps/settlements due to certain vulnerabilities. Examples of the vulnerable cases include older persons with responsibility for a number of grandchildren, the parents having died or deserted the family. In total, some 10,000 refugees are estimated to live illegally in urban areas, most of them in Lusaka. The planned registration exercise will not include this group of refugees as mentioned before and hence their numbers, needs and concerns will remain unknown.

The Sub-Committee on Urban Residency of the NEC, with UNHCR observance, meets twice a month to screen application for urban residency under the aforementioned restrictive

criteria. Refugees who are found not to be eligible for urban refugee status are assisted with transportation to relocate to designated sites, through the ZRCS.

For a refugee wishing to travel outside the country, he/she must first apply and obtain a CTD, obtain a visa from the relevant embassy and finally approach the Commissioner for Refugees in order to obtain approval and an exit permit.

Refugees are frequently detained by immigration authorities for relocating from designated sites or for residing in urban areas without authorization. Of the latter, once their release is secured through a UNHCR intervention, they are subsequently relocated to designated sites. Restriction on the freedom of movement is the primary concern and source of discontent among the refugee population, as it limits their access to essential goods, sources of income and education options.

3. FAIR AND EFFICIENT STATUS DETERMINATION

Group determination

As indicated earlier, the Refugee Control Act provides for recognition of refugees on a class basis, which has been used to recognise most refugees in Zambia. Close to 95 percent of the registered refugees and over half of the total estimated refugee population in Zambia are recognised as *prima facie* refugees based on the OAU Convention criteria.

Refugees arriving in refugee-prone border districts are brought before the District and Provincial Joint Operations Committees for screening. The Committees are made up of primarily immigration and/or police officers. The screening conducted by these Committees focuses on identity, reasons for departure from country of origin and identifying combatants and separating them from the rest of the population. The committees are responsible for determining whether the arrivals are eligible for *prima facie* status, based on the 1969 OAU Convention criteria, a responsibility conferred by government policy rather than by statute. If the committee deems that an asylum seekers might have an individual claim for persecution separate from the generalised violence or war in his country they refer the case to the office of COR in Lusaka to examine his claim.

Individual Status Determination

Individual refugee status determination is conducted in Lusaka for asylum-seekers who have arrived at the border areas but have not been granted *prima facie* recognition and for asylum-seekers who have arrived in Lusaka directly without necessarily approaching the authorities in the border areas. There is no legislative provision regarding eligibility, and the determination procedure is based on administrative practices.

The cases that come to the attention of the Office of COR in Lusaka are first reviewed by the Legal Department of COR. The legal department is usually staffed with three legal advisors however currently only one legal advisor is working at the department which is hindering the ability of the COR to process cases in a timely manner. The functions of the Legal Advisors are to interview the applicants and make recommendations to the Commissioner as to the decision which should be taken on the asylum application. The advisors also have the authority to reject claims as manifestly unfounded however this right is rarely exercised.

If the applicant had fled a situation of war or generalised violence the legal advisors would recommend that the applicant be recognised as refugee under the 1969 OAU convention. Once this recommendation is endorsed by the Commissioner the refugee would be advised to relocate to a refugee designated area, according to nationality. Upon arrival in camps/settlements, the refugees are issued with ration cards without being subjected to further eligibility interviews.

If however the reason for flight is related to an individual fear of persecution the applicant undergoes a distinct procedure and is referred by the legal advisors to the National Eligibility Committee (NEC) to decide on the case.

The NEC is chaired by the Commissioner for Refugees or his deputy and includes representatives from the Immigration Department, Police Service, Office of the President, Ministry of Foreign Affairs, Ministry of Labour and Social Services, Ministry of Education and the Passport and Citizenship Office. The Legal Advisor of the Office of the Commissioner for Refugees is also present to advise the meeting on any legal issues. UNHCR sits only as an observer but has an influential role by extending its expertise and advice to the NEC.

The members of the NEC are given time to study the transcript provided by the legal officer before a meeting with the applicant is convened. The NEC also considers the refugee status

application form and the country of origin information file, compiled from sources such as Refworld, Human Rights Watch, Amnesty International and Integrated Regional Information Networks (IRIN) reports. UN interpreters are used where necessary.

The NEC generally examines whether the applicant falls under the definition of a refugee under the 1951 convention. However if the committee concludes that the applicant does not meet the criteria of the 1951 convention or that his claim for individualised persecution is not credible it could still grant status under the 1969 OAU convention if the applicant originates from a place characterised by generalised violence or war. There is no difference in treatment or rights between refugees recognised under the 1951 convention and those recognised under the 1969 OAU convention. However those recognised under the 1969 Convention are rarely considered for third country resettlement.

Applicants can get legal advice from UNHCR Protection Officers, lawyers from the Legal Resource Foundation or private lawyers however applicants cannot have legal representation during the interview. Local NGOs providing legal aid have limited capacity available to help asylum applicants with their claims and most refugees do not get any legal assistance at all in presenting their claims to the NEC which is certainly a gap that needs to be addressed. Applicants are not provided with a copy of the preliminary transcript either before or during the interview with the NEC.

During the interview before the NEC the asylum seeker is given time to explain his or her asylum claim and thereafter, the members can ask questions. The Office of the Commissioner utilizes the services of interpreters who are called upon during interviews when this is needed. There are no specific procedures for the determination of refugee status of unaccompanied or separated children, nor are there any for women asylum-seekers. Guardians are required to be present during RSD interviews. Unaccompanied or separated children are usually accompanied by UNHCR community services staff or protection officers. Family members of recognised refugees are automatically granted refugee status and the NEC sometimes asks to interview family members to determine that they are a genuine family unit.

Zambia does not apply the principle of the safe first country of asylum. However, the NEC does consider the failure to seek status in other countries when judging the credibility of the claim. Applicants may be asked whether they claimed status in another country. If they have, they will be asked for the outcome. If they have not, they are asked why. If the person received a negative determination elsewhere, the NEC requests UNHCR to get more information from the country that conducted the RSD. The NEC considers this information in arriving at a decision.



Following the interview, the NEC recommends a decision to the Commissioner for Refugees, which must be endorsed by the Commissioner to constitute a final decision. Written decisions and—in case of rejection—reasons for them are delivered to the asylum-seeker in English (without translation into a language spoken by him/her).

Rejected applicants are advised of their right to an appeal, but there is no mechanism to ensure that correct and adequate information on appeals is transmitted to them. The information is delivered verbally only, leaving room for omission and misunderstanding.

The NEC sits regularly every fortnight, and decisions are reached in a relatively timely manner. The longest waiting time is usually around two months however the current human resource constraints in the Office of the Commissioner are leading to further delays. Those awaiting refugee status determination in Lusaka face serious problems on account of the fact that they are not given assistance in housing or basic food and non-food supplies; children do not have access to schooling; and asylum seekers face risks of detention when the 'prohibited immigrant' category is mistakenly applied to them by immigration officers.

Notwithstanding the procedural shortcomings of the status determination and the inadequate protection mechanisms for those awaiting decision on their asylum applications, the substance of the NEC decisions have been found generally to meet international standards with the exception of gender related claims to persecution. These tend to be few, and when presented UNHCR and the Legal Advisors are at hand to explain and provide the necessary information to help the Committee make an informed decision. However, gender-related persecution is not a commonly accepted ground for claiming refugee status in Zambia.

Zambia is not known to discriminate against certain nationalities in the eligibility procedures.

Zambia did not apply the cessation nor exclusion clauses to refugees in 2006.

The number of annual requests for individual refugee status determination is relatively low. For example, there were 163 cases in 2005, and 84 cases pending from the previous year. In the first half of 2006, an additional 67 applications were received. The percentage of approved cases declined in that period to 42% from 61 percent the previous year. Information is not available regarding the comparative acceptance rates of men and women.

Country of origin and legal information

Legal and country of origin information (COI), including background information, guidelines and position papers available and accessible to staff, government and partners through UNHCR. Nevertheless, there is a need for training of government and NGO partners on COI including how to access it via Internet and CD-ROM and how to appropriately use COI available electronically or in hard copy.

Appeal

Appeals are made by submitting a written application for a second review by the National Eligibility Committee. In theory, applicants, including those whose claim was found to be manifestly unfounded by the legal advisors, may also request the Minister of Home Affairs to review the case, but this channel is rarely used for appeal. Once an application for appeal is submitted, applicants have a right to remain in the country pending the appeal decision. According to the Office of the Commissioner for Refugees on average, some 85 percent of the rejected applicants appeal, of whom approximately 1 percent successfully achieve reversal of the original decision. The fact that the body which conducts the appeal interview is the same body which makes the first instance determination undermines the fairness and effectiveness of the appeal procedures.

UNHCR informs unsuccessful applicants of the right of appeal and offers advice and counselling on how to present their requests for recourse. UNHCR is also advocating for the creation of an independent appeal tribunal and right to education, housing and assistance for those awaiting appeal decisions.

4. SECURITY FROM VIOLENCE AND EXPLOITATION

Non-arbitrary arrest and/or detention

Most arrests and detentions of refugees and asylum-seekers are for violations of the 1970 *Refugee Control Act* and/or *Immigration and Deportation Act*. A small number of refugees are sentenced to a prison term for criminal offences.

According to the 2006 report of United States Committee for Refugees and Immigrants (USCRI), at least 160 refugees and asylum-seekers—mostly Congolese and Rwandans but also some Burundians—were arrested for offences related to: illegal entry or presence in Zambia; physical presence in the urban area without a permit; or wage-earning and trade activities without a permit. The report continues that in Lusaka, authorities detained at least 78 refugees for unauthorised departure from the camps/settlements. In January 2006, 10 refugees who left the Nangweshi camp in search of food and work were arrested.

Arrest and detention of refugees and asylum-seekers is generally undertaken by Immigration Officers for immigration infractions and by the police for other criminal offences. Many police have not received training in refugee protection and fail to recognise documentation issued to refugees. Some of them are reported to threaten refugees and asylum-seekers with detention unless they pay bribes. According to the US Department of State, 'police frequently used excessive force when apprehending, interrogating, and detaining ... illegal migrants, and there were reports of torture.' There is no mechanism which provides for systematic reporting and monitoring of these incidents, leaving a gap in reliable figures on gender and age disaggregated data and the proportion of unwarranted detention.

UNHCR, ICRC/ZRCS and some church leaders are monitoring and assisting to the extent possible refugees and other persons of concern in detention by conducting prison visits, advocating for humane prison conditions and providing for certain basic needs. They also intervene to prevent expulsion and to ensure release and relocation to camps and settlements. However given the geographical and resource limitations of the aforementioned organisations many refugees and asylum seekers are not monitored while in detention and do not receive any legal assistance or advice.

Conditions of detention fall short of the international standards and national legislation. Unlike Zambians, refugees and asylum-seekers in pre-trial detention are not separated from the general convicted prison population. Prison conditions are described as 'harsh and life threatening' (cf. US State Department), suffering from severe over-crowding, poor sanitation and inadequate provision of food. Men and women in Zambian prisons are held separately. Juveniles often are not separated from the adults although infants and younger children of incarcerated women are held along with their mothers.

In camps/settlements there are no detention facilities and refugees who are arrested are transferred to prisons in the nearest towns. However sometimes there are delays in the transfer mainly due to lack of transport and refugees are then detained in the police posts in the camps until a vehicle is available to transport them to the nearest town. The police posts do not have any facilities for detention and refugees are kept under difficult conditions with limited access to food, water and other services pending their transportation.

Access to legal aid is severely limited for the detained refugees and asylum-seekers. Once detained, they are not granted judicial review of their detention before an independent tribunal. Offenders of the Refugee Control Act may be subject to imprisonment for a period not exceeding three months (Article 5), while the Immigration and Deportation Act (Section 25) allows the immigration authorities to detain a suspected prohibited immigrant for a period of up to fourteen days. Many, however, remain in detention exceeding the specified periods. On the 14-day upper limit cast under the Immigration and Deportation Act, the Zambian

courts have held that this provision was not applicable to refugees (*Mifiboshe Walulya v. The Attorney General 1984 ZR 89*).

Children are not exempt from detention for entry-related offences. Children are also detained for criminal offences and are usually detained with the adult population.

Effective security systems in camps/settlements

The government is responsible for the safety of the refugees and the humanitarian workers. In the past, the border police were the only law enforcement authority which operated in the camps/settlements, but regular police staff are now deployed which has boosted the government capacity. The police fall under the authority of the Ministry of Home Affairs.

The Zambia police maintain an office in each camp. The officers are usually –but not always-identifiable by their uniforms. Police officers, together with immigration officer and other government officials, participate in UNHCR protection workshops and receive training on SGBV issues, women and children rights, as well as general protection principles.

There are insufficient police to conduct regular security patrols. Moreover, the high turn over of police officers poses challenges in ensuring adequately trained personnel. Additionally there are not enough female police officers, with on average only one female police officer per camp/settlement. Participatory assessments have revealed that women refugees strongly wish to have the number of female staff increased.

The police Victims Support Unit, present in each camp/settlement, has been a focal point for delivering community support services related to security matters. But the effectiveness of these Units is limited by the constraints mentioned above.

The camps and settlements are equipped with neighbourhood watch committees, which are comprised of both male and female refugees. Their role is to monitor the security situation in the camps and alert the security authorities of security concerns/incidents in their areas. Refugees are not reported to face risks in accessing food, water or other items. However there have been complaints raised by refugees that some members of the neighbourhood watch committees abuse their power and resort to extortion and intimidation when performing their functions. There is certainly a need for continuous monitoring of the neighbourhood watch committees as well as trainings in order to clarify to the committees what their roles are and what standards they have to adhere to.

Mechanisms to prevent and respond to sexual and gender based violence

Refugee women and girls are prone to being subjected to harmful treatment within and outside the family, including battering, sexual exploitation, sexual abuse, neglect, and marital rape. Reports from Kala and Mwange camps indicate that domestic violence, rape and defilement are among the most serious protection risks facing women and girls in the camps². In 2006, Kala and Mwange camps recorded 25 SGBV cases, of which 9% domestic violence, and 45% defilement cases. In contrast 274 GBV cases were reported between 2003 and 2005. The decline in the number of reported cases is partly due to the institution of effective prevention and response mechanism, such as the mobile courts.

The UNHCR Participatory Assessments revealed that in Mayukwayukwa, rape, domestic violence, sexual abuse and a lack of female police officers are among the foremost concerns of women and girls. The full extent of SGBV prevalence, however, is difficult to accurately ascertain, primarily due to underreporting. For example, trends show that Angolans preferred to keep serious incidents quiet for fear of delaying repatriation as well as fear of being ostracised by the community.

² Defilement is having sexual intercourse with a girl below the age of 16.

Prevention

SGBV Task Forces have been set up in the camps in order to work on prevention and response activities related to SGBV. The Task Forces are comprised of representatives from the government office, police, refugee men and women, UNHCR staff and staff of NGO implementing partners. The Task Force's main functions are to offer counselling and advice, settle disputes and conducting sensitisation work—the last of which has been also undertaken by the camp section leaders. The SGBV Task Forces and the community development workers also provide windows for handling complaints against alleged abuse by camp workers.

However a number of factors limit the ability of the Task Forces to exercise their duties effectively. For example many of the members of the task forces in Mayukwayukwa and Maheba have repatriated back to Angola and while the task forces were recently reconstituted the new members require further training and capacity building before they are able to undertake their tasks efficiently. Furthermore the Task Forces work on voluntary basis without any compensation, even if they work late at night or if they incur transport costs, which makes many of the members feel discouraged or unmotivated. There is also a need for more support to the task forces to undertake awareness raising activities on more regular basis and to use diverse methods and tools in raising awareness.

Training on prevention and response to SGBV is provided to men, women, children and officials working in the camps/settlements. The majority of staff in the camps had received training on SGBV response and prevention mechanisms however due to the high turn over and the lack of capacities further trainings are definitely required. The refugee community is involved in the design and implementation of prevention and response mechanisms to SGBV through workshops and participatory assessments involving women, men and children.

Response:

SOPs and referral mechanisms have been put in place in the camps/settlements and in Lusaka in order to direct victims to the appropriate service providers in a timely manner.

In general, SGBV cases in the camps are reported to camp Section Leaders, then to the SGBV Task Forces, then to the police, and occasionally the case could go to the courts (either the local magistrate court or the mobile court). However it is believed that in general Congolese and Angolans often resort to such camp SGBV mechanisms only if traditional dispute resolution mechanisms do not achieve results. The traditional response to GBV cases could involve payment of compensation or even marrying the victim to the perpetrator.

The Police Victim Support Unit is responsible for handling cases of gender based violence, by following up on prosecutions, ensuring the security and safety of the victim if it is under threat and also assisting with resolving cases through reaching out of court settlements. However, the Unit is reported to encourage reconciliation as the preferred method of handling reports of SGBV rather than pursuing prosecution. Nonetheless some report that the Unit has dealt effectively with reported SGBV cases in Mayukwayukwa and Nangweshi and that police arrests are a major deterrent for perpetrators.

Until 2005, police in the Kala and Mwange camps were drawn from the paramilitary border guards. The introduction of regular police has led to an improvement in cooperation on SGBV cases, although there is normally only one female officer among all police operating in the refugee camps/settlements and the rotation of police staff also presents a challenge. Each camp/settlement is also equipped with a Neighbourhood Watch, which consists of refugee and local women.

In regards to legal remedies available to victims mobile courts exist in all designated refugee camps and settlements apart from Maheba camp. Mobile courts function as civil courts presided over by local magistrates and they convene sessions in the camps in order to facilitate access to justice for refugees. The courts in Mwange and Mayukwayukwa are fully

functioning and convene frequently. However, they are in need of UNHCR support for the provision of legal documentation, Electronic Data Processing (EDP) equipment and allowances for magistrates and lawyers. There are no more funds available for the courts and they are expected to cease by the end of July unless further funds are allocated for them to function.

While Zambian law recognises prostitution, rape and domestic assault as criminal offences the number of SGBV cases prosecuted is believed to be below the actual number of offences committed. In some instances, victims/survivors of reported cases withdraw cases based on reasons of shame, reluctance to be exposed or because the perpetrator is a relative.

The 2006 participatory assessment conducted by UNHCR found that there were no incidents of SGBV reported by Lusaka-based refugees. This could however reflect a lack of awareness of the right not to be subjected to SGBV and/or a lack of awareness on how to report incidents. While SOPs are now in place indicating how and to whom cases should be reported, refugees and service providers need further awareness raising and trainings in order for the SOPs to be better utilised.

The assessment also pointed to the unintended consequences of channelling assistance directly to women (e.g. access to micro-credit loans). When assistance does or is perceived to favour women over men, men can feel inadequate and threatened. The assessment concluded that this sense of exclusion has contributed to an increase in domestic violence cases.



In addition to the aforementioned legal remedies a number of measures have recently been taken to improve medical services to survivors of SGBV. Camps and settlements have received the post-exposure prophylaxis (PEP Kit) in 2007 from UNFPA. STIs/STD prescriptive drugs are available in all camps/settlements and emergency contraception pills and tetanus drugs are also available.

The UNHCR implementing partner in Mayukwayukwa, CORD, was providing psychosocial counselling to victims of GBV. However CORD have ceased their operations in the camps at the end of June 2007 and handed over all their activities to the Ministry of Community Development and Social Welfare which is expected to carry on the activities which were undertaken by CORD. While it is still early to assess the performance of the ministry staff in the camps it is evident that further training and resources are required for the Ministry to be able to undertake the activities which were undertaken by CORD particularly the psychosocial counselling activities.

In Lusaka the ZRC provides psychosocial counselling to victims of GBV and also places victims in safe houses when this is needed. The capacity of the safe house however is extremely limited and further support is needed to increase the available human and material resources to cater for more women who are victims of SGBV.

Specific programmes to protect children

The *Juvenile Act* defines a juvenile is a person who has not attained the age of 19, and includes a child and a young person. It defines a 'child' as a person below 16, and a 'young person' as one who is 16 or above but not yet 19.

The new draft constitution contains reference to the need for state and society to give special protection to children, including refugee children. As yet, however, although Zambia is a

signatory to the 1989 CRC, there is no legislation or administrative provision which provides specific protection for refugee children.

Some laws are in accordance with the CRC. For example, upon birth, children born in Zambia are registered in accordance with Article 7. Children who are accompanied by their parents are considered to bear the nationality of their parents and where the parents are refugees; their children receive the same status. If one of the parents is a national of Zambia, the child can apply for Zambian citizenship upon reaching eighteen years of age.

Article 22 of the CRC obligates states to provide protection to child refugees and asylum seekers. However, as noted earlier, there is no particular procedure for refugee status determination in the case of unaccompanied or separated refugee children. The Office of the Commissioner for Refugees informs UNHCR about unaccompanied and separated refugee children upon registration. After registration, these cases are referred to the Zambian Red Cross Society for placement with foster families. The Red Cross, together with other community services NGOs, are operative in the camps to identify and monitor unaccompanied and separated children.

In Lusaka, UNHCR undertakes the Best Interest Determination (BID) process for separated children. BIDs in the western camps were done by CORD. However following their departure from the camps they handed over this responsibility to the Ministry of Community Development and Social Welfare as mentioned before. The capacity of the department to handle such cases is however limited and there is a need for more trainings and capacity building activities in this area. In the Northern camps, UNHCR implementing partner HODI, undertakes the BIDs.

There are no standard applicable criteria for family reunification in Zambia. Close relatives beyond the nuclear family are often recognised for family reunification purposes. The reunification process in the camps and in Lusaka is facilitated by the Office of the Commissioner for Refugees, the ICRC, and UNHCR. In addition, ICRC and UNHCR have conducted a series of meetings to rectify the problems of children being repatriated with a foster family whilst family tracing was underway, leaving no contact address.

There is no policy regarding the “age test” for applicants who claim to be below 18 years of age. Age is determined through production of documentation or what parents or guardians attest to.

SGBV task forces, neighbourhood watch committees, UNHCR staff and implementing partners as well as the police monitor the physical security, protection and well-being of children in the camps. UNHCR officers undertake regular prison visits to identify persons of concern and monitor the well being of children in detention and intervene on their behalf. However given the limited human resources UNHCR is unable to monitor and follow up on all cases of children in detention particularly with the continuing reduction of staff. Furthermore there is a general lack of programmatic activities particularly targeting children, notably children in conflict with the law.

UNHCR has identified the emerging problem of foreign children, whose parents have died or abandoned them, being left stateless as they were not registered upon birth. These young children are often cared for in foster families or in orphanages in Lusaka. Once such cases are brought to the attention of UNHCR, efforts are made to register them by following up with the Commissioner for Refugees Office.

Some children spend most of their time doing manual work instead of attending school—a phenomenon largely attributed to economic deprivation but also to lack of family support for their education. In vulnerable families, children may be the principal breadwinners. Even those attending schools are often compelled to work in order to obtain school exercise books. In many cases these children are not adequately remunerated for the work they do and are exposed to risks of abuse and violence. For example In Kala and Mwange, firewood collection can take 10-20 hours per week with children often travelling a long distance away from the camps and are sometimes subjected to attacks by bandits.

Sexual violence is one of the main concerns of refugee girls in the camps and settlements. Fear of rape is compounded by the concern that many parents would try to resolve the issue by forcing the perpetrators to marry their daughter, especially when the rape results in pregnancy. Forced and early marriages are in general a main concern for refugee girls in the camps with girls often being forced to abandon their education and forcefully married to an older man.

During participatory assessments conducted in Mayukwayukwa camps many refugee girls expressed their misgivings about the existing reporting mechanisms for sexual violence, because those exercising authority—police, church leaders, school teachers and older relatives—might well be the next to demand sexual favours in return for their services and assistance. Nevertheless, like other groups, the girls wanted police, neighbourhood watch and other effective reporting mechanisms to be strengthened. The results of the assessments also revealed that a large number of girls are engaged in prostitution to meet their basic food and clothing needs.

Refugee children with mental or physical disabilities have access to national facilities like special schools, health facilities and rehabilitation facilities. However in many occasions this access is hindered by the costs incurred to reach these facilities and the lack of awareness of their existence.

Maintenance of civilian character of camps/settlements

Maintaining the civilian character of camps and settlements is no longer as prevalent an issue as it was during the years when Zambia was receiving mass influxes of asylum seekers from Angola, Rwanda, Burundi and the DRC. At that time, the District and Provincial Joint Operations Committees (DJOC and PJOC) identified combatants and former combatants and accommodated them at Ukwimi refugee camp, away from the rest of the refugee population. Ukwimi camp has since been closed but police and army officers from the DJOC and PJOC are trained to correctly identify combatants.

5. ESSENTIAL SERVICES ASSURED

Refugees and asylum-seekers participate

Refugee participation is encouraged in refugee camps and settlements, through general committees and task forces on issues such as SGBV and HIV/AIDS. Community mobilisation is further promoted through the involvement of refugee workers in the health and educational services offered in the camps/settlements. A 2003 WHO-UNHCR Health Evaluation mission assessed the level of community participation in the running of health clinics as exemplary. However the capacity of the committees and task forces could certainly be strengthened through further trainings and through financial and material support which is needed for them to perform their functions.

Zambia piloted UNHCR's Age, Gender, and Diversity Mainstreaming (AGDM) methodology in 2004 in order to identify the specific protection concerns of different groups within the refugee population. Participatory assessment of protection risks and capacities within refugee



communities have resulted in the greater involvement of women in leadership positions in particular and in community outreach groups more generally. Representation of women in refugee camp committees ranges from 40 to 50 percent, although efforts to establish an urban refugee women's committee have not been successful to date. All community outreach groups comprise at least 50 percent women and refugee women are also involved in UNHCR programme implementation in the areas of healthcare, water and

sanitation.

Participatory assessment in the northern Congolese camps, revealed the concern of minority ethnic groups that the majority group dominates the management of camp affairs as well as in-camp employment³. Approximately 90 percent of the camp population is ethnic Tabwa, while the remaining 10 percent is comprised of the Luba, Lunda, Kasai, Bwile, Sanga and Ndande communities. Although these complaints may be no more than isolated cases, UNHCR has recommended that specific measures be put in place to eliminate the risk of marginalisation based on ethnic differences.

The ZI was also formulated with the view of maximising community participation. The first Local Development Cooperatives (LDCs)⁴—later transformed into Local Development Committees- had a 50:50 representation of local Zambians and refugees. Women were represented at the ratio of 2 women to 5 men. However, as the ZI expanded and more LDCs were established, presentation of a National Registration Card became a prerequisite for membership in some of the LDCs, thereby excluding non-nationals. This is not in line with the by-laws governing cooperative societies which provide that membership shall be open to any person residing within the boundaries of a given area.

The 2006 ZI evaluation identified that there were several limitations in ensuring effective community participation through the ZI. First, although the communities in the pilot areas were consulted on their needs, they claimed to have had no influence on the choice of solution to their needs. For example, the need for irrigation was established, but the proposal to dig wells and install the 'Shaduf' technology, and the multi-household grain bins, did not come from the

³ For instance, almost all the teachers employed at the camp schools are Tabwas

⁴ The original LDCs were established adjacent to the refugee settlements in Nangweshi and Mayukwayukwa.

communities and was not discussed with them. Furthermore, despite their central role in the implementation of the Initiative, the LDCs received little capacity building in general, including essential community planning skills training. This has led to the exclusion of the LDCs, and thereby of the communities themselves, from the decision-making process of the Initiative, rendering the ZI susceptible to a top-down approach pursued by the Zambia Initiative Programme Unit (ZIPU) located at the Ministry of Home Affairs in Lusaka. The evaluation found that excessive involvement of ZIPU in the programme implementation was not only disadvantageous to programme delivery and achievement of its targets/objectives; it also caused the ZIPU to divert its attention away from its formal duties.

Identification of urgent protection risks

UNHCR and its partners have established mechanisms to identify refugees with specific protection needs and to monitor vulnerable cases, including those involving urgent medical, psychological, care, shelter and educational concerns.

The 2006 Participatory Assessment exercise conducted with refugees revealed patterns of vulnerability within camps and settlements. High levels of poverty are most prevalent among single parents, the elderly without any family support and the physically handicapped. These are the refugees who have no means of income to supplement rations, and there is definitely a need for increased efforts in the areas of income generation and community support activities not only to improve livelihoods but as a prevention mechanism to protection risks notably GBV.

A major gap exists for refugees with disabilities. While such cases are identified through the task forces in the camps, assistance to such groups is limited to referral to hospitals in Lusaka for surgical operations supported by the ICRC. This service however is available only in Mayukwayukwa camp where ICRC is present.

A number of mechanisms exist in Lusaka for the purposes of identifying asylum seekers with urgent protection needs. UNHCR sits as an observer in the NEC RSD sessions and identifies cases which require particular attention such as women at risk or victims of torture. These cases are subsequently referred internally for follow up by the UNHCR Community Services Section as well as to the Zambian Red Cross which has a number of trained counsellors. In addition UNHCR identifies special needs at counselling sessions at the Transit Centre for Asylum. These cases are also referred for the resettlement unit for consideration for third country resettlement.

Those with mental disabilities are referred to Chainama Hill hospital in Lusaka for specialist treatment. Medical reports are taken into consideration by the NEC in the determination of asylum claims.

Women at risk are also referred to the Young Women Christian Association YWCA NGO which runs a safe house for women. It should be noted that these houses are only available in Lusaka and they have very limited capacity in terms of space and human resources. There is certainly a need to strengthen the existing safe houses as well as looking into the possibilities of establishing other houses in camps as well as urban areas.

As mentioned before protection risks to children are identified through BIDs during the RSD process as well as through community support structures such as the SGBV Task Forces. However there is a general lack of programmatic activities to address the protection risks faced by refugee children.

Nutritional well-being

Chronic malnutrition is a widespread problem in refugee camps, affecting approximately 50% of refugees with a particular impact on refugee children. Acute malnutrition is relatively low, affecting less than 5% of refugees, with no significant differences by age or sex.

Nutrition surveys at the refugee camps/settlements are conducted by UNHCR and its implementing partners according to internationally accepted standards. At Kala, a new survey was completed in December 2005, while the Western and North-western settlements have not been able to carry out the survey due to their focus on Angolan repatriation.



All camp and settlement-based refugees are, to a varying degree, dependent on WFP

food rations. In the North-western and Western settlements of Meheba and Mayukwayukwa, refugees are given access to land for cultivation which has enabled them to become more self-reliant, especially in good harvesting years. However the inconsistent provision of seeds has led to many farmers being unable to farm their lands. In the year 2006 for example seeds were provided to 144 farmers out of the 300 refugee who were given land to cultivate. The lack of water pumps has also been a hindrance for refugees who are engaged in farming with only 7 water pumps available while a minimum of 20 are needed to support the farmers.



Some refugees have also developed other mechanisms that contribute to diversity of their diet, including: fishing, gathering fruits, and collecting bush products, such as mushrooms and caterpillars. However the capacity of refugees to undertake these activities and to be able to sell their products needs to be strengthened through vocational training. Very few resources for example were dedicated to the creation of fish ponds to assist refugees in complimenting their diet.

After the harvesting season in 2007, WFP is expected to cut rations to the Angolans who have been farming in the western settlements for more than 2 years, while introducing food for work to link nutritional well being to refugee self reliance. Refugees are encouraged to engage in community development projects like road repair and are paid in kind with food products. Only those classified as vulnerable or who have only recently started farming (those transferred from the now closed Nangweshi settlement to Mayukwayukwa) will be eligible for food assistance.

Those classified as 'vulnerable' receive the same food basket as others but for a prolonged period of time. However refugees in the Meheba settlement, for instance, have raised concerns about vulnerable individuals being excluded from rations due to problems with the registration lists. The re-registration exercise planned for 2007 is expected to address this problem. The 2006 AGDM exercise in Kala and Mwange identified that these food rations were inadequate in quantity as well. A fifteen-day ration on average lasts no more than ten days, when refugees consume three meals a day instead of two.

The 50,000 Congolese refugees in the northern camps of Kala and Mwange, in contrast, are almost entirely dependent on donor support for their food supplies. This increases their vulnerability, because their nutritional status is affected by the WFP pipeline breaks. In 2006, for instance, WFP



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announced a 50 percent ration cut due to funding shortfalls; this created a food crisis, and it is expected that WFP will continue to provide a standard basic food ration to all refugees in Kala and Mwange camps.

Urban refugees do not receive food rations and are expected to be self sustaining. Many of them are unable to sustain themselves and appear to be suffering from malnutrition. However no data is available on the nutritional status of urban refugees which is a gap that needs to be addressed through systematic surveys assessing their nutritional status.

Basic domestic and personal items

Efforts are made to provide basic domestic and personal items essential to an adequate standard of living; however distribution often falls short of the needs of refugees forcing refugee men, women and children to seek informal work outside the camp, most commonly on local farms. Resort to informal labour often subjects refugees to exploitative working conditions and can place refugee girls and women at risk of sexual harassment and abuse.

The clothing needs of vulnerable refugees including unaccompanied children and elderly and single-headed households are met through the distribution of second-hand clothing; however this service cannot be extended to the general population.

Budgetary constraints have also meant that UNHCR has only been able to provide one distribution of sanitary hygiene material to women and girls per year as opposed to the standard of twice-yearly distribution. To date UNHCR has distributed *chitenge* cloth - the traditional material used locally for sanitary purposes – however consideration is being given to the distribution of sanitary pads following concerns raised by adolescent girls that the latter are more socially acceptable at school.

Adequate housing

Urban refugees are expected to find their own housing and are not assisted in any manner in this regard. Some of the refugees have the resources to find adequate housing with all essential services in urban areas. However the vast majority of the refugees live in substandard housing in the slums of Lusaka. Essential services in these areas, such as water and electricity, are often non-existent.

Many of the refugees also share houses with local families. A two bedroom house is often found to host two families of 5 or 6 members each and sometimes more.

While the urban poor also suffer from the same problems, refugees seem to be disproportionately affected due to the stringent requirements they need to fulfil to live and work in urban areas, particularly permit requirements.

Refugees in the camps are provided with building material to build their own houses. Houses usually consist of one or two bedrooms with a small space outside the house which is used for cooking. Larger families often use the cooking space as sleeping space for some of the family members. Those who are unable to build their own houses are provided with assistance to do so through the camp committees who assign refugee youth to assist with the construction.

The camps of Kala and Mwange in the northern part of Zambia are more concentrated with houses adjacent to each other and in close proximity to essential services within the camps such as clinics and schools.

In Meheba and Mayukyuwa refugee houses are more scattered with distances between houses sometimes reaching 2 or 3 KM. This makes the provision of services more difficult and indeed some of the refugees have to travel long distances to reach hospitals or schools. The costs incurred to reach essential services sometimes deter refugees from attempting to access the services available.

Recreational space is available for children within the camps. There are open fields which are used for playing football and volleyball. The international NGO, Facilitating Opportunities for Refugee Growth and Empowerment (FORGE) visits the camps regularly and works with children and youth to set up sports teams as well as working on peace building initiatives.

Primary curative health care including preventative health education

Refugees residing in camps and settlements have access to healthcare through in-camp health centres. In larger camps, several health posts have also been in operation to attend to minor illnesses. The health centres are staffed with qualified medical personnel, and are at most times stocked with adequate medications, although a shortage of vaccines has been reported. However the lack of proper infrastructure for accommodation of staff means that medical personal are not always present in the clinics when they are needed. Poor infrastructure, especially roads to and from some of the remoter camps, have been major causes of inadequate supplies, as well as of ambulance breakdowns and high cost of its maintenance. The local population in the refugee hosting area also has access to these health facilities. Many of the clinics however are operating without essential equipment or with equipment which needs to be replaced. For example the clinic in Mayukwayukwa does not have a haemoglobin scale needed for detecting anaemia and other basic equipment, such as the microscope, are not functioning properly leading to wrong diagnosis in some cases.

For conditions that cannot be treated in the camps, refugees are referred to the nearest District and Provincial hospitals, run by the Ministry of Health, although these referral cases constitute a very small percentage of total consultations—less than 1 percent (or some 30-40 patients per camp each month). The number of referral cases could be brought down further if camp clinics are supplied with minor theatres and appropriate equipment to perform basic surgical interventions as well as training to conduct certain activities such as emergency obstetric care.



The District and Provincial hospitals are located within one to two-hour traveling time from the closest camp/settlement, and the camp/settlement health centres are equipped with ambulances to transport the patients as required. Patients with particularly complicated medical conditions—less than 10 percent of those referred to the district hospitals—are further referred to the University Teaching Hospital in Lusaka for special medical and surgical interventions.

Healthcare in the camps is provided by NGOs and government institutions, primarily funded and supervised by UNHCR. Shortage of UNHCR funding is a significant constraint for the refugee health programme, as the Office also shoulders the cost for all refugee hospitalisation and referral care at the Ministry of Health facilities. UNHCR, through implementing partners, has each year provided various health-related trainings to community health workers, traditional birth attendants, home-based care nurses, midwives, psycho-social counsellors and others. However there is a need for more training particularly since many of those who were trained returned back to Angola with the assisted repatriation program.

Urban refugees have access to national health care services on the same terms as the Zambian citizens. These services, though subsidised, often remain unaffordable for many refugees in situations of economic hardship and/or without employment opportunities. The Zambia Red Cross Society runs urban refugee health services at Kamwala Health Centre in Lusaka. In addition to running outpatient curative services, its programme provides outreach services. Mental health patients however are not catered for in the health centre and their needs remains largely unaddressed. Also the meager human and financial resources available to the centers results in long delays for patients.

Malaria is the main cause of morbidity and mortality (ranging from 42.0 percent in Meheba to 6.7 percent in Mayukwayukwa), as well as being the main cause of admission and consultation at camp health facilities, accounting for over 50 percent of all cases, especially during the rain season between November and March. Acute respiratory tract infection,



watery diarrhoea, skin infections, wounds and trauma are among the other top ten causes of consultations and admissions. Deaths include many children under the age of five. The Ministry of Health, through its National Malaria Control Centre, has launched a campaign to distribute insecticide-treated mosquito nets free of charge in the refugee camps/settlements, targeting 100,000 refugees. By the end of 2006, 45,000 had been issued to camps/settlements, delivered together with the training on the

method of usage and maintenance. However around 30,000 of the nets which were provided needs re-treatment as they were not long lasting.

In addition to the malaria programme, refugees have benefited from other targeted health programmes on immunisation, anaemia, malnutrition, and infectious disease surveillance. However, they are not adequately provided for in national vaccination campaigns and there are frequent shortages of vaccines for refugee camps/settlements.

Reproductive Health programmes, including antenatal care, postnatal care and family planning, are present in all camps, providing quality services. The Meheba settlement is benefiting additionally from UNFPA's youth-focused reproductive health programme. However, the camps/settlements lack a clear message regarding reproductive health behaviour, e.g. unwanted pregnancies, and refugees have not fully utilised available services. The end result is inadequate behavioural change in reproductive health: high rate of fertility, prevalence of teenage pregnancy and a low level of contraceptive usage (20 percent). The 2003 WHO evaluation mission reports that up to 15 percent of pregnancy-related complications are due to unsafe abortions. The most frequent complications include incomplete abortions, sepsis, haemorrhaging and intrauterine injuries. These could be avoided or mitigated through more training of health personal and the supply of basic equipment.

Through UNHCR implementing partners and the SGBV task force psychosocial counselling is provided to SGBV victims in the camps.

To address specific health needs of children, integrated management of childhood illnesses (IMCI) programme is run in each camp. All camps also have youth friendly corners, designated for health education and social activities, e.g. games and watching video shows.

In comparison to the national HIV prevalence rate, that of the refugee population is estimated to be far lower at some 2.4 percent as opposed to 15.6 percent for the Zambian population⁵. Stakeholders have acknowledged the vital importance of preventing further spread of the infection among the refugee population, and a number of strategies have been enacted to this end with strong donor support. In the camps there is a need however to ensure that HIV patients receive an increased and diversified food rations to be able to cope with the effects of medication.

A HIV Task Force was established in each camp with the participation of health implementing NGO partners, refugee representatives, community services, officers from Ministry of Health/Commissioner for Refugees, and a camp management officer. Its role is to coordinate interventions, develop joint action plans, supervise implementation and conduct monitoring and evaluation of the programme. Community sensitisation work and distribution of condoms are also undertaken by the Task Force. The current camp initiatives on HIV are focused on strengthening voluntary counselling and testing (VCT) services and Prevention of Mother to Child Transmission.

The government of Zambia has declared the HIV/AIDS pandemic as a national emergency. With effect from 1st August 2005, it announced that all nationals requiring anti-retroviral



treatment (ART) would be accorded free medication. This policy is extended to refugees. Refugees and asylum-seekers can access ART from Government health institutions. The authorities have not implemented mandatory HIV/AIDS testing of nationals, asylum-seekers or refugees and no special restriction has been imposed on refugees or asylum-seekers that have tested HIV positive, regarding freedom of movement, access to health, education, work or

expulsion on the basis of HIV status. Refugees and asylum-seekers just like nationals have access to VCT, underpinned by medical ethics, such as strict observation of confidentiality.

Primary and secondary education

Zambia is a signatory to the 1989 Convention on the Rights of the Child. However it has made reservation to Article 22(1) of the 1951 Refugee Convention and does not consider itself bound to provide elementary education to refugee children on the same level as is provided to nationals.

In practice most refugee children are able to access elementary education. Those residing in camps or settlements have access to primary schools, some of which are community-run and others government-run. The latter are also attended by Zambian children. In the western Angolan settlements which have existed for over three decades, the school curriculum is Zambian and the language of instruction is English. To prepare refugees for repatriation, language training in Portuguese is offered separately. The Congolese refugees in the newer northern settlements have a DRC curriculum that is supervised by the DRC Ministry of Education. NGOs, such as World Vision International, CORD and JRS, have been providing services at the camp-based schools and conducting monitoring of the quality of education offered. Refugees participate in the provision of education services through the engagement of refugee teachers in community schools run by the UNHCR and involvement in the parent teachers association (PTA) committee.

⁵ 2005 National HIV Sentinel Surveillance.

Due to a shortage of funds for the education sector, school supplies are commonly low and insufficient to meet children's needs. Refugee students are provided with only 2 notebooks per year per child, as opposed to the UNHCR recommended standard of 10. Some children resort to work to obtain school exercise books. UNHCR's interviews with the refugees in the northern camps revealed that they were dissatisfied about the quality of teaching, the quantity of school supplies and deteriorating school conditions, e.g. termite ridden furniture. While in the Western settlements the Zambia Initiative has been addressing some of the needs for improved learning environments in size and quality, there still remains large shortages of educational material which has discouraged some children from attending school in the first place. In addition the teachers in community schools do not receive adequate training which results in a big discrepancy in the level of education between government run and community run schools. This notwithstanding it is also difficult to get qualified teachers for government run schools in refugee hosting area. Mayukwayukwa is an extreme case where less than 20 percent of the teachers are qualified; the main underlying reason behind the shortage of teachers lies in the difficulty of recruiting qualified persons for remote areas.

The UNHCR 2006 educational statistical report reveals that the student teacher ratio and the percentage of qualified teachers at the schools vary from camp to camp. Kala still scores the lowest ratio of 33 pupils per teacher and Mayukwayukwa now stands at 47 pupils per teacher. The repatriation of Angolan refugees has certainly resulted in a shortage of qualified teachers in the western camps as many teachers have returned to their homes in Angola. Northern camps are also likely to suffer from shortages of qualified teachers with the onset of repatriation to the DRC.

The report also shows that the school enrolment rate for children between 5-17 also vary significantly from camp to camp; Kala achieved 87% (88% male, 85% female). This was in contrast to Maheba which had 51% (54% male, 46% female) and Mayukwayukwa which had 72% (49% male and 51% female). The lower enrolment rate in Maheba and Mayukwayukwa could partly be attributed to the closure of several community schools following the repatriation of thousands of Angolan refugees. While the departures decreased the demand for existing schools the relocation of the remaining refugees from Nangweishi camp following its closure put more strain on existing schools in Mayukwayukwa.

Relatively low primary school attendance in some camps and settlements is also attributed to economic deprivation of the refugees, which forces children to engage in menial work instead of attending schools and, particularly among refugees with a rural background, with absence of family support for children's education. According to the UNHCR Participatory Assessment, retention of children, especially girls, is a priority for residents of Mayukwayukwa, which scored a relatively low retention rate as mentioned above.



Those refugees residing in the urban areas without urban residency permits are the most vulnerable groups in terms of access to education. Children of these urban refugees are unable to receive basic primary education due to the illegal status of their family. To those refugee children for whom education is unaffordable, UNHCR, JRS and YMCA have provided some scholarships however these are very limited.

Spontaneously settled refugees have access to government schools if they can afford the school fees. As mentioned before there is a general lack of information on spontaneously settled refugees and hence their needs in terms of education remains unknown.

Access to secondary education is severely limited for refugee children on account of fees. Under Zambian law refugees, like citizens, may enrol at secondary schools, provided they can pay for school fees and afford education permits at the cost of 100 US Dollars. The percentage of students enrolled in secondary school is very low and is around 6 % for all the camps/settlements. In Mayukwayukwa efforts are underway to build a secondary school which has been a request of the refugee community for a long time. Students travelling long distances outside the camp to attend secondary school in neighbouring towns were subjected to protection risks including GBV and many were deterred from pursuing secondary education. The new school however would need a lot of support in terms of educational material and the provision of qualified teachers to be able to function. There is also a need for similar initiatives in the other camps where students do not have access to secondary education.

Higher education remains out of reach of most refugees due to the high cost. Refugees can apply to UNHCR for DAFI scholarships however a very limited number of DAFI scholarships were granted to refugees last year.

The needs of children with disabilities also remain largely unaddressed. The Lutheran World Foundation (LWF) used to run a class for deaf children in the basic school in Mayukwayukwa camp however they have ceased their operations in the camps and handed over their activities to the Ministry of Education. While it is expected that the ministry of education would continue to provide classes for deaf children using the same teachers which were hired by the LWF there is certainly a need for increased activities targeting the needs of children with other disabilities and to extend this service to other camps.

6. DOCUMENTS CONFIRMING PROTECTED AND CIVIL STATUS

Identity documents for refugees

A provision of the 1970 Refugee Control Act 6(2) stipulates that an identity card will be issued to a refugee upon registration with the Zambian Commissioner for Refugees. Most refugees, however, do not receive identity cards upon registration. In camps and settlements, family ration cards are the only identification available to refugees. When refugees leave the camps, they are issued a temporary gate pass that protects them from detention.

The only refugees who are systematically provided with individual identity cards are registered urban refugees. These electronic cards cannot be copied or forged; as they contain 30 UNHCR hallmarks and include imprinted signature and photograph of the bearer.



The cards are valid for one to three years depending on the reasons for approval of their urban residency. After expiration, the refugees can apply for renewal of the cards, and the Urban Residency Sub-committee screens the application. However cards are currently not being issued to refugees since the printing machines used for printing the cards broke down. This puts refugees at risk of being forcefully removed to the camps or being arrested and detained by immigration officers. The registration exercise planned for 2007 is expected to address this issue.

During the registration exercise of 2003 all spontaneously settled refugees who registered received a paper identity documents indicating their name and bio data. Those wishing to repatriate were also provided with VRF forms.

Travel documents

Individual asylum seekers usually enter the country using their national passports, which are recognised by the authorities in Zambia. Refugees who declare their national travel documents during registration have these documents taken during the registration process.

Zambia regularly issues Convention Travel Documents (CTD), through the Passport and Citizenship Office which contain the standard return clause whose application is limited to the validity of the CTD itself as stipulated in paragraph 13.1 of the schedule of the 1951 Convention. As is the case with Zambian nationals seeking passports, Zambia requires refugees to present a valid reason for travel before issuing a CTD and the Government and UNHCR have agreed upon applicable criteria. In 2005, about 200 refugees received these travel documents. Although CTDs cannot be extended or renewed abroad, there have been no reports of re-entry being refused to those with expired CTDs.

Documents confirming civil status

All newborns are registered at birth in camps/settlements, but they are not necessarily issued birth certificates. Instead there is a record of the birth noted on the family ration card and the birth is included in camp databases, the former can be used to obtain a birth certificate through presenting it to the City Council Registry who in turn submits the application to the department of National Registration, Passport and Citizenship which issues the birth certificate. In the urban setting, registration and identity card issuance to newborns is often delayed until their parents' identity cards are renewed, as urban refugees do not receive

regular assistance and do not contact the authority for services and supplies. As discussed in chapter two's section entitled 'International registration standards', no death certificate is issued to the camp refugees. This has serious consequences for refugees who wish to claim inheritance or pensions of deceased family members, particularly upon return to their country of origin. For example refugees returning to the DRC and Angola have on occasions not been able to claim entitlements of their deceased family members, such as pensions, as they do not hold a proof of death.

Zambian law has provisions to recognise both statutory and customary marriages. While refugees and asylum-seekers may marry Zambian citizens, marriage does not accord them citizenship nor residency rights. They instead continue to live with refugee status. This situation creates a risk of family separation in the event that the cessation clause is invoked and the refugees lose their protected status, since there is no legal provision for a refugee to remain in Zambia under the family unity principle alone.

7. EQUAL BENEFIT AND PROTECTION OF THE LAW

Access to effective remedies in law

In the camps, mobile courts have been established, and are now fully operational in all camps, except Meheba. The mobile courts have eased the burden of travel on refugees and they repeatedly expressed their wish that the courts would continue as they have significantly improved the refugees' access to justice. However the main obstacle is shortage of funds which is a threat to the sustainability of this initiative.

When the refugees are detained for offences against the Refugee Control Act or the Immigration and Deportation Act, they are rarely taken to court. Instead they are released using administrative procedures, which are cheaper and faster for the Government to apply.

Refugees and asylum seekers can be tried in Zambian courts and have equal right to appeal to Zambian courts for remedies.

Refugee who are accused of criminal offences and who cannot afford to pay for legal counsel are provided legal representation through the Legal Aid Department. This can sometimes lead to delays in disposing of a case.

Many refugees fear reporting crimes or seeking enforcement of their rights. This fear is especially prevalent among refugees who are self-settled.

Another impediment to accessing the courts is the inability of many refugees to secure legal representation notwithstanding the provision of legal assistance for criminal trials. Refugees and asylum-seekers benefit on the same terms as Zambian nationals from free legal aid provided through the Legal Aid Department in the Ministry of Justice, however, the availability of aid is limited to only certain types of cases. Cases which are not covered by legal aid can be referred to a non-profit organisation, the Legal Resources Foundation (LRF), on an ad hoc basis. The number of such referrals, however, is small. As a result, professional male refugees with economic means are more likely to have access to the courts than other less well off refugees, including women, children and elderly persons.

Refugees have access to the constitutionally independent Permanent Human Rights Commission. The Commission has at times made investigations and intervened on behalf of asylum-seekers, but it has no power to enforce its findings and its recommendations may be ignored by the concerned government offices.

Other dispute resolution that respects international legal principles

In the camps/settlements, refugees may rely on traditional methods of dispute resolution to resolve any kind of incident involving refugees, including criminal cases. While traditional dispute resolution mechanisms can be very useful in reducing tension between refugees and in reaching swift resolutions to conflicts they tend to disadvantage women and children particularly in SGBV cases.

For example, in cases of defilement or rape, the imposition of a fine may be the only form of punishment and sometimes the victim is married to the perpetrator.

There are efforts to raise awareness that serious cases, including criminal ones like rape, should only be heard in the courts and are not to be resolved by traditional dispute resolution mechanisms. However traditional dispute resolution mechanisms will continue to play a role

in the lives of refugees and efforts should be exerted to provide training and other means of support to make such mechanisms more in line with international standards.

8. ABILITY TO ACHIEVE SELF RELIANCE

Wage earning employment

Zambia has made reservations to Article 17(2) of the 1951 Convention which accords refugees the right to paid employment. While refugees may undertake paid or self-employment, the government has greatly restricted this right.

Refugees seeking paid or self-employment must apply to the Office of Immigration for a work permit, with a supporting letter from the Commissioner for Refugees. The process is lengthy, complex and expensive. The Labour Department of the Immigration Office requires refugees to seek employment in areas where there is not already a sufficient number of persons engaged or available in Zambia to meet the requirements of the inhabitants of Zambia.⁶ Few refugees can meet this requirement, except doctors, nurses, teachers, and lecturers—professions in acute shortage in the national labour market as a result of the emigration and HIV/AIDS crisis. The high cost of work permits (up to 500 US Dollars per annum) places an additional obstacle on those refugees who do meet Government criteria. UNHCR, through its implementing partner ZRCS, offers limited support to help eligible urban refugees who are unable to meet these costs. Refugees who manage to obtain the work permit and find employment in urban areas benefit from the protection of labour laws and in general are not discriminated against in employment.

Restrictions on employment place refugees who are allowed urban residency for reasons not related to employment (for example to enhance access to healthcare, security or resettlement) in a situation of hardship as they are given no other means of subsistence. Many are compelled to take up employment illegally placing them at risk of detention, deportation and exploitative working conditions.

Restrictions also impact negatively on refugees who reside in the designated areas without adequate income-generating opportunities. To supplement rations, many refugees seek casual agricultural and construction work in exchange for foodstuff and other basic necessities. Gate passes are issued by Refugee Officers as a form of authorization to exit the camps/settlements to work. In areas covered by the ZI, refugees have earned some income through brick-burning and working for local Zambians in weeding and harvesting. Some are paid for their services, but remuneration tends to fall below the rate of nationals. Refugees also contribute their skills to the running of camp health and education facilities, but the payment is often incentive-based if not at reduced salary levels. For example, pay for nurses and teachers is 30 USD to 40 USD annually, about 20 to 30 percent of what the nationals receive. Refugee-run local cooperatives offer limited wage-earning opportunities. In Meheba, for example, a Rwandan cooperative in Meheba employs eight salaried workers and grows and markets most of the rice available on the booming Solwezi market.

To date the Government has justified restrictions on the right of refugees with reference to the need to protect the national labour market. However, the national development strategy, as noted earlier, increasingly recognises the potential productivity of refugees. This has not yet translated into a change in employment restrictions. Zambia lacks a comprehensive study on the economic and social impact of refugees and asylum-seekers on local communities. More needs to be done to explore possibilities of refugee self-reliance as well as the potential economic contributions of refugees to their host communities.

⁶ The Immigration and Deportation Act, First Schedule, Class A, Paragraph (ii)

Social security and just and favourable conditions of work

Laws and regulations governing social security (e.g. state benefits such as unemployment insurance, old age and disability benefits) are not applied to refugees. According to the current government policy, refugees in need of such benefits are to be given assistance in the designated camps/settlements. Although basic social services are provided to refugees in designated camps and settlements, many refugees resort to informal labour to mitigate extreme hardship as noted above. Informal employment is usually intermittent and subject to exploitative remuneration and working conditions.

Trade and self-employment

The immigration office requires refugees and other non-nationals who wish to pursue self-employment to demonstrate the capacity to invest 25,000 US Dollars in Zambia and meet the cost of a work permit. These criteria are difficult for most entrepreneurs to meet. Those refugees who do meet the criteria may apply for urban residency, based on their investment.

Refugees residing in the western and north-western settlements of Mayukwayukwa and Meheba are allocated over 2 hectares of land per family for cultivation, together with farming tools and seeds. The farmlands in Mayukwayukwa are sandy and poor, in contrast to the more fertile land around Meheba. Refugees in these settlements grow cassava, maize, groundnuts, and beans, and surplus produce is sold at local markets, providing the refugees with some income. Refugees' productivity in agriculture has been well-documented, especially in light of the food shortages which plagued the western region subsequent to the Angolan repatriation. However, the economic situation of refugees was precarious in poor harvesting years, such as 2004/2005 when a severe drought affected the Western province. Over-cultivation in the allocated farmlands is also a recognised problem.

The ZI promotes agricultural production through the provision of revolving agricultural funds⁷, but more time and additional inputs are needed to ensure sustainability and wider coverage.

Restrictions on the right to self-employment have affected some communities more strongly than others. For instance, many refugees from DRC in the northern Kala and Mwanze camps are skilled traders but are unable to practice their skills. Given the limited trading opportunities within the camp, the main income generating activities for many refugees is trade in fish, clothes, shoes and groceries at a local market. Others work as tailors, blacksmiths, and cobblers. The long distances travelled by refugees to access work expose women and children to risk of abuse and limit opportunities for older persons and the disabled. Inadequate land allocation of a mere 0.25 hectare per family compounds the severe lack of income-generating opportunities available to these refugees.

For refugees in the northern camp, UNHCR has supported self-sustaining developmental activities including micro-finance, although limited funds have rendered them inaccessible to many in need. For the western camps some refugees received training on micro credit however they were not given loans to start their projects due to the shortage of funds. The vast majority of the beneficiaries (72 percent) in the northern camp received cash loans while the rest received livestock loans. 76 percent of the businesses were successful while the rest collapsed. The latter category applies mainly to those who received livestock loans (ducks which later died from disease), and may reflect inexperience in managing livestock. It has been learned that the livestock ventures are prone to failure unless they are complemented with accessible and adequate veterinary services.

Recognition of foreign diplomas

Procedures exist for the recognition of foreign professional diplomas in Zambia and refugees are granted access to such procedures on the same basis as other nationals. However, problems exist in practice due to the lengthy delays experienced by refugees in recognition

⁷ The ZI was piloted in the Western and Northwestern Provinces where Mayukwayukwa and Meheba are located

procedures. For example several refugee doctors are waiting for their application for a medical license to be approved by the Zambian Central Medical Board. Without a valid medical license, they are unable to sign legal documents such as death and birth certificates.

Right to own property

Refugees and asylum-seekers in Zambia do not have the right to own real property. Foreigners are allowed to possess property on leasehold which is renewable every 99 years.

Educational and vocational programmes

Aside from the agricultural skills training as discussed above, NGOs operating at the refugee camps/settlements across Zambia have also offered training in carpentry, bread-making, weaving, blacksmithing, tailoring and other income-generating skills following participatory discussions with the refugee men and women on their needs. Approximately 30% of refugees who benefit from skills training are women. However these skills training activities have to a large extent ceased and refugees in the camps are constantly asking for them to be reactivated but shortage of funds is the main obstacle. In addition discussions with refugees have revealed that they would like such skills training to be accompanied by marketing and business training as many did not have the necessary skills to sell their products.

Those refugees who are considering repatriation have requested carpentry skills training as this skill can facilitate self-reliance and reconstruction in their countries of return. The outreach and impact of the carpentry training depend on the availability of tools for trainee graduates; without their own tools the acquired skills can not be put into immediate use.

Furthermore, the ZI undertook construction work at Senanga and Mongu Trades School and met their needs for equipment and internet connections. These schools are available for both refugees and local communities however access is hindered by the costs of enrolment. The



schools have provided services to trainees, students and local community members alike. The ZI also provided other training skills such as food processing. The vocational and skills development projects have had a positive impact in the ZI targeted areas. There is a need however to ensure refugees more access to the schools through awareness raising and support programs.

Access to secondary or higher education is severely limited for refugee children on account of fees. Under Zambian law refugees, like citizens, may enrol at secondary schools, vocational colleges and universities, provided they can pay for school fees and afford education permits at the cost of 100 US Dollars. Given the overwhelming hardship of most refugee households, refugee youth are dependent on limited donor-supported scholarships to finance educational costs. None of the 100 potential students for tertiary education could be sponsored in 2005 due to limited financial resources.

Language training is provided to refugees to facilitate communication in host communities, both in camps and through educational institutions in urban areas. However, the scale of language training has been reduced in recent years due to budgetary constraints.

9. OPPORTUNITIES FOR DURABLE SOLUTIONS

Comprehensive durable solutions strategy

There is ongoing dialogue among the governments of Zambia, its neighbouring countries, donor countries, UNHCR and other partners in finding durable solutions for the refugee population in Zambia. There is a need to build on existing initiatives to develop a more comprehensive solutions strategy which encompasses measures aimed at enhancing refugee self-reliance and settlement in Zambia in concert with voluntary repatriation and the strategic use of resettlement.

The Angolan repatriation operation which started in 2002 has now come to a close, and there is a need to pursue alternative durable solutions for the remaining caseload. Durable solutions strategies should take into account the situation of those who have been in Zambia for as long as three decades; those who were born in Zambia and consider it their home; and those who have established family links with the local Zambians. Voluntary repatriation is not the preferred durable solution for these categories of refugees.

A vast majority of the Rwandans are also opting to remain in Zambia either because of having well established connections with the country or due to fear of persecution in Rwanda. As for refugees from the DRC, the organised repatriation operation is currently starting. There is a need for greater donor commitment to assist with repatriation exercise to DRC in tandem with concerted efforts to facilitate local integration for those who choose not to return.

UNHCR in Zambia pursues all durable solution options for refugees—repatriation, local integration and resettlement—based on a systematic analysis of their situation and taking into account differentials of age and gender. Information for this analysis is collected through dialogue with refugees. Consolidating an initiative that began in 2004, the UNHCR Regional Representation in Lusaka strives to ensure that the Multi-Functional Teams, stationed in each office, spearhead this dialogue and that their findings are incorporated into the agency's planning exercises.



Voluntary repatriation

Angolan refugees

The 27 year civil conflict in Angola came to an end in April 2002 with the signing of peace accords. The political situation has remained stable and UNHCR coordinated a four-year voluntary repatriation programme (2003-2006) to assist those Angolan refugees wishing to return. The total number of refugees who have been assisted to return in the past four years is 74,064. Upon return, they were provided with basic assistance package to start a new life in their area of return, including cooking equipment, seeds, agricultural and house-building tools. Each person also received a two-month food ration from WFP.

In addition to the organised repatriation, many spontaneously-settled Angolans returned of their own accord, some receiving UNHCR support upon arrival in Angola.

The deadline for assisted voluntary return expired in December 2006. In March 2007 the voluntary repatriation operation was formally closed by a ceremony organised by the Angolan authorities and attended by the UN High Commissioner for Refugees.

While the assisted voluntary repatriation have ceased there is still a possibility that some Angolan refugees would return following the elections in Angola. Many Refugees in the camps and in Lusaka have indicated that they are waiting for the results of the elections in Angola next year before they can be assured that peace would be sustainable and they can take the decision to return. Many have also claimed that they would like to receive visits from members of the Angolan government who were previously members of UNITA to provide assurances that conditions in Angola are conducive for their return. More effort needs to be exerted to facilitate such visits and to continue to provide information to refugees on their country of origin as many more refugees could still return to their homes despite the closure of the assisted voluntary repatriation program.

This notwithstanding many of the refugees have well established roots in Zambia with Zambian parents or spouses and are unlikely to return to Angola even with the situation stabilizing in the country. The planned registration exercise for 2007 is expected to provide information on refugees who are willing to return to Angola and those who would like to remain due to their strong links with Zambia and for whom local integration might be the most suitable durable solution.

The reintegration of refugees in Angola is also a significant challenge for a country which today stands as one of the least developed in the world. The principal return areas are located in some of Angola's most isolated and impoverished regions and will require sustained humanitarian and development assistance.

In 2005 the government of Angola, with UNHCR support, launched the Sustainable Reintegration Initiative for return areas as part of its national development plans. A high level meeting held in March 2006 called upon all key donor nations as well as UN agencies, the World Bank, the African Development Bank and representatives of major oil companies operating in Angola to focus on the needs of the areas of return in their own assistance plans. This meeting was followed by a joint Angola-UNHCR profiling exercise of the seven areas with the highest percentage of returnees with the aim of mapping local capacity and reconstruction needs.

Refugees from the Democratic Republic of Congo

Following the presidential and parliamentary elections in the DRC, the first free elections in 40 years in the country, the new government signed a tripartite agreement with Zambia and UNHCR in November 2006. This agreement paves the way for the voluntary repatriation of some 50,000 Congolese residents. In 2006, the security situation has improved considerably in the DRC's Katanga province, where almost all refugees will return, and thousands of internally displaced people have returned to their homes. At the same time, more than 10,000 refugees have returned to Katanga from Zambia by their own means. UNHCR estimates than an average 100 Congolese refugees per month spontaneously cross the border at Pweto.

As Congo moves towards greater political stability, the issue of repatriation is increasingly gaining support among refugees. As part of the preparations for the planned organised voluntary repatriation of the Congolese refugees, UNHCR in 2005 conducted a verification, registration, photo capturing exercise and a repatriation intention survey. UNHCR is establishing new offices in Moba and Pweto in southern DRC's Katanga province to facilitate the repatriation operation; transit centres are also being prepared in Katanga. UNHCR has set a target of 20,000 assisted returns for 2007. A continued constraint is the inaccessibility of areas of return due to poor infrastructure in terms of primary healthcare, education and

access to potable water. In addition the growing insecurity in some parts of DRC might discourage many refugees from returning. Furthermore, international support will be required to facilitate the development and implementation of projects to accelerate reconstruction and the reintegration of returning refugees in DRC. All these are obstacles which could slow the pace of repatriation to the DRC.

Refugees from the Great Lakes region

Some 900 Burundian refugees reside in the Meheba settlement, 90 in and Mayukwayukwa and an additional 700 in the urban area, while an estimated 400 are self-settled (as of January 2006). Due to the relative improvement in the political and security situation in their country of origin, Burundian refugees have showed willingness to repatriate in 2006, and UNHCR will be promoting repatriation for this group in 2007.

In January 2003 a tripartite agreement was signed by Rwanda, Zambia and UNHCR to initiate a formal repatriation process of Rwandan refugees, followed by a 'go-and-see' visit to Rwanda in May 2004. However, there has been almost no return (only 19 in 2005), and indications are that this situation will not change in 2007 mainly because the remaining refugees appear to have established roots in Zambia. Approximately 3,500 Rwandan refugees reside in the Meheba settlement, 90 in Mayukwayukwa, over 1,100 in the urban areas, in addition to the estimated 900 self-settled (as of January 2006). A group of Parliamentarians from the Great Lakes Parliamentary Forum on Peace (AMANI), in collaboration with UNHCR, has been encouraging Rwandan refugees to repatriate. In August 2005, the AMANI Group held a conference on refugee matters in Zambia and made a trip to the Meheba settlement. According to the findings of the conference, voluntary repatriation of the Rwandans is unlikely to increase.

Efforts have been made to encourage the participation of refugee women in the planning of voluntary repatriation operations, and to address special needs of vulnerable groups within the refugee population. Age and gender sensitive information networks are established to promote the free choice of women and other disenfranchised groups in relation to return and peace-building training sensitive to the needs of women has been conducted in all camps in preparation of repatriation operations.

Special attention is given to the needs of children including adequate documentation and information exchange regarding unaccompanied children, the translation of educational certificates and medical documentation.

Local integration

While voluntary repatriation has proven to be, and will continue to be, the most appropriate durable solution for tens of thousands of refugees living in Zambia, a comprehensive strategy encompassing increased possibilities for self reliance and settlement of refugees will be necessary to find durable solutions for a large residual caseload refugees. Many refugees are unable to return home because of continuing instability in the country of origin and/or serious protection risks they may face upon return. Moreover there are many thousands of refugees who have lived in Zambia for decades; they have integrated into Zambian communities, married Zambian nationals and have children who have reached adulthood there. Many urban refugees have established their work and business in Zambian cities.

There is no mechanism to secure rights of long-term residency or citizenship for refugees in Zambia. Both the Constitution of Zambia⁸ and the *Citizenship of Zambia Act*⁹ require 10



years of 'ordinary residence' before an application for citizenship may be made. Zambian law does not view refugees as being 'ordinarily resident' in Zambia and thus severely limits their access to naturalisation procedures. Refugee children are not granted citizenship at birth. In the absence of access to residence or citizenship, persons who have ceased to be refugees lack legal status and protection from the Zambian Government. No revisions to existing provisions are foreseen in the 2006 draft Constitution which is pending enactment.

Notwithstanding, several legal experts have claimed that if a policy decision is taken to locally integrate certain categories of refugees, existing legislation could be utilised to grant these categories permanent residency in Zambia without necessarily amending any piece of legislation.

Resettlement

Resettlement forms an integral part of the durable solutions strategy in Zambia, and is pursued as both a protection tool and a burden-sharing mechanism. UNHCR Zambia intends to submit 1,200 refugees for resettlement in 2007 using standard operating procedures to identify and manage cases from both the urban and camp-based refugee populations. To date, all resettlement has been done on an individual case basis, and priority is provided to women at risk and others with protection concerns.

In 2006, 407 refugees were resettled to the United Kingdom (152), The United States of America (129), Norway (73), Australia (52) and New Zealand (1). The refugees were resettled mainly for legal and security reasons, including 38 vulnerable women at risk and their families. Resettlement presented a durable solution for refugees from the DRC (350), Burundi (32), Rwanda (14) and Zimbabwe (11).

Refugees are identified almost entirely by UNHCR and its implementing partners, although refugee communities are also involved in bringing vulnerable cases to the attention of UNHCR. The International Organization for Migration (IOM) handles all logistical out-processing.

Resettlement remains a time and resource-intensive protection tool, involving complex screening procedures by resettlement states. Sustained partnership is required with resettlement countries to maintain the potential of resettlement as a tool to provide protection to vulnerable refugees and to assist Zambia in finding comprehensive solutions for its refugee population.

⁸ Constitution of Zambia, Article (6)(1)(b)

⁹ Citizenship Act of Zambia, Section (16)(2)(b)