

**Who Asked Them Anyway?  
Rights, Policies and Wellbeing of  
Refugees in Egypt**

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## LIST OF ABBREVIATIONS

CBA	Community-based Association
CBO	Community-based Organization
CRS	Catholic Relief Services
DAR	Development Assistance for Refugees
ExCom	Executive Committee of the High Commissioner
FMRS	Forced Migration and Refugee Studies Program of the American University in Cairo (AUC)
ILO	International Labour Organisation
MDG	Millennium Development Goal
NCCM	National Council on Childhood and Motherhood
NCPD	National NGO Center on Population and Development
OAU	Organization of African Unity
ODA	Overseas Development Assistance
PRSP	Poverty Reduction Strategy Paper (Plan)
RAD	Refugee Aid and Development
RSD	Refugee Status Determination
RO Cairo	UNHCR Regional Representation to the Palestinian Authority and the League of Arab States
Sakakini	Sacred Heart Church (in Sakakini Square)
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
WFP	World Food Programme

## 1. INTRODUCTION

### Purpose of the Study

This research, developed as part of the Development Research Centre on Migration, Poverty and Globalization, was funded by the Department for International Development (DfID) of the UK government. It was carried out by the Forced Migration and Refugee Studies program (FMRS) at the American University in Cairo between February and June 2005. It is part of a wider research program examining the policies affecting forced migrants in the Arab world.

The project addressed the interplay of politics, policies, and populations in the production of current perceptions of refugees and other forced migrants. Throughout the project, the researchers looked at the domestic policy environment as shaped by national and international political, social, and economic forces. The research considered the actors, forces, and conditions which determine policy in all its stages from how it is devised, to how it is applied, including how policy may be subverted or rendered ineffectual. Both qualitative and quantitative methods were employed to describe the process whereby refugees and forced migrants are held in limbo, in a state of 'not belonging'. The study reflects on these policies and their rationale.

Instead of looking exclusively at international policies affecting refugees, the research also considered domestic policies and how they determine the identities, opportunities, and welfare of asylum seekers. The contradictions between these policies and their actual implementation were considered, which included looking closely at the role of international, local, and community-based actors.

This project documents and analyzes the assumptions upon which refugee policy has been based, the impact that policies themselves have in either relieving hardship or continuing dependency, and assesses whether refugee policy may be based on incorrect assumptions about the role that refugees play in the social and economic fabric of Egypt. The research went beyond the simple documentation of refugee-related policy and the position of Egypt, to examine the intersection of policies that directly and indirectly affect the lives, conditions, and opportunities available for refugees.

### Key Research Questions

1. How do international, national, and local policies interact to shape the world of refugees and forced migrants as well as that of host societies and institutions? How are they affected by different strands of thought (e.g. rights-based vs. needs-based approaches), and the interests and lobbies which they embody?
2. What are the assumptions of international institutions concerning the needs of refugees and forced migrants?
3. How efficient are humanitarian policies set out by international organizations and to what extent are they limited by not taking into account the national settings in which they are enforced?
4. How do refugees interact with the policy environment in Egypt?
5. How can policies be developed that enhance refugees' survival strategies and their contributions to the host society, whilst addressing the concerns of host country nationals?

More importantly, the research aimed at challenging the top-down needs-based perspectives which are the usual points of departure for policies on refugees and forced migrants in general. Instead, in order to get away from these conceptual and policy frameworks bordering on social engineering (Mehta and Gupte 2003), a rights-based perspective was employed during the fieldwork as well as data analysis to propose alternative solutions and to recognize the agency of uprooted populations themselves in shaping their livelihoods and choices.

In the introduction I set out the methodological challenges and constraints of the research as well as concepts used in the study. Chapter 2 examines the political and structural environment of refugee policies in Egypt and presents the different actors and institutions and their respective roles and responsibilities. Chapter 3 of the report considers refugees' own perspectives on the forced migration policies in Egypt and how they impact on their rights. It also presents findings of refugees' mobilization around gaining access to rights and the consequences for the refugee regime in Egypt. The last part of the report discusses the feasibility of establishing rights-based policies for refugees considering the complexities of bottom-up decision-making process.

## Research Design

While choosing the appropriate methodology and framework for this research, the researchers (the author of the report and the research assistant) were faced with the dilemma of what Jacobsen and Landau called *the dual imperative* (Jacobsen and Landau 2003). Researching into other's suffering can only be justified if alleviating that suffering is an implicit objective (Turton 2003). At the same time, the challenge becomes how to satisfy the demands and rigour of sound academic research and produce knowledge that ensures livelihoods and better protection of forced migrants (Jacobsen and Landau 2003). Hence, basing research on sound and ethical methodology becomes a basis for improving policies. This became even more relevant as we applied the politically and ideologically charged 'rights-based approach'.

The theoretical framework was developed using the rights-based approach to the study of policies affecting forced migrants. The research tested the appropriateness of this approach in analyzing and improving policies. By considering refugee rights as a departure point for the creation of policies, the possibility of reforming the existing top-down policy frameworks with bottom-up perspectives was examined. These wider policy frameworks affecting forced migrants were considered in the context of the macro-economic, political, and social situation of Egypt.

The research began by studying the relevant literature on refugees in Egypt, documents relating to policy and legal frameworks affecting refugees and the general policy environment in Egypt, including issues of access to rights. The fieldwork took place in Cairo as the main place where refugees reside in Egypt. As it was revealed during an earlier research on livelihoods of Sudanese refugees (Grabska 2005), the general living conditions and access to rights for refugees are more amicable in Alexandria than in Cairo. Policy implementation mechanisms and obstacles were examined using the example of these two different urban settings.

The fieldwork utilized a combination of semi-structured interviews, focus groups, in-depth interviews, as well as participant observation. Traditionally, policy research focuses on a review of secondary policy statements and interviews with policy-makers. In order for those whom these policies directly affect to have a direct input into the research, refugees were considered

as primary stakeholders in the creation of these policies. Refugees' perspectives on their situation and their rights were an important element in assessing the policy frameworks affecting forced migrants. Hence, before starting fieldwork, researchers met with several refugees and refugee groups to seek their views on the issues and questions to be considered during the research. Based on this input, semi-structured interviews were developed as a basis for data collection.

Interviews were conducted with policy stakeholders, including government officials (among others Foreign Ministry Refugees Department, Ministry of Education, Ministry of Health, Ministry of Interior, National Council of Childhood and Motherhood, National Council of Women), international organizations (UNHCR and other UN agencies, including UNDP, UNICEF, and WFP) as well as NGOs and faith-based institutions implementing and influencing policies and programs for refugees.<sup>1</sup> The purpose of this stage was to gather information regarding the policy frameworks and implementation of these policies from the perspective of policy-makers and key implementers. The interviews focused on examining the approaches used by stakeholders in creating and implementing policies affecting refugees. In addition, interviews were carried out with donors in order to consider their influence on the policy decisions of the major stakeholders. The potential and constraints of including funding for refugees in wider developmental plans for Egypt was examined.

Furthermore, semi-structured interviews were carried out with refugee-based organizations and groups which mobilize in order to claim their rights. Due to political and regime constraints in Egypt, mobilization around rights takes a less visible, more subdued form. Most organized actions take place not in the form of official protests, but rather in the form of petitioning, organization of community and assistance groups, and meetings with community leaders. During this stage, the input of refugees and their perspectives into the policy-making process was documented. Researchers also participated in a few gatherings between policy-makers and refugees as well as participated in the interagency forum involving those organizations working in the refugee field in Egypt. Over the past two years, a number of refugee associations came to life in response to the lack of policy dialogue between refugees and UNHCR. Those organizations emerged across all refugee nationalities. Trends, dynamics, effectiveness and policy input of these movements were examined in the course of the research. Also, refugee communities in Alexandria organized themselves efficiently in order to claim the right to education for their children. Researchers also attended one of the demonstrations organized by Sudanese refugees in front of the UNHCR office in Cairo, who raised a number of concerns regarding their status in Egypt. The background and reasons for the success of this mobilization will be examined in this report.

Most of the empirical data regarding refugee perceptions on their rights and the effect of policies on their wellbeing was borrowed from previous studies on the livelihoods of refugee populations in Egypt (El Abed 2003; Al Sharmani 2003), especially the comparative study of livelihoods of Sudanese refugees granted and denied refugee status in Egypt (Grabska 2005). Some additional refugee communities were consulted in order to get an overarching view of the refugee situation in Egypt.

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<sup>1</sup> A full list of all interviewed persons is appended at the end of the report.

Access to the different refugee communities was based on personal contacts through FMRS<sup>2</sup> and my own knowledge of and relationships with refugees, as well as by seeking assistance from different NGOs and faith-based institutions working with refugees in Egypt. Lastly, academics, refugee advocates, and researchers who have worked on the issues of forced migration in Egypt were contacted and interviewed for the general context of the policy environment in Egypt. Interviews with policy-makers and academics took place in their offices; and meetings with local and refugee-based NGOs were arranged in their premises. A few individuals were interviewed in the offices of FMRS for convenience of access (specific locations are provided in the annex).

As the study aimed at explaining why certain policies are adopted and how they influence the livelihoods of refugees, it was important to include the perspective of the host population. Part of the data was generated from interviews with national policy makers and NGOs. Additional information was borrowed from my previous fieldwork on livelihoods of Sudanese refugees in Egypt (Grabska 2005), which included interviews with Egyptian households. The interactions between the two communities were examined in the research.

Throughout the fieldwork, I worked closely with a research assistant, who also facilitated interpretation and translation when necessary both with Egyptian officials and those refugees who spoke Arabic. As an Egyptian, she had the advantage of getting access to Egyptian officials and gaining their confidence. In addition, one of the FMRS students conducting research for her MA thesis participated in some of the interviews, as her topic closely linked to the DRC research (Ingraham 2005).

### **Methodological and Ethical Concerns**

During the fieldwork, there were no major difficulties with gaining access to respondents. Most of those interviewed were open to talking to researchers. There were a few problems encountered with scheduling interviews with some of the Egyptian government departments, particularly with the Ministry of Interior and the Ministry of International Cooperation. In the first instance, officials were suspicious about talking to researchers and rescheduled the interviews several times, with researchers having to wait for hours in their offices. Finally, after two months, we managed to arrange a meeting with one of the higher officials in the Department of Passports and Residence. In the case of the Ministry of International Cooperation, we asked to interview the Minister of International Cooperation in order to seek her perspective on the issues of development aid and the possibility of including refugees in it. Her office was never available and in the end we were informed that it was not possible to be given an interview either with the Minister or with anyone else in the ministry. 'The Ministry has nothing to do with refugees and you should contact UNHCR,' we were told.

In general, carrying out research in Egypt can be problematic, especially when the project tackles sensitive issues. Problems have previously been encountered with the security apparatus in Egypt while carrying out research on the situation of Palestinians in Egypt. Security officials found the topic extremely sensitive due to the wider political debates on

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<sup>2</sup> I have been working with the Forced Migration and Refugee Studies program since July 2002, first as a coordinator of the program and then as a researcher. As I have conducted several research projects on urban refugees in Egypt, I have been known to the community and to policy makers. My personal contacts with embassies and donor institutions allowed me to have relatively easy access to policy makers. In addition, I have collaborated with several refugee organizations and NGOs working with refugees and often participated in their meetings and events. Hence, no major obstacles were faced while scheduling interviews.



Palestinian refugees in the Middle East and stopped the research project. The researcher was not able to continue her fieldwork and when she came back to Cairo several months later to participate in a conference, she was denied entry at the airport.

With the politicization of the refugee debate in Egypt, and especially with the sensitivities around Palestinians in mind, we decided not to cover Palestinian issues in the research and rather focused on the other refugee groups present in Egypt. Since much in-depth fieldwork has already been carried out among different refugee groups in Cairo, and in order to avoid research fatigue among refugee respondents, we relied on empirical data on the impact of policies on livelihoods of refugees from other studies. Only a limited number of refugees were contacted to carry out supplementary interviews. As many of the refugees live in precarious conditions with little or no legal status in the country, we attempted to minimize exposing the respondents to additional security risks.

## Key Concepts

### *Labelling and Categorization*

Definitions of forced migrants and refugees have provoked a debate across numerous disciplines with many arguing about the negative impacts of the narrow labelling adopted in refugee studies (Malkki 1992, Zetter 1998, Mehta and Gupte 2003, Turton, 2003). Although the concept of forced migration should naturally encompass different forms of migration, including internal displacement and development-induced displacement, traditionally, however, it has predominantly focused on the narrow sub-category of refugees and those forced to flee due to violence, war, and insecurity (see, for example, Hammerstad 2005). Turton (2003: 2) asks whether, as academics and scholars wanting to influence policy, we should be blindly defining the subject matter in terms of categories and concepts which are employed by policy makers. As Turton argues, categories adopted by policy makers are often unhelpful for a scientific understanding as they limit the possibilities of inquiry. Hence, the study of forced migration will become 'less relevant' the more it follows categorizations adopted by policy makers. For instance, while talking about forced migration, the category of development-induced displacement is ignored, thus producing results relevant only to refugee studies. This discussion links to the debate of voluntary versus involuntary (enforced) migration and settlement, which combines the reasons behind the actual movement with the effects of relocation.

Refugees: To adopt exclusively the legal definition of refugees as provided in the 1951 Convention or the 1969 OAU Convention would be to narrow the categories of persons of concern to this study. A large number of refugees have fled to Egypt and applied for refugee status through the UNHCR office only to have their claims for asylum denied and in some cases, their files have consequently been closed following an unsuccessful appeal process. For a variety of reasons, these individuals are either unwilling or unable to return to their countries of origin and hence remain in Egypt in precarious conditions, as illegal aliens, very often without any documentation or legal permission to reside in the country. As a result, they face constant fear of arrest or, in extreme cases, deportation.

Thus, in defining the concept of *refugees* the approach initially developed by Malkki (1995) and consequently adopted by Al Sharmani (2003) is followed. It conceptualizes the term as a complex and dynamic 'process of becoming.... A gradual transformation, not an automatic

result of crossing of a national border.<sup>3</sup> The term *refugee* should not be seen exclusively in the context of the country-of-origin experiences which lead an individual or a group to flee, leaving him or her with *a sense of loss* (in terms of protection, social networks, and material property). Rather, the dynamic aspect of the refugee experience must be taken into account, whereby one becomes a refugee not only by escaping violence and persecution and crossing an international border, but also by going through the process of seeking asylum, as part of evolving relationships, networks, and personal developments (Al Sharmani 2003). Such an approach allows for a better understanding of the dynamics and livelihoods of populations in flux, in transit, and whose livelihoods themselves are defined by the experience. As argued by Christopher McDowell and Arjan de Haan (1997), population movements, whether haphazard or ordered, are regarded as an established pattern, and migration is both a strategy of survival and livelihood, and inseparable from identity.

The label 'refugee,' however, is also controversial, especially when it comes to policy formulation. As argued by Zetter (1998), the label both stereotypes and institutionalizes a status. Although it claims to be apolitical, through legal and policy making it establishes highly politicized interpretations (Wood 1985). The category 'refugee' designates crisis and the associated condition of poverty and marginalization. Hence, by being linked to the needs-based approach to humanitarian assistance, the label implies 'burden' and imposes an institutionalized dependency (Zetter 1992, 1998). At the same time, however, the category 'refugee' establishes rights and entitlements guaranteed under universal human rights and international law. However, only those who are recognized as refugees based on the strict legal definitions of who qualifies for refugee status can access these rights.

Rights: The concept of 'rights' of refugees constitutes part of the discourse on the universality of human rights. As Mehta and Gupte (2003) assert, refugees' claims to entitlements are rooted more directly in the universality of human rights and their rights are protected by international law. Refugees as human beings should naturally have access to the same basic human rights guaranteed under the international human rights covenants and the Universal Declaration of Human Rights. In addition, international law spells out clearly rights and entitlements granted to refugees.<sup>4</sup> However, as was previously stressed, not all forced migrants classify as refugees. In fact, the strict legal criteria and status determination procedures often employed by either host governments or carried out by UNHCR on behalf of governments, mean that many remain outside of international protection. Illegality and lack of refugee status means limited and disadvantaged access to jobs,<sup>5</sup> lack of access to education for children,<sup>6</sup> lack of access to health services, and not being able to claim their other rights in the host society,<sup>7</sup> including the right to freedom of movement.<sup>8</sup>

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<sup>3</sup> As quoted in Al Sharmani (2003), the concept was developed by Malkki Liisa, *Purity and Exile: Violence, Memory, and National Cosmology among Hutu Refugees in Tanzania*, Chicago: University of Chicago Press, 1995.

<sup>4</sup> 1951 UN Refugee Convention and OAU 1969 Convention.

<sup>5</sup> The 1951 Convention lists a number of rights which should be guaranteed for refugees by the host government. The following articles refer to the right to work in the country of asylum: Art. 17 re: wage-earning employment, Art. 18 re: self-employment, Art. 19 re: liberal professions, Art. 13 re: moveable and immovable property, and Art. 14 re: artistic rights and industrial property.

<sup>6</sup> Art. 22 guarantees access to public education for refugee children and Art.23 deals with the access to public relief.

<sup>7</sup> Art. 3 addresses the issue of non-discrimination and Art. 16 talks about the access to courts.

<sup>8</sup> Two articles mentioned in the Convention address the issue of freedom of movement, including Art. 26 directly talking about freedom of movement and Art. 28 dealing with travel documents.

Rights, however, are granted to refugees temporarily, pending a durable solution to the refugee 'problem'. According to the UNHCR, there are three possible outcomes: voluntary repatriation, local integration or resettlement in a third country. Only the first one of the alternatives guarantees a permanent solution. Some scholars have recently addressed the idea of local integration, referring to it as the forgotten solution in developing countries (e.g. Jacobsen 2001). However, conceptualization of the term *integration* has been quite a challenging endeavor, with different meanings proposed by different scholars, often imprecise and even contradictory. As set out in the 1951 Convention, local integration, defined as assimilation and naturalization, refers to the granting of asylum and residency, and eventually citizenship by the host government (Jacobsen 2001).<sup>9</sup> UNHCR itself defines integration as 'the process by which the refugee is assimilated into the social and economic life of a new national community' (UNHCR, undated: 5, as quoted by Kuhlman 1991). The refugee problem should be solved naturally by granting citizenship, as Kibreab (1989) puts it. Such integration would take place through a process of legal, economic, social, and cultural incorporation of refugees, resulting in naturalization and acquisition of citizenship.<sup>10</sup>

Both in Africa and the Middle East the possibility of local integration has not been accepted by most host governments. The presence of refugees is seen as temporary, leading to two possible solutions: either repatriation or resettlement (in a third country). In Egypt, although refugees are tolerated and have been allowed to settle among the local host community, resettlement has been the preferred solution, both from the point of view of the host government<sup>11</sup> and refugees themselves. With little chance of full integration, (especially since the refugees as well as the host government view their presence as transitory), the majority of refugees tend to live on the margins of the host society, yet constantly interact and come into contact with its members. The research focused on three key rights which according to the 1951 UN Convention on Refugees should be enjoyed by refugees: the right to work, the right to education, and the right to health services.<sup>12</sup>

Rights-based Versus Needs-based Approaches to Policy: As Posner and Clancy (2005) point out, 'the core of a rights-based approach to refugee assistance is the identification of a certain standard of treatment to which an individual refugee is entitled.' Although rights of refugees are firmly grounded in the international regime, when it comes to practice, the majority of policies focus on providing relief and emergency assistance. Hence, the main way of thinking in creating these policies is based on refugee needs rather than rights. Due to limited resources, however, often such policies can barely meet the most basic needs. In most cases, they result in encampment of refugees making them dependent on basic assistance at the expense of freedom and access to rights (Voutira 1995, Voutira and Harrell-Bond 2000, Hyndman 1997).

Needs-based approaches result in top-down policy formulation, with little or no involvement of refugees themselves. This philanthropic mode of operation is often donor driven and externally determined (Collinson 2005:13). According to Jeff Crisp, '[...] it is now time to reconsider the wisdom of using scarce resources to feed, shelter and generally "warehouse" refugees who are

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<sup>9</sup>The 1951 Convention, Article 34, points out that the state of asylum 'shall facilitate the naturalization of refugees' (UN Convention, 1951).

<sup>10</sup> However, assimilation is an old-fashioned term and it is presumptuous to assume that all diacritical marks can be lost. It also creates a resistance from both the host society and refugees themselves by promoting the absorption of the refugee community into the country of asylum (Harrell-Bond 1987:7).

<sup>11</sup> Interview with Ambassador Menha Bakhoum, Department of Refugee Affairs, Ministry of Foreign Affairs, Egypt, 13 March 2005.

<sup>12</sup> The Egyptian government while signing the 1951 Convention made reservations to Articles 20 and 22-24, including restrictions in access to public education, work and social services.

deliberately prevented from establishing livelihoods and becoming self-sufficient. Notions such as “integrated zonal development” and “refugee aid and development” may be forgotten or discredited. But the principles on which they are based – that refugees should enjoy productive lives and contribute to the development of the areas where they are settled – could usefully be revived’ (2001: 16).<sup>13</sup>

On the other hand, recognizing the marginalization and vulnerability of a particular group and, as argued by Collinson (2005), acting to redress this marginalization and assert claims to protection on the basis of more beneficiary-centered approaches to humanitarian programming requires redefining humanitarian action around the concept of rights rather than needs (see also Slim 2001 and Darcy and Hofmann 2003). If policies were to be formed by taking rights of refugees and forced migrants as a starting point and by employing a participatory programme, the inadequacies and pitfalls of the existing *modus operandi* would be arguably redressed. In these discussions, however, financial resources as well as the will and interests of donors, host governments and international organizations are often ignored. As Darcy and Hofmann assert, the apparent dichotomy that has developed between needs and rights is unhelpful and misleading, and there is no necessary incompatibility between the two. According to their view, the principal value of rights-based programming lies in ‘the ability to identify more precisely responsibilities for humanitarian outcomes, and to bring corresponding influence to bear on those responsibilities’ (Darcy and Hofmann 2003:23 quoted in Collinson 2004:13). The core distinction between rights and needs is the legal context. Rights imply justiciability, the ability to access and claim justice. As Mehta and Gupte (2003: 20) argue, ‘there is a real need for adequate legal acumen *vis-à-vis* refugee and oustee issues, and adequate access for all to that legal framework’. Refugees continue to be human beings even though they were forced to cross borders and hence, there is no reason why their rights should not be justiciable (Khiddu-Makubuya 1994, Kabeer 2005). The issue of rights as opposed to needs however takes us one step further and prompts questions about responsibility and accountability. Rights provide a legal component that points to the institutional duty to protect, respect, fulfill and safeguard them. We will come back to these issues while discussing the difficulties in operationalizing rights-based approaches for refugee policies.

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<sup>13</sup> For further discussion of inadequacy of needs-based approaches and the relevance of rights-based programming for forced migrants see Mehta and Gupte 2003.

## 2. EGYPT: REFUGEES AND POLICIES

### Refugees in Egypt

Throughout history, Cairo has enjoyed the status of a cosmopolitan city attracting diverse populations from across the globe. Although refugees have not constituted a significant share of its foreign residents, Egypt has been seen as a place of exile by refugee populations, including Armenians who fled the 1915 massacre under the Ottomans, Palestinians after 1948, and Sudanese after 1983. Palestinians are said to constitute one of the largest groups of exiled residents, numbering between 50,000 and 70,000 (El Abed 2003). In the 1950s and 1960s Cairo was host to exiles from liberation movements across Africa and the Middle East, representing nonetheless small numbers of political activists. A further influx of refugees started arriving in Egypt in the 1990s as a result of wars in the Horn of Africa, especially Sudan, Ethiopia, and Eritrea and Somalia. Most of them headed for Cairo.

Since the late 1990s, the United Nations High Commissioner for Refugees' (UNHCR) Cairo office has seen a significant increase in the number of asylum seekers. Only within one year, between 1998 and 1999, the number of asylum seekers doubled. In 2001, the number of asylum seekers was 13,176, which represents a 96 percent increase from 1998.<sup>14</sup> Several reasons might account for this increase. Egypt is seen as one of the few stable countries in the region. Changing patterns of civil conflicts, especially in Sudan and Somalia, and the intensification of the war in Sudan has led more people to seek refuge in Egypt. Furthermore, Egypt is also an attractive destination on account of one of the largest resettlement programs in the world, both through the UNHCR and through private sponsorship programs to Canada, Australia, the USA and Finland.<sup>15</sup> With Sudanese and Somali diasporas in many of these western states, resettlement programs constitute a huge incentive. For instance, Mulki Al Sharmani points to the transnational familial networks that more refugees are becoming part of. As she explains, '[...] the efforts and desires of individual refugees to move from one place to the other or ultimately resettle in the West are part and parcel of collective family-based strategies to ensure survival and a stable life for different family members' (Al Sharmani 2004, 2005).

At the same time, the number of refugees who remain in Egypt, especially those who were unsuccessful in being granted refugee status, is quite significant. Without legal status and protection in Egypt, and often unable to return to their countries of origin, these people live on the margins of society, struggling to secure their livelihoods as illegal 'aliens' within the socioeconomic and policy context of contemporary Egypt. The vast majority choose to live in the city of Cairo, where they negotiate space, their identity, and reconcile cultural and religious differences on a daily basis.

One reason behind the increasing numbers of asylum seekers is the fact that as of 1995, UNHCR has been processing status determination for Sudanese. Since the 1989 coup in Sudan, UNHCR started receiving an increasing number of asylum requests from the Sudanese community. However, due to the privileged status that Sudanese enjoyed in Egypt, and with some opposition members given *de facto* asylum by the Egyptian government, UNHCR's involvement was not significant. With the deteriorating security conditions in Egypt and Sudanese facing increased security checks, and due to the strained relations between the

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<sup>14</sup> UNHCR Cairo Statistical Report 2002. See also Kagan (2002).

<sup>15</sup> A few refugees have also been resettled to the UK, the Netherlands, and elsewhere.

Sudanese and Egyptian governments, more and more Sudanese have begun to go to the UNHCR office for help. As Sperl (2001) points out, in March 1994 the Egyptian government requested the UNHCR office to undertake the task of screening Sudanese asylum seekers with a view to assisting the neediest among them lest they 'engage in activities incompatible with law and order or get mobilized by organizations advocating violence.' With the assassination attempt on President Hosni Mubarak in June 1995 during his visit to Addis Ababa, allegedly carried out by Sudanese Islamists, the Wadi el Nil agreement between Sudan and Egypt was revoked. This marked a change not only in the situation of Sudanese residing in Egypt, but also in the asylum procedures for UNHCR. For Sudanese wishing to reside legally in Egypt, it now became necessary to secure a visa to enter Egypt and a residence permit. With the limited education and work opportunities as a result of the change of legislation, their status was now made equal to that of any foreigner.<sup>16</sup>

With the growing refugee population and with limited possibilities for securing adequate living conditions in Egypt, resettlement to a third country became a preferred durable solution for refugees, with increasing numbers being resettled to Australia, Canada, USA, and Finland since 1997. According to UNHCR statistics, between 1997 and March 2004, over 72,000 asylum seekers approached UNHCR. Among these, over 32,000 were granted refugee status with another 7,300 pending a decision on their applications. From the rough calculations, there are over 32,000 cases that have been rejected, of which some 15,000 files have subsequently been closed.<sup>17</sup> Of those recognized, over 18,400 people have been resettled through UNHCR. However, it is believed that equally high numbers have been resettled through the private sponsorship and family reunification programmes administered directly by the Australian and Canadian embassies.<sup>18</sup>

Today there are over 21,000 officially recognized refugees present in Egypt coming from 32 countries. Seventy-five percent of these are Sudanese, followed by 16 percent Somalis (4,000), and smaller numbers of Ethiopians, Eritreans, Sierra Leoneans and refugees from the Great Lakes region (UNHCR 2004a). Overall, there are between 120,000 and 150,000 asylum seekers, recognized refugees and those whose applications for refugee status have been rejected residing in the country.<sup>19</sup>

Refugees in Egypt live in urban settings, mainly in Cairo and Alexandria, with some of the Sudanese residing in Sinai or around Aswan. There are no camps built specifically for refugees; rather they are scattered around the cities, making them somewhat invisible. Often, they share the same living conditions with poor Egyptians, finding accommodation in poorer neighborhoods in Cairo (Al Sharmani 2004, Grabska 2005).

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<sup>16</sup> This regulation has been applied (allegedly) only to new arrivals after 8 July 1995. Between June 2004 and May 2005, UNHCR had been registering approximately 800 newly arrived Sudanese per month. It should be noted that as of June 2005, UNHCR is not processing status determination for Sudanese asylum seekers due to the ongoing peace efforts in Sudan. Those arriving in Egypt since then are granted temporary protection and allowed to remain in the country.

<sup>17</sup> The numbers of 'closed files' among Sudanese in Egypt vary between 12,000 and 15,000, as indicated in the UNHCR R-O Cairo Refugee Self-Reliance Survey (UNHCR 2004).

<sup>18</sup> The numbers of resettlement have been steady over the past few years, at about 4,000 persons per year. In addition, private sponsorship and humanitarian resettlement programmes administered directly through the embassies (Canadian and Australian) process another 1,500 persons per year.

<sup>19</sup> This number includes estimated somewhere between 50,000 and 70,000 Palestinians living in Egypt (El Abed 2003).

## Local Circumstances

Access to rights and treatment of refugees in Egypt has to be seen in the context of local conditions. As a host society, Egypt has numerous problems which prevent the country from fully integrating refugees in its borders, as was mentioned on numerous occasions during interviews with Egyptian government officials.<sup>20</sup> According to the UNDP Human Development Index, Egypt is categorized as a lower middle-income country. It was ranked 120 out of 177 states in 2004, coming below countries such as Iran, Algeria and the Palestinian Occupied Territories (UNDP 2004:3). Egypt suffers from two main problems: high rates of illiteracy and population growth (EHDR 2004: 26). As Ingraham (2005) points out, 'In addition, approximately 37 percent of the population is under the age of 15, leading to predictions that the population will almost double by 2030' (UNFPA 2002:1). Due to high birthrates and overpopulation (over 70 million,) there is high pressure on the educational system in the country. According to the UNDP Human Development Report 2004, the official literacy rate for Egypt was estimated at 69 percent in 2002 while adult illiteracy was around 44 percent. The basic and secondary enrolment ratio was estimated at 85 percent (EHDR 2004).

Due to high unemployment in Egypt (officially 20 percent (EHDR 2004), and unofficially double that figure), the government places restrictions on foreigners' right to work in order to protect its domestic labor force. Most of the Egyptians are either unemployed or underemployed, and even those with higher education have to often work in the informal sector. Furthermore, some 500,000-700,000 new entrants are said to enter the job market each year.

The strategic and political importance of Egypt is recognized by donors, who provide a large amount of bilateral and multilateral development assistance. In 2002, Egypt received USD1.28 billion in overseas development assistance (ODA), making it the third largest recipient in Africa (Ingraham 2005).

Egypt's national development plan and the strategy to reach the Millennium Development Goals (MDGs) highlights poverty reduction as one of the main objectives, focusing on job growth, increasing access to and quality of education, the targeted use of a social safety net and increasing programme monitoring.<sup>21</sup> The progress toward MDGs varies with regards to each goal<sup>22</sup>. The goals relevant in the context of refugee rights and policies in Egypt have to do with access to primary education and attainment of employment. As Ambassador Moushira Khattab, Secretary General of the National Council on Childhood and Motherhood (NCCM) emphasized, the difficulties in securing primary education for refugees must be seen in light of the overall challenges the Egyptian government faces in providing quality primary education for all children. She argues that as such refugees are not discriminated against in terms of their access to education, but face the same challenges as other Egyptians.<sup>23</sup>

Realization of MDGs is linked to several constraints, including the lack of both financial and human resources, gaps in service delivery and difficulty obtaining accurate statistics (Ingraham 2005). However, the low level of civil society participation is highlighted as one of the major obstacles, with the lack of involvement of NGOs and bodies representing civil society (Egypt

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<sup>20</sup> Minister Plenipotentiary Minha Bakhum, Department of Refugee Affairs, Ministry of Foreign Affairs (MFA), interview by author and other researchers, 13 March 2005, MFA, Cairo; Ambassador Moushira Khattab, Secretary General, National Council for Childhood and Motherhood, 6 April 2005, NCCM, Cairo; Ministry of Manpower and Labour, 11 April 2005, Cairo and Ministry of Education, 12 March 2005, Cairo.

<sup>21</sup> See Ingraham 2005 and World Bank 2004.

<sup>22</sup> For further discussion see Ingraham 2005 and El-Saharty et al 2005

<sup>23</sup> Ambassador Khattab, NCCM, 6 April 2005.

Human Development Report 2004). The difficult economic and social conditions in Egypt are further worsened by the Emergency Law, which has been in place since 1981. As a result, civil society is constrained in its operations and many have their human rights violated by law enforcement institutions.

## Policies on Refugees in Egypt

In the rights-based paradigm, issues of responsibility and accountability are brought to the fore. While discussing issues of refugee rights and policies, the key question that comes to mind relates to the locus of responsibility and accountability for realization of rights: who is in charge of protecting refugees? How can refugees access their rights and where can they claim justice? Although governments often sign up to international conventions and retain ultimate responsibility, they delegate certain responsibilities and obligations to international institutions, and hence, strip themselves from the moral and legal duty of creating an environment where refugees can thrive. Another element which is pivotal to this discussion has to do with the power over granting refugee status, which is directly linked to certain privileges and entitlements. Who decides who is a refugee? On what basis is this decision made? Are there safeguards in place which guarantee open, just process? These issues will be guiding the discussion through the next section of the research paper.

### *Egypt's International Commitment*

Refugee rights and policies in Egypt have to be seen in the context of Egypt's commitments under the international human rights framework. As Tarek Badawy and Abdallah Khalil assert, 'It is equally important to interpret Egyptian laws in light of the international conventions to which Egypt is a party. [...]International treaties and conventions become part of domestic law following their ratification and publication in the Official Gazette; by virtue of their publication they become "normal laws"' (Badawy and Khalil 2005). The relevant international conventions to which Egypt is a signatory and which provide a context for refugee rights as human rights are as follows:

- The International Covenant on Civil and Political Rights (ICCPR), published in the Official Gazette on 14 April 1981.
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), published in the Official Gazette on 14 April 1981.
- The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), ratified in October 1981.
- The International Convention on the Elimination of Racial Discrimination (ICERD), following Presidential Decree Number 369 of 1967, published in the Official Gazette on 11 November 1972.
- The Convention on the Rights of the Child (CRC), published in the Official Gazette on 14 February 1991.
- The 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol, published in the Official Gazette on 26 November 1981.
- The UN Convention on Migrant Workers and their Families, ratified in July 2003.
- The 1981 African [Banjul] Charter on Human and Peoples' Rights, published in the Official Gazette on 23 February 1992.

At least in theory, rights stipulated under each of the conventions and human rights instruments should be applicable to all people residing within the borders of the state, regardless of their



status. At the regional level, there is no Arab instrument of relevance that is applied in domestic law. Neither the 1994 Arab Refugee Convention<sup>24</sup> nor the Arab Charter on Human Rights adopted in 2004 came into force due to the very low number of signatories (Badawy and Khalil 2005). Although Egypt has signed the 1994 Convention, no state has ratified it so far. The main reason behind the reluctance of Arab states to adopt a regional refugee regime is the highly politicized issue of Palestinians. In an interview, Mahmoud Rachad, Director of Human Rights Department of the Arab League, emphasized that refugees have never had any problems in Arab countries: 'We believe in the Arab world that our tradition, culture, we ourselves are tolerant and the Arab societies are very generous.'<sup>25</sup> Hence, most of the Arab states do not see it necessary to have a separate legal document which would govern the rights of refugees in Arab countries. Further, Mahmoud Rachad pointed out that the majority of refugees in Arab countries are Palestinians who cannot really be perceived as refugees, as they are Arabs, and 'in our countries, we consider any Arab as a brother, so Palestinians cannot be considered as refugees in Arab states.'<sup>26</sup> I.G. Elsouiri, Director of Development and Social Policies Department of the League of Arab States, commented that it was impossible for Egypt to accept Sudanese as refugees, because they too are seen as brothers both for political and moral reasons.<sup>27</sup> If Sudanese were to be recognized as refugees it would be a liability on the part of Arab states; however, no Arab country would regard refugees from another Arab country as refugees.

The national legislation contains numerous articles relating to non-discrimination. Examples include Article 11 of the Constitution which guarantees equality between men and women. Moreover, Articles 8 and 40 of the Constitution guarantee equal opportunities and equality before the law for all citizens without discrimination in any way. In addition, Article 151 of the Egyptian Constitution bans discrimination based on any reason (Badawy and Khalil 2005).

As a founding signatory to both the 1951 Convention and its 1967 Protocol in addition to the 1969 OAU Convention,<sup>28</sup> Egypt has undertaken international obligations with regard to providing asylum, protection, and guaranteeing rights for refugees on its territory. However, with the lack of implementing legislation and with the number of reservations added to the 1951 Convention, the rights of refugees and asylum seekers are significantly constrained.<sup>29</sup> Finally, the Egyptian Constitution gives the right of asylum to political refugees, although only a few of high political calibre have benefited from this provision in the past, including the Shah of Iran, Jaafar Nimeri of Sudan, and the wife of the last king of Libya (Zohry and Harrell-Bond,

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<sup>24</sup> The Convention urged Arab states to adopt a broad concept of 'refugee' and 'displaced person' as well as a minimum standard for their treatment, guided by the provisions of the United Nations instruments relating to human rights and refugees as well as relevant regional instruments, and to also guard against *refoulement*, it remained mainly a political statement (Grindell 2003, Zohry and Harrell-Bond 2005: 50).

<sup>25</sup> Interview with Mahmoud Rachad M. Ghaleb, Director of Human Rights Department, Head of the Technical Secretariat for the Permanent Arab League Committee for Human Rights, The League of Arab States, 20 April 2005, the League of Arab States Headquarters.

<sup>26</sup> Ibid.

<sup>27</sup> Interview with Mr. I.G. Elsouiri, Director of Development and Social Policies Department and the Technical Committee of ASAMC, The League of Arab States, 17 April 2005, The League of Arab States office in Mohandessin.

<sup>28</sup> The 1951 Geneva Convention and its 1967 Protocol were ratified by Egypt y Egypt on 22 May 1981. Egypt ratified the 1969 OAU Convention on 12 June 1981.

<sup>29</sup> The five reservations made to the Convention concern personal status (art. 12 (1)), rationing (art. 20), access to primary education (art. 22 (1)), access to public relief and assistance (art. 22), and labor legislation and social security (art. 24). As a result, refugee children are restricted in their rights to state-funded education, and the right to work is regulated by Egypt's domestic legislation concerning the employment of foreigners, law no. 137 of 1981, whereby refugees are required to obtain a work permit as any other foreigner.

2003:50).<sup>30</sup> Although not confirmed in any official law, those granted political asylum by the Presidential Office enjoy rights equal to nationals. Ambassador Menha Bakhum, the Head of the Refugee Affairs Department at the Ministry of Foreign Affairs, stated that they are also eligible for Egyptian passports.<sup>31</sup>

### *The Government's Perspective on Refugees and Rights*

Local Integration: Egypt has been generous in opening up its borders to refugees, especially those coming from neighboring countries. However, in terms of access to rights and possibility of local integration, the room to manoeuvre is very tight. As Menha Bakhum argued, 'We welcome refugees, especially those from Sudan, who are treated here like brothers, due to a special link between Sudan and Egypt. [...] Refugees are not fully integrated in Egypt in the sense of naturalization. Egypt does not provide for naturalization of refugees. However, Egypt opens its doors and borders to them.'<sup>32</sup> She stressed that the option of granting refugees citizenship is not possible given Egypt's large population.

The Department of Refugee Affairs is the main governmental body directly involved in the refugee regime in Egypt. As Ambassador Bakhum pointed out:

The policy of accepting and assimilating refugees in Egypt is the main policy promoted. Policy of welcoming and making their lives easier in Egypt, but still keeping the reservations made to the convention as a security, since Egypt cannot afford to lift them. The ability to lift reservations depends on the level of development of the country. As long as this is not happening, Egypt cannot afford to extend this access [to rights] to refugees.<sup>33</sup>

The central policy of the government is to offer refugees temporary residence pending one of two durable solutions: either resettlement or repatriation. In an interview with the author, Bakhum stated: 'Our priority for refugees in Egypt is repatriation or resettlement. Until this happens, we are willing to welcome and have them on our territory.'<sup>34</sup> At the same time, the language used to describe the temporary condition of refugees in Egypt refers to *assimilation*. Although the Department of Refugee Affairs is the official focal point for refugee issues in Egypt, it has no leverage over securing funding for refugee-related projects. The Ministry of International Cooperation controls all funds coming into the country to be channeled to all development or humanitarian related projects. As one of the interviewees pointed out, the Ministry of International Cooperation pulls all the strings in influencing policy.

One of the underlying reasons for a restrictive policy on refugees in Egypt is the local economic and social situation in the country. As per Bakhum's statement, refugees get better treatment than nationals in Egypt, because they are privileged and they have UNHCR which takes care of them. In her view, many refugees come to Egypt to be able to migrate to the West and UNHCR provides them with this opportunity, whereas although many Egyptians dream of the same, they do not have this option. Her statement is a testimony to the fears of the burden that

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<sup>30</sup> Article 53 of the Constitution of the Arab Republic of Egypt, 11 September 1971 as amended by the referendum of 22 May 1980.

<sup>31</sup> Interview with H.E. Minha Bakhum, Head of Refugee Affairs Department, MOFA, 13 March 2005.

<sup>32</sup> H.E. Bakhum, MOFA, 13 March 2005.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

refugees might create on the host country and the concern of the lack of attention by the international community to local conditions in the country of asylum:

The Egyptian government is already doing more than expected, because the 1951 Convention talks about providing equal treatment for refugees and nationals. Refugees receive better treatment than nationals in Egypt. For a country like Egypt, accepting refugees on its land is already an achievement and more than other countries do. Refugees put pressure on the economy, on the environment, on the ecosystem, on infrastructure; they contribute to the overcrowding of the city. If I was in the government at the time of signing the 1951 Convention, I would have never signed it.<sup>35</sup>

The issue of local context for appropriate policies on forced migrants was also emphasized by Ambassador Mushira Khattab, the Secretary General of the National Council for Childhood and Motherhood. She pointed out that the socio-economic consideration of the host country as well as issues of domestic migration have to be taken into account as there are many Egyptian children outside schools. 'It is a matter of lack of resources rather than discrimination.' She added that 'we have to be realistic. Refugees in Egypt will not have the same access to resources as refugees in Sweden or the UK'.<sup>36</sup>

The openness of the Egyptian government to hosting refugees on their soil was seen as a major international humanitarian gesture by many respondents, including representatives of the League of Arab States and some of the UN agencies. In the eyes of Mr Rachad of the Arab League, by giving refugees residence and opening up their borders to them the Egyptian government is already doing its best considering the economic crisis in the country. 'Refugees are often ungrateful, and this is not fair, as Egyptians are very generous and tolerant [with refugees]. There is no other country suffering from such a high unemployment who would accept them.'<sup>37</sup>

Rights to Education, Work, and Health Care: In Egypt, there is neither national legislation regarding refugees nor a central government body which deals comprehensively with refugee issues. The two ministerial authorities which take up issues of refugees directly are the above-mentioned Department of Refugee Affairs and the Ministry of Interior. Both coordinate closely with the UNHCR office on a regular basis. The first one deals mainly with the issuance of letters to obtain residence permit and securing release of detained asylum seekers and refugees. The second body is responsible for the issuance of residence permits for asylum seekers and refugees. For any other matters, refugees are considered equal to foreigners residing in the country. Three specific rights will be discussed here: right to education, right to work, and right to health care.

Right to Education: Although the Egyptian government placed a reservation on the right of refugee children to public education, this right should be seen in the perspective of broader obligations under the universal human rights system. It could be argued that Egypt as a signatory to the Convention on the Rights of the Child is obliged to provide access to public education for all children residing on its territory. In addition, over the years there have been a couple of ministerial decrees and decisions which have provided for exceptions for certain refugee groups. In 1992, the Minister of Education issued Decree No. 24 allowing Sudanese

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<sup>35</sup> *ibid.*

<sup>36</sup> Interview with H.E. Mushira Khattab, Secretary General, National Council of Childhood and Motherhood, 6 April 2005.

<sup>37</sup> Mohmoud Rachad, the League of Arab States, 20 April 2005.

children, *inter alia*, to attend Egyptian public schools.<sup>38</sup> Article 5 of this Decree gives Sudanese, Jordanian, and Libyan children the right to access primary education for free in state-owned schools in the same way as Egyptian students. Palestinian children too have the right to access state-owned schools for free provided their parents work with the Egyptian government, the public sector, or the military in Egypt, or if they are retired.<sup>39</sup> In 2000, the Minister of Education issued another Decree extending the application of the 1992 Decree to other refugees.<sup>40</sup> Refugees have to present certain documents such as a birth certificate, a valid passport or valid national identity document (such as refugee card), the original school certificate from the country of origin, and a letter from UNHCR, in addition to other documents (*ibid*, and Article 3 of Decree No.24 of 1992).

The fact that these procedures are regulated by decrees rather than laws creates confusion in the implementation process and proves challenging as it trickles down from the ministerial level to the school administration level. The Egyptian education system is centralized and the same norms apply in each governorate and each school. This, however, makes it problematic when changes to the law occur. In an interview, the senior specialist in the Department of Foreign Students in the Ministry of Education stated that their department does not deal with refugees and asylum seekers. They are rather concerned with services for foreigners. Refugees are considered as foreigners when it comes to access to educational services. As per his view, they are subject to the same regulations as all other foreigners residing in the country. He was also not aware of any decrees providing exceptional treatment for any of the foreigner groups in Egypt.<sup>41</sup>

Inconsistencies in the interpretation of the law exist within the different departments of the Ministry of Education, not to mention the confusion at the governorate and school level. Another official from the Ministry of Education responsible for the department of Class One system confirmed that according to Egyptian law Palestinian and Sudanese children (including asylum seekers and refugees) are treated as equal to Egyptians in terms of admission and tuition in public schools. Other foreign pupils are subject to foreign tuition identified by the Foreign Students Department. However, those who are unable to afford their studies can get permission from the Minister of Education to be allowed to study free of charge under the One Class System or any other educational system in Egypt.<sup>42</sup>

The right to education and the actual access to education have to be seen in the context of the overall education situation in Egypt, which is characterized by high illiteracy rates and a large number of drop-outs. The local context for the debate on the right to education and the actual access to education was mentioned in several interviews with Egyptian government officials. Mushira Khattab, for example, stressed that the right of the refugee child to access school has to take into account that the government of Egypt is unable to provide access to schools for every Egyptian child. She stated, 'I do not think there is discrimination of asylum seekers and refugees in Egypt, but there is discrimination against certain children. The solution is to build

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<sup>38</sup> Decree No. 24 of 1992 regarding scholarships and procedures governing foreign children's access to Egyptian schools and access of Egyptian children returning to Egyptian schools from abroad. Published in the Official Gazette, Vol.54, 3 March 1992.

<sup>39</sup> For further discussion see Tarek Badawy's paper on education possibilities for refugee children in Egypt (2004) and the Africa Citizenship and Discrimination Audit 2005.

<sup>40</sup> For further details see Dingemans 2002.

<sup>41</sup> Interview with Senior Specialist at the Department of Foreign Students at the Ministry of Education, 12 March 2005.

<sup>42</sup> This information was provided by the director of Class One system department at the Ministry of Education to the legal advisor from AMERA, a legal aid NGO, who in turn shared it with the author of this report.

more schools. One has to take into account the inability of the Egyptian government to provide the right to education be it for Egyptian or non-Egyptian children.<sup>43</sup>

Right to Work: Another area which is highly sensitive for the government is the issue of the right to work and equal access to the job market for refugees. As a result of the reservation placed by the government on the right to work, refugees are treated as any other foreigner in the country and are subject to the law No. 137 of 1981, whereby refugees are required to obtain a work permit. Until 2003, refugee blue cards (the refugee identity document issued by UNHCR on behalf of the government and in which residency permits are stamped by the government) were stamped 'Not permitted to work'. Although there are obstacles to accessing this right fully and finding jobs, legally, according to the Deputy representative of UNHCR Cairo office, D Dessalegne, refugees are permitted to work in Egypt.<sup>44</sup> The Under-Secretary for Employment at the Ministry of Manpower responsible for work permits confirmed that under Egyptian Labor Law refugees are considered foreigners.<sup>45</sup> Application for the work permit has to be done by the employer and is subject to several criteria, including the number of Egyptians working in the organization and the activities of the organization. Once the application is approved, the employee has to submit an HIV test result, travel documents, a copy of the passport or any other legal document such as UNHCR refugee card, and a letter of reference. Subsequently, the employer has to pay a work permit fee amounting to LE 1,000.<sup>46</sup> As foreigners are not allowed to compete with the local workforce, they are barred from certain professions such as tourism, oriental dancing, exports and customs related jobs.<sup>47</sup> Based on bilateral agreements and special relations, some foreigners, such as Palestinians, Sudanese, Italians and Greeks are exempted from paying the high fees.<sup>48</sup>

With regard to the Sudanese, a potentially significant development was the signing of the Four Freedoms Agreement in September 2004 between the governments of Egypt and Sudan guaranteeing freedom of movement, residence, work and ownership of property for nationals of these two countries. Abd El Latif commented, however, that the agreement has not been implemented yet. Even if the right to work is implemented for Sudanese, it will not affect the majority of refugees present in the country as they largely work in the informal sector. 'Of course they do not have the right to employment because there is a high unemployment rate among Egyptians and if I opened the door to refugees, everyone will come. I cannot employ refugees who are foreigners and leave the nationals jobless,' he said<sup>49</sup> A different explanation for the significance of the Four Freedoms agreement was provided by Dr Ibrahim Awad, Representative of the International Labour Organisation (ILO). According to him, the significance of the agreement boiled down to the residency permit. Legal residency is important for people who work informally, as most refugees do. Sudanese refugees would now have the

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<sup>43</sup> Interview with H.E. Mushira Khattab, Secretary General, National Council of Childhood and Motherhood, 6 April 2005.

<sup>44</sup> Deputy Representative (Legal) Damtew Dessalegne, 12 April 2005, UNHCR, Cairo.

<sup>45</sup> Personal interview with Mohamed M. Abd El Latif, Under-Secretary for Employment, Ministry of Manpower, 11 April 2005.

<sup>46</sup> The work permit is valid for one year and can be renewed on yearly basis provided a fee of LE 1,000 is paid and satisfaction to a negative HIV test.

<sup>47</sup> For further details, see Resolution 136/2003 regarding the procedures and conditions of work permits for foreigners, Clause 15.

<sup>48</sup> Resolution 136/2003 regarding the procedures and conditions of work permits for foreigners, Clause 6.

<sup>49</sup> Personal interview with Mr. Mohamed M. Abd El Latif, Under-Secretary for Employment, Ministry of Manpower, 11 April 2005.

same rights as Egyptians and not be in danger of deportation.<sup>50</sup> However, in terms of access to jobs, this agreement would only make a difference for highly skilled workers.

Among Egyptian government officials there is a strong perception of refugees as unskilled, uneducated, and illiterate, who compete for jobs with poor Egyptians. When asked whether the employment situation among refugees would change if they had open access to jobs in Egypt, Ambassador Bakhum commented:

[...] The situation would not change as refugees are poor and unskilled, and they do not have the qualifications to work in better jobs in Egypt. They are competing with locals in the informal economy, as they are willing to accept lower salaries and sometimes, accommodation instead of a salary. [...] Egyptians would never be able to accept such conditions.<sup>51</sup>

This perspective provides us with an explanation as to why when UNHCR and the government of Egypt were negotiating lifting the reservation on the right to work for refugees, they were not able to agree. According to Dr Awad from ILO, neither party could understand the other as they approached the issue from different angles. UNHCR stressed refugees' right to work whereas for the government the right to work did not imply working in the formal economy, and working in the informal economy is already a fact for refugees.

This issue strikes at the core of the economic situation in Egypt. It is estimated that Egypt has a labour force of approximately 20 million, of which 13 million work in either agriculture or the government. About 80 percent of the remaining population works in the informal sector. There is a large reservoir of jobs which can be accessed without any regulations or authorizations. As Dr Awad pointed out, 'We cannot ask the Egyptian government to regularize employment for refugees when it is not formalized for Egyptians.'<sup>52</sup> Hence, the key question remains: in an informal economy, what does the right to work mean?

Right to Health Care: Under the national policies on health care too, refugees are considered foreigners in terms of access to services. Until recently, recognized refugees were referred by UNHCR to Caritas, one of the implementing partners of UNHCR providing services for refugees. When a recognized refugee falls sick, he or she could get subsidized treatment through the Caritas office, which covered 50 percent of total medical expenses. In a study of Sudanese refugees, almost all recognized refugees among the respondents had used Caritas medical services with three of the respondents resorting to private clinics or the All Saints Clinic, a church offering a variety of services to refugees in Cairo. However, the subsidized services did not address all the medical needs of refugees. In the event expensive treatment is required, and refugees cannot afford to pay even half the cost, they have to forgo medical care. As in the case of rejected asylum seekers, refugees depend on relatives and friends who have resettled in the West, asking them for financial assistance, especially in cases of pregnancies or more complicated illnesses such as tuberculosis.

The health situation for refugees has become critical with an increasing number of asylum seekers and refugees waiting a long time for services from Caritas. Some of the Sudanese community members recognize the urgency of being able to access public hospitals on an

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<sup>50</sup> Interview with Dr Ibrahim Awad, Representative, International Labour Organisation, 13 March 2005, ILO office Cairo.

<sup>51</sup> H.E. Bakhum, MOFA, 13 March 2005.

<sup>52</sup> Dr Ibrahim Awad, Representative, ILO, 13 March 2005.

equal basis with nationals. The representatives of the Sudanese Women's Union and the National Council on Population and Development (NCPD) met with the director of the integrated medical care unit at the Ministry of Health and asked that refugees be included in the national health care services.<sup>53</sup> After intensive lobbying from another governmental body, the National Council on Childhood and Motherhood<sup>54</sup>, as well as meetings with UNHCR, the Minister of Health issued a new regulation in February 2005 allowing access to public primary and preventive healthcare services for all foreigners residing in Egypt.<sup>55</sup> It was agreed that forced migrants would pay domestic fees for the services. Recognized refugees however received better care and services through Caritas and thus preferred the wait at Caritas to the wait in public health facilities.

Dr Ahmed El Henawy, Director of the Integrated Medical Care Unit at the Ministry of Health, pointed out that Sudanese are not considered refugees in Egypt but rather as settlers as they share the same borders.<sup>56</sup> He commented that the information on the new regulation regarding refugees was shared with all Egyptian governorates. He stressed the importance that health problems of refugees are a matter on national concern, as non-action might lead to the spread of epidemics. Hence, although the cost of providing health care services to refugees would increase the overall load on the Egyptian healthcare system, there was no alternative: 'I must provide vaccinations to all because if polio epidemic occurs today or tomorrow it will affect all and it will be more costly to fight it.'<sup>57</sup>

This change in policy will have a direct impact on the possibilities of accessing public hospitals and government clinics by recognized refugees as well as those without legal status in Egypt. The implementation of this ministerial decision will need to be followed closely. At the same time, however, as many of the service providers and refugees asserted, Sudanese mistrust the public medical services available in Egypt. Rumours circulating among the Sudanese community about the stealing of organs (Kroner 2004) and discriminatory treatment at the hands of Egyptian medical personnel also need to be addressed.

### *Governmental Initiatives Towards Refugees*

Apart from new decrees which provide some ways of integrating refugees into national services for the first time, the Egyptian government has undertaken community based developmental projects targeting both refugee and Egyptian populations. As a result of intense lobbying by UNHCR, the National Council for Childhood and Motherhood (NCCM) has been behind this initiative. In addition, given its position as an inter-ministerial body, 'the highest governmental authority entrusted with policymaking and planning' in areas concerning children,<sup>58</sup> NCCM has actively advocated with different ministries to include refugees in national policies. Ambassador Mushira Khattab, Secretary General of NCCM, serves also as a special rapporteur on the Committee of the Rights of the Child. She was asked by the previous UNHCR Cairo representative to assist UNHCR in advocating on behalf of refugee children. As the highest national body, NCCM has much greater leverage over influencing policy and bringing change

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<sup>53</sup> Interview with Dr Ahmed El Henawy, Director of the Integrated Health Care Unit, Ministry of Health, 14 April 2005; and Dr Samir Eleish, Executive Director, National Center for Population and Development (NCPD), 7 March 2005, AUC, Cairo.

<sup>54</sup> Interview with Dr Hoda Tahawy, NCCM, , 9 March 2005.

<sup>55</sup> Interview with Dr Ahmed El Henawy, Director of the Integrated Health Care Unit, Ministry of Health, 14 April 2005.

<sup>56</sup> *ibid.*

<sup>57</sup> *ibid.*

<sup>58</sup> NCCM, "The Council," <http://www.nccm.org.eg/default.htm>; accessed 2 September 2005.

at the ministerial level. It can do what UNHCR cannot – ‘and we are fully aware of UNHCR’s constraints’.<sup>59</sup> As the next step, NCCM is planning to include refugee children in its national development plan, which is one of the goals of the Convention Plus. ‘We are always four or five steps ahead of other governmental bodies; we decided to involve others in refugee issues by forming an inter-ministerial committee, including different ministries, NGOs, UNHCR, and donors,’ reiterated the Ambassador. One of the goals of the committee will be to propose new decrees and laws regarding refugees and respond to their needs. NCCM’s role is to draw the attention of other ministries to the plight of refugees.<sup>60</sup>

The approach underpinning the policies and programs of NCCM is focused on the rights of children. As Ambassador Khattab explained:

We do not work from a humanitarian [charity] perspective but rather from a rights perspective; [...] that’s why we are looking at the quality of education through an integrative project open to all [Egyptians and refugees], which can foster their own environment, allow for integration, even if temporarily.<sup>61</sup>

The two primary projects which have been initiated by NCCM are improved quality and access to health services and access to education. The first one involves upgrading the existing medical centre (El Hagana) in a shanty area of Arba W Nuss, which is inhabited by a large number of Sudanese refugees and Egyptian domestic migrants.<sup>62</sup> Dr Hoda Tahawy, General Director of Gender and Development at NCCM, explained that the Council became aware of refugee needs when a group of refugee NGOs (the National Council of Population and Development and Sudanese Women’s Union) approached NCCM asking them to address the health situation of refugees.<sup>63</sup> NCCM decided to work together with UNHCR, NGOs and the government to create community-based development activities which would be inclusive of the two groups. Based on the information provided by the NGOs NCCM, together with a Swiss NGO, Terre des Hommes, embarked on needs-assessment in Arba W Nuss to identify the specific areas for intervention. According to both Ambassador Khattab and Dr Hoda Tahawy, community participation is important in these projects. As NCCM has started to implement integrated projects for refugees and Egyptians, they try to involve both refugees and Egyptians in identifying their communities’ needs. These needs will have to be balanced with the priorities and programmes of NCCM.<sup>64</sup> The key needs of refugees include fighting drug abuse and violence, and safe delivery for women.

The medical services at El Hagana clinic are available free of charge and refugees can access them without birth certificates and IDs. Initially, refugees in the Arba W Nuss area were reluctant to use governmental medical services at El Hagana, as there was a deep mistrust of Egyptian medical personnel. NCCM together with the Kasr El Eini personnel carried out training for nurses and health workers from both communities through which the communities have gotten to know each other and build some level of trust. NCCM was also involved in lobbying the Ministry of Health in order to include refugees in the national essential health care

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<sup>59</sup> Ambassador Khattab, NCCM, 6 April 2005.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> NCCM is planning to provide new medical equipment for the centre and train 300 community health care workers, who would have good access to the community and will be able to address the needs of the population at the community level.

<sup>63</sup> Interview with Dr Hoda Tahawy, General Director of Gender and Development, National Council of Childhood and Motherhood (NCCM), 9 March 2005, NCCM, Cairo.

<sup>64</sup> Ibid.



system. The new ministerial decree is part of the decentralization of health services provided to Egyptians and to refugees. If this experiment is successful in Arba W Nuss, NCCM is planning to duplicate it in other areas where refugees reside, such as Ain Shams and Ard El Liwa. According to Dr Tahawy, this approach will lessen conflicts and diminish tensions between the two communities and indirectly contribute to the diminishing of violence, which is one of the programmatic areas of NCCM's work.<sup>65</sup>

The second integrative project which resembles the broad lines of developmental approach towards refugees is related to education. Ambassador Khattab emphasized the fact that education is problematic for Egyptian children. Furthermore, the government lacks the resources, both financial and human, to provide access to education for all children. Hence, NCCM aims at improving access to education in two ways: building a new school for Egyptian and refugee children in Arba W Nuss and advocating with the ministry of education for certificates of equivalence for refugee children. The government donated land for the school, and NCCM, together with UNHCR, is negotiating funding with a European NGO. According to Ambassador Khattab, the government's willingness to donate the land points to its readiness to provide greater assistance to refugees.<sup>66</sup> The curriculum of the school will be based on UNICEF curricula promoting peace and reconciliation among communities as well as on the model for girls' education propagated by NCCM in other community schools.<sup>67</sup> When asked about funding for the integrative programme, Ambassador Khattab asserted that in her view donors might be interested in providing funds for such activities.

#### *International Organizations: UNHCR and other UN Organizations*

The Role of UNHCR: Protection and Assistance: Under an agreement signed between UNHCR and the Egyptian government in 1954, UNHCR in Egypt has assumed the responsibility for refugee status determination in light of the current unwillingness of the Egyptian government to carry out status determination. It also provides protection and assistance to refugees. According to UNHCR RO Cairo, there have been numerous discussions with the government over several years with regard to the possibility of the government taking responsibility for refugee status determination, and the Egyptian government has made public statements about their intention to do so at venues such as ExCom, but it has not materialized (UNHCR Country Operations Plan 2005).<sup>68</sup> One of the steps in creating a national mechanism for RSD was the creation of a Refugee Affairs Committee in 1984, which resulted in the establishment of the Department of Refugee Affairs within the Ministry of Foreign Affairs. Ambassador Menha Bakhum, a former head of the department, pointed out that the delay was due to institutional, professional and financial obstacles. However, she asserted that the government might be able to take on RSD in the future.<sup>69</sup> One of the reasons for the reluctance of the government towards establishing an asylum system is the large presence of Sudanese in the country. As Damtew Dessalegne, Deputy Representative of RO Cairo pointed out, it is inconceivable for Egypt to admit atrocities in Sudan and indirectly criticize the Sudanese government by admitting Sudanese refugees. According to his view, if the Sudanese refugee problem is

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<sup>65</sup> Ibid.

<sup>66</sup> Ambassador Khattab, NCCM, 6 April 2005.

<sup>67</sup> Interview with Dalia Hassan, General Coordinator of the Girls' Education Initiative, NCCM, 6 April 2005, NCCM, Cairo.

<sup>68</sup> Interview with Deputy Representative (Legal) Damtew Dessalegne, 12 April 2005, UNHCR, Cairo.

<sup>69</sup> Ambassador Bakhum, MOFA, 13 March 2005.

solved satisfactorily, it would create a window of opportunity in Egypt to create a national refugee protection system.<sup>70</sup>

Until 2004, UNHCR RO Cairo was basing its programming on the care and maintenance model, which implies a relief model focused on providing cash assistance, medical care, primary education and some vocational training. Although discussions on moving away from care and maintenance towards a more self-reliance oriented model had been taking place at RO Cairo since the late 1990s,<sup>71</sup> the model of local settlement<sup>72</sup> was only implemented in 2004.<sup>73</sup> The drastic increase in the number of recognized refugees (until 2003 there were around 8,000 recognized refugees and since then the number has increased to over 21,000) with many more staying 'unrecognised' in Egypt was coupled with a decrease in UNHCR's funding from \$3.9 million per year between 1996 and 1998 to \$2.2 million over the past four years.<sup>74</sup> Although there has been a change<sup>75</sup> in the general orientation of UNHCR's programming in Cairo towards more emphasis on projects enhancing self-reliance of refugees, some assistance is still provided to asylum seekers and refugees, including medical assistance and educational grants.<sup>76</sup> Some time-limited cash assistance is provided to the most vulnerable groups, including large families (over 5 members) and single-headed households.<sup>77</sup> The shift in the UNHCR overall programming is illustrated in the UNHCR RO Cairo Country Operational Plan for 2005 (COP) which puts emphasis on projects promoting self-reliance among refugees. The plan prioritizes promotion of self-reliance and self-sufficiency of refugees by assisting refugees to be better able to find and maintain income generating activities to meet their families' minimal living needs (UNHCR 2005). In addition, the developmental approach is based on strong involvement of refugee communities in programming and implementation. Hence, although not a target country for the implementation of Convention Plus initiatives, UNHCR in Egypt is actively pursuing some of the policy directions under the targeted development assistance (TDA) initiative.

Palestinian refugees remain unassisted, as the United Nations Relief and Works Agency (UNRWA) in charge of providing assistance to Palestinian refugees in camps does not operate

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<sup>70</sup> Deputy Representative (Legal) Damtew Dessalegne, 12 April 2005, UNHCR, Cairo.

<sup>71</sup> In 1997, a Regional Workshop of Strategies for Self-Reliance was organized in Cairo. As an outcome, it was recommended that a transition be initiated from care and maintenance to self-reliance, in great part due to the severe financial crisis in UNHCR (for further information see Sperl 2001). The actual shift of policies took place only in 2004 towards a model promoting self-reliance for refugees.

<sup>72</sup> Local settlement projects aim at helping refugees increase their livelihood through micro-credit, employment placement and vocational training.

<sup>73</sup> According to UNHCR's global programme, there are five different types of projects: care and maintenance (CM), local settlement (LS), resettlement (RE), repatriation (RP), and emergency assistance (EM). Interview with Sherif Fetouh, Program Assistant, UNHCR RO Cairo, 6 April 2005, UNHCR, Cairo.

<sup>74</sup> *ibid.*

<sup>75</sup> In the interview with the author, Damtew Dessalegne, deputy representative of UNHCR Cairo (6 April 2005), argued that the policy of local settlement is not new in Egypt. He agreed that UNHCR should not have perpetuated care and maintenance for such a long time, but it had to and it did it for a good reason. UNHCR was engaged with the government in Egypt to create national legislation and an asylum system. Therefore, UNHCR did not want to put too much pressure on the government to provide assistance, but 'we wanted to encourage the government to put something more long term in place.'

<sup>76</sup> Medical assistance covers 50 percent of prescription costs; in some cases up to 90 percent of medical costs can be covered. Educational grants are provided for primary and lower secondary schools. They are disbursed through Catholic Relief Services, a UNHCR implementing partner. The total amount for each grant decreased in 2005 from \$900 to \$600. In 2005, UNHCR was able for the first time to assist children of asylum seekers. In 2004/05 4,150 children were assisted through the program.

<sup>77</sup> Between January 2004 and January 2005, the amount of money disbursed through monthly allowances decreased by 30 percent. In 1999, monthly allowance per person was on average \$18.60 and it decreased to \$5.59 in 2005, according Sherif Fetouh, Program Assistant, UNHCR RO Cairo, in an interview, 6 April 2005.

in Egypt. A small number of Palestinian refugees are registered with UNHCR. The vast majority live in Egypt unassisted and are considered foreigners in terms of rights and entitlements. There are some NGOs run specifically by and for Palestinians, including the Palestinian Red Cross, a women's union, a labour union, and a Council for Education (El Abed 2003).

Other UN Agencies: Egypt hosts a large number of UN agencies apart from UNHCR, but none of the other agencies include refugees directly as part of their programming. The overall planning for the work of UN agencies is conducted through the UN Development Assistance Framework (UNDAF), which is developed every five years. The current UNDAF identified the planning cycle for 2002-2006, according to which the overarching goal for UN development cooperation in Egypt is: 'Promoting a more people centered development strategy based on rational and efficient use of Egypt's institutional capabilities, natural resources and human assets' (UNDAF 2002:7) For the first time, the issues of refugees are included in the plan, emphasizing protection of women and children as a responsibility of UNHCR (ibid.: 30, 32). This is, however, the only place where refugees are mentioned. It is clear that, as Michele Ribotta, the head of the UNDP Coordination Unit, puts it, refugees are not in the [UN] system [in Egypt].<sup>78</sup> Although there have been numerous discussions between UNCHR and other UN agencies, including WFP, UNICEF, ODCCP and UNDP to include refugees in some of the other programming areas, so far there has been no outcome. After the tragic end to the Sudanese demonstration in front of the UNHCR office in Cairo in December 2005, WFP is providing emergency food assistance to some 4,000 Sudanese refugees.

Although UNHCR is the organization responsible for refugees in Egypt and globally, there might be scope for other UN agencies to be potentially involved. As Ribotta argues, UNHCR would be expected to take the initiative and bring refugees to the UN coordination forum. There is also a need for follow-up and leadership on the part of UNHCR in this regard. However, so far this does not happen often, possibly as UNHCR might have other priorities.<sup>79</sup> Some other UN representatives have argued that their programmes concern mainly rural areas whereas the bulk of refugees reside in the cities, mainly Cairo.<sup>80</sup> There are also practical obstacles in terms of the types of agreements between the Egyptian government and the UN agencies, which stipulate that development projects are implemented together and sometimes through the government. UN agencies operate in Egypt at the invitation of and under agreement with the Egyptian government. Hence, they are mandated to assist the government in meeting its MDGs. If any of the funds were to be diverted towards refugees, the UN agencies would have to gain the approval of the government, which the Egyptian government itself is reluctant to do given its level of economic and social development. UN agencies are currently in the process of developing the Common Country Assessment (CCA) for the 2007-2011 programming cycle; UNHCR has been advocating a greater inclusion of refugee-related issues, particularly in the CCA category of vulnerable groups.

Several other UN agencies were interviewed for the purpose of the research, including the International Labour Organisation (ILO), World Food Program (WFP), World Health Organization (WHO), UNICEF, and UNAIDS. At the time of the research, none of these agencies covered refugees in its programming (although WFP was already at that time considering a proposal for school feeding by UNHCR). All of them expressed similar reservations with regard to including refugees into developmental aid for Egypt. The

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<sup>78</sup> Interview with Michele Ribotta, Head of Coordination Unit, UNDP, 8 March 2005, UNDP, Cairo.

<sup>79</sup> *ibid.*

<sup>80</sup> Interview with Damtew Dessaegne, Deputy Regional Representative (Legal), UNHCR, 12 April 2005, UNHCR, Cairo. The same comment was made by representatives of WFP, UNICEF and WHO.

representative of WFP in Cairo argued that according to the memorandum of understanding between UNHCR and WFP, WFP can only extend its assistance to refugees if an official request comes from either the government or the UNHCR office. Even if such a request comes from UNHCR, WFP has to obtain approval from the government in order to be able to extend its support for refugees. As Bishow Parajuli argued, there is a gap between the general rule of assistance and the reality.

All the UN agencies are nothing else than governments. If policy is formulated, it is the responsibility of the host government to implement it, not the UN agency. If the host government does not want a certain policy, there are always ways of blocking it. Also, there is an issue of resource constraints. Sometimes, the reluctance of the government to follow a policy is not because of lack of interest, but there are bureaucratic problems within the government, there are many factors which cause delays in implementation.<sup>81</sup>

In addition, the underlying basis for the assistance policy of many of the UN agencies is need. Often, agencies have a mandate to intervene only in crisis situations. WFP's intervention, for example, is based on need. As Paranjuli explained,

I am sure there are difficulties here for refugees, but it does not seem that they are in crisis. The assistance and WFP intervention has to be seen in this context. WFP does not jump into a project. Our fundamental assistance is based on need. If refugees reach a level of self-sufficiency, we pull out not to create dependency. What we take into consideration is the implication of assistance for sustainability for refugees.<sup>82</sup>

This view was also supported by UNICEF representative, Hannan Sulieman, Senior Protection Officer. As she put it, refugees in Egypt are mostly settlers and get some aid from UNHCR.<sup>83</sup> If any of the agencies was to support refugees in Egypt either separately or jointly with locals, they would need to raise additional funds for such programmes as the government would veto diverting funds from projects targeting Egyptians. In Sulieman's view, the only way refugees could be included in joint programming is through community-based activities as an entry point and through lobbying by NGOs. Most UN interviewees did not see a way for refugees to be integrated in the developmental aid in Egypt given the difficult local socio-economic conditions.

The only agency which at present includes refugees in a joint project is UNAIDS. As of 2005, UNAIDS started supporting UNHCR with regard to a national HIV/AIDS prevention and impact mitigation campaign among urban settlers. The idea of including refugees in the national campaign came from refugee communities themselves as will be discussed later in the report. This project is to certain an extent an experiment in joint programming for refugees and locals. However, although integrative in nature, the issues of HIV/AIDS are treated separately for refugees and for locals.

### *NGOs and Service Providers*

In recent years, the number of organizations providing some assistance for refugees has increased significantly. Most of them are created by refugees themselves; however, due to the fluid nature of refugee populations as well as problems with raising funds, many of these organizations are rather short-lived. The majority of programmes operated by NGOs and

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<sup>81</sup> Interview with Bishow Paranjuli, World Food Program Representative, Cairo, 17 May 2005.

<sup>82</sup> *ibid.*

<sup>83</sup> Interview with Ms Hannan Sulieman, Senior Protection Officer, UNICEF, Cairo, 30 May 2005.

churches are not directly linked to helping people increase their livelihoods while in Egypt, but are more focused on either meeting people's immediate needs or helping them prepare for either resettlement or eventual return to Sudan. Among the main organizations providing services to refugees are UNHCR's implementing partners, such as Caritas and Catholic Relief Services (CRS), in addition to faith-based institutions (mainly churches) and some refugee-based NGOs. However, with the expanding refugee population, depleting funds available to UNHCR, and financial constraints of NGOs and churches providing assistance to refugees, the majority of recognized refugees are left with very limited support. In addition, those who have been rejected and are residing in Egypt illegally are completely excluded from any formal assistance, relying on help from some of the faith-based institutions and community organizations that serve both recognized and rejected refugees (see UNHCR 2003). With the shift from care and maintenance to local settlement policy, UNHCR has attempted to set up a more decentralized system with a greater focus on community-based development. As a result, it had to establish better links with refugee community-based organizations (CBOs) as well as Egyptian and refugee NGOs (The role and activities of CBOs will be discussed in the next section). With a greater number of actors and stakeholders involved, coordination and cooperation has become more difficult.

The main UNHCR implementing partners still focus on care and maintenance assistance. Caritas, for example, is in charge of relief assistance, including distribution of financial allowances, provision of medical assistance, and facilitating access to vocational training and job placement. As Caritas director, Mrs Souheir Fawzy asserted, due to UNHCR's budgetary constraints, assistance is provided to the most vulnerable population: those suffering from harsh social conditions (disabilities), health problems (chronic diseases), and economic hardship. Unaccompanied minors are also included in this category.<sup>84</sup> CRS, on the other hand, handles the educational grants for asylum seekers<sup>85</sup> and recognized refugees. Since 2004, CRS has also been involved in capacity building for refugee community-based organizations (CBOs) and community-based associations (CBAs). Most of the implementing and operational partners of UNHCR create their policies of assistance based on perceived need in the community. As charity organizations (for example CRS or Caritas) it is in their mandate to alleviate the suffering of people and assist people most in need.<sup>86</sup>

Many of the service providers are churches, which responded to the needs expressed by those refugees attending their spiritual services. Refuge Egypt, now an implementing partner of UNHCR, provides emergency assistance, self-reliance programmes (including training and job placement), and medical assistance (services for pregnant women, treatment for TB patients, and testing for HIV). Another church, the Sacred Heart Church in Sakakini (popularly referred to as Sakakini) in addition to its core spiritual mandate runs a major educational programme for refugee children,<sup>87</sup> provides relief, medical assistance, and space for socializing and cultural

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<sup>84</sup> Interview with Madame Souheir Fawzy, Director of Caritas Office and Mariam, a social worker, 13 April 2005.

<sup>85</sup> For the first time, children of asylum seekers were given educational grants in 2004. This was partly due to the fact that many more refugees were staying in Egypt and as of June 2004 UNHCR has not been processing claims for asylum for Sudanese. They were all given temporary protection and a asylum seeker's yellow card allowing for a temporary residence in Egypt. A total of 4,140 refugee and asylum seekers students (3,534 recognized refugees and 606 asylum seekers) representing nine countries of origin received educational grants. 67 percent children attended one of the refugee schools, with 129 students in government schools and 1,238 students in private schools.

<sup>86</sup> Interview with Susan Silvieus, Director, Catholic Relief Services, Egypt, 17 April 2005.

<sup>87</sup> The programme follows the Egyptian curriculum and although the school is not officially accredited, students receive a certificate and are allowed to sit for national exams. The church runs primary as well as secondary classes. In September 2004, there were 1,700 children registered with the school. In April 2005, 1,200 were still attending classes. The numbers decreased as some families resettled, some children dropped out, some withdrew

events. As Father Claudio from the Sakakini church stated, the involvement with refugees came from the needs which the church recognized as well as from the opportunities that they had, in terms of space and funds.<sup>88</sup> Although refugees have, in theory, the right to access public schools in Egypt, they find it extremely difficult to fulfil the official requirements, including submission of school certificates, proof of residency, and letters from UNHCR. Often refugees do not have documents, and those who are not recognized and who do not have legal residence in the country find it impossible to access public schools. In addition to bureaucratic constraints, there are also cultural issues. Many refugees face language problems, as they do not speak Arabic (Somalis, Eritreans, Ethiopians, etc), or do not want their children to be educated in Arabic (either due to their bad memories of Arabization and Islamization from Sudan, or because they are hoping to go for resettlement and find education in Arabic a waste of time). There are also tensions and mistrust between refugee and Egyptian communities, and among refugees there is a strong sense of racial harassment from the local population. Hence, churches have responded to the needs of the community and set up educational programmes for refugees. Other churches running schools for refugees include St. Bakhita Center in Arba W Nuss, an English language school for children and adults at St. Andrew's church, a school for Ethiopian and Eritrean children and adults at St. Joseph's Church, as well as a school for Sudanese refugee children at St. Mark's church in Alexandria.

Among the refugee-based NGOs, the two most active organizations are Ma'an and the Sudanese Development Initiative (SUDIA), working directly with the refugee population in Cairo. Both organizations have been in operation for over a decade and started with programmes for displaced persons in Sudan. Their perspective on programming for refugees is very different from churches and UNHCR's implementing partners. For Dr Magda Ali, the executive director of MAAN, the priority is raising awareness of human rights and helping them adapt to Egypt. 'If you help refugees to adjust – which is the major problem – then they will be successful in finding [vocational] training by themselves.'<sup>89</sup> For the majority of refugees, Cairo is a big shock as they are not used to living in urban settings, coming as they do mainly from rural areas. Placing emphasis on rights and adaptation, MAAN has developed an awareness raising programme for newcomers to Egypt open to both men and women. They also work closely with women's groups in the community. For Dr Magda, rights are the starting point for refugees' developmental policies.

SUDIA, on the other hand, tries to address issues of skills through the provision of computer training and summer courses for children to help them adapt to Egyptian systems. They are also involved in the UNHCR-UNAIDS project on HIV/AIDS. Initially, needs of refugees constituted the basis for SUDIA's interventions. However, more recently, they started to consider the interests of donors and use needs-based assessments in identifying new projects.<sup>90</sup>

With a view to implementing the community-based developmental approach and focusing on issues of self-reliance, UNHCR signed an agreement with an Egyptian NGO, El Mobadara, which specializes in micro-finance services. According to Dr Ayman Mahmoud, president of El Mobadara, they first became interested in working with refugees when they started receiving

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as they were unable to pay the expenses associated with transportation. Interview with Bro. Enrico, coordinator of Refugee Schools, Sacred Heart Church, 16 April 2005.

<sup>88</sup> Interview with Father Claudio, Sacred Heart Church, Sakakini, 23 March 2005.

<sup>89</sup> Interview with Dr Magda Ali, executive director of MAAN, Cairo, 10 March 2005.

<sup>90</sup> Interview with Maha Bakri, manager of SUDIA, Cairo, 9 March 2005.

requests from Sudanese refugees.<sup>91</sup> The need came from the community and since initially El Mobadara had neither funds nor the experience of working with refugees, they turned down the requests. Finally, they decided to submit proposals for funding to several donors, and eventually in 2005 UNHCR received a grant from the EU, which allowed for seed-money for the project. Fifteen percent of the funding is supposed to go towards loans for Egyptians and the rest towards refugees. Individual start-up loans for 200-250 projects, and capacity building and training, are available. This is the first micro-credit project with refugees in Cairo, and one of the first to provide services to both refugees and Egyptians (Ingraham 2005: 91).

A relative newcomer to the refugee scene in Egypt is the National NGO, Center for Population and Development (NCPD). Established in 1993 before the International Conference on Population and Development in Cairo, its initial aim was to support NGOs working on population and development issues. In 2002 during the tense relations between the Egyptian and Sudanese governments, NCPD decided to create an Egypt-Sudan Forum, which was to provide a parallel dialogue between the civil societies of these two countries. Dr Samir Eleish, the Executive Director of NCPD, stressed that there was a need to focus on the South, as Egypt is part of Africa:

We are Africans and have to focus on African issues. Egyptians always forget that they are Africans, but they have Arabic culture. Africa is important for us Egyptians and for the past thirty years it has been forgotten as a result of the stupidity of the government which turned its head away from it.<sup>92</sup>

In NCPD's view, rather than facilitating integration of refugees into the host society, the current policies of service providers and UNHCR are creating ghettos and isolating the two communities. NCPD tries to address the issue of separation between Egyptians and Sudanese. It works on issues of Sudanese refugees at two levels: assisting in strengthening the civil society and advocating for changes with the government. Having a strong position in Egypt and good relations with the government, including the Ministry of Interior, NCPD is able to provide protection and a legal umbrella for NGOs and CBOs. They help CBOs to register and start their activities in the community.<sup>93</sup> One of the areas where NCPD has contributed to a change of policies is health where, together with UNHCR and the Sudanese Women Association (one of the members of the Forum), it lobbied the Minister of Health who first extended family health care services to all Sudanese (October 2004) and eventually opened essential primary health to all foreigners in Egypt (March 2005). Secondly, NCPD negotiated with Islamic hospitals to provide free services (*gamayat sharqaya*, part of *zakat* for displaced) to refugees regardless of religion. Lastly, they approached the Orthodox Church and negotiated access to free medical services for Sudanese refugees.

The majority of organizations working with refugees focus on assistance and meeting basic needs of refugees. There is, however, a shortage of organizations which provide legal and advocacy services. One of the few organizations which is most active in this field is Africa Middle East Refugee Assistance (AMERA) set up to provide legal aid for asylum seekers and refugees in their dealings with UNHCR. According to their mission statement, AMERA is to provide people with access to rights, including administrative justice, and access to social and economic rights. AMERA's role is to advocate on their behalf. The organization relies heavily

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<sup>91</sup> Interview with Dr Ayman Mahmoud, president of El Mobadara, Cairo, 22 March 2005.

<sup>92</sup> Interview with Dr Samir Eleish, executive director of NCPD, 7 March 2005.

<sup>93</sup> Officially, for any organization to be able to register in Egypt, at least one person on the board has to be Egyptian. The organizations must also include 'Egypt' in its name.

on foreign volunteers and focuses mainly on RSD procedures and appeals at UNHCR. More recently, it turned its attention to wider policy issues, including refugee access to education and issues of durable solutions for refugees. Their main efforts are directed towards overcoming bureaucratic and administrative obstacles in refugee children's access to public schools. However, as an organization dominated by foreign staff, AMERA has certain biases with regard to providing advice to refugees. AMERA's staff do not feel comfortable referring refugees to integrated services as there is a fear among refugee communities about the Egyptian service providers. As one of the interns commented, 'refugees have suffered from abusive experience and they do not want to send their children to integrated schools'.<sup>94</sup>

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<sup>94</sup> Interview with Ms Perveen Ali, AMERA Program director and AMERA's interns, 7 March 2005.



### 3. MOBILIZING AROUND RIGHTS: REFUGEES

*For refugees, the main concern is where they are going – their destiny – how am I going to proceed with my life? The Sudanese government is not providing us with any assistance, the Egyptian government neither, nor UNHCR – we are left out. The major struggle for many is how to secure income and survive. Many people have suffered from psychological problems. Their lives have become hopeless. Their destiny should not be linked to peace processes.<sup>95</sup>*

#### Refugees as Agents

While international or national policies are created and implemented predominantly by host and donor governments, international organizations, and international and local NGOs, the actual success of these policies depend on those whom they address. A number of studies in the development and refugee literature point to the fact that refugees themselves are actors in the process of policy implementation, as their acceptance or rejection of certain programming might determine the fate of these policies. The way refugees engage and interact with the policy environment varies depending on the host country conditions (for example, freedom of expression and possibility to demonstrate) and the capacity of refugee communities. As Mehta and Gupte (2003) point out, an emerging literature is now acknowledging the need to recognize the universality of recipient rights while simultaneously taking a deeper look at the individual's situation, treating individuals as responsible actors, and creating a legitimate space for involving refugees and displacees in decision making processes. Refugees' perceptions of policies and programmes combined with their understandings of rights and own priorities have a direct influence on the outcome of policies and ultimately on the livelihoods of refugees.

#### *Refugees' Perception of Rights*

I believe we know our rights as human beings but according to the Egyptian law, we come from a different country. However, the fact that I have the right to stay in this country means that I have the right to education and work. If an Egyptian has a right to work, why can't I have the same right as well.

Rwandan refugee in Cairo, interviewed 26 May 2005

The key issue of concern for asylum seekers and refugees is effective protection and security. Refugees view their protection not only in terms of being free from random arrests and deportation but as linked to the provision of basic human rights, such as access to education, work, housing, and health services. When asked whether the fact that she possesses a blue card has made any difference to her daily life, Sarah, a single southern Sudanese woman (non-eligible for resettlement), replied:

Not really. When I was given the blue card, I was told to go to Caritas. I was given an interview date in several months. Despite the fact that I have the card now, I can't get any assistance from Caritas until I am interviewed and if I fell ill in the meantime, no institution would offer me any treatment. I also hear that single refugees are not given any assistance. I want to study but there are no opportunities here. I really want to be resettled to the west because I believe that when I am resettled I will be given a chance to get a good job and to study. Here there is no work and no education so I

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<sup>95</sup> Interview with Nasr El Din Abdallah Sakr, Secretary General of Sons of Sudan Association, 6<sup>th</sup> of October City, 7 April 2005.

would just remain like this. The card would only help me in case of arrest or deportation. Life here is hard and the treatment from the host society isn't friendly.

This wider concept of protection encompasses the possibility of refugees pursuing their lives unhindered. Without the possibility of accessing their right to livelihood, refugees do not see the value of the protection promoted by UNHCR. 'Having a blue card is nonsense, it is like being in a prison but even the prison is better because you are fed there but we are not given any help so how are we expected to survive?,' asked a Rwandan refugee.<sup>96</sup> Protection becomes meaningful in the context of being able to access rights, especially through citizenship. As people without the protection of their own country, refugees strive to find security and stability in their lives. Not being able to access citizenship in Egypt and being exposed to harsh economic and social conditions, refugees see resettlement as a form of protection and a right to which they are entitled. Resettlement to western countries is seen in the context of full membership of an international community where they will have equal rights with those of nationals and access to services and jobs, as well as the possibility of acquiring legal citizenship. A refugee CBO chairman commented, 'When I am granted citizenship, I can live a normal life. It is much more difficult to integrate here because it is difficult to get rights. The chances and the rate of accessing rights in western countries are much higher than here in Egypt.'<sup>97</sup>

#### *Awareness of Rights Among Refugees*

In general, refugees do not have a good understanding of their rights in Egypt. When asked what refugees think of their rights, the leader of Union of Greater Ekuatoria, Richard Avine Nigo, smiled and stated, 'When you talk about rights, it makes me surprised or a little bit sad. [*Why?*] Because refugees do not know about their rights. They do not understand them.'<sup>98</sup> Several reasons were mentioned by refugees and refugee groups interviewed for the research. First, many pointed out to the low level of education among refugee populations, especially Southern Sudanese, due to constant movement and being displaced multiple times. Second, refugees mostly use informal sources of information such as family, friends or community members, who are often unreliable as they lack proper information themselves. For instance, refugee community leaders who take upon themselves to inform newcomers about their situation in Egypt often lack proper information about UNHCR procedures and domestic laws due to lack of coordination between them and UNHCR. Also, organizations providing assistance to refugees focus mainly on services tailored towards refugees who will be resettled and offer little practical advice to help people adjust to life in Egypt. There is also a dearth of organizations able to provide proper legal advice and services and explain rights of refugees in the host community. For example, AMERA offers only limited advice relating to UNHCR procedures. Refugees also find it problematic to approach UNHCR directly, as the access is very restricted for security reasons.

Although many of the refugee-based organizations interviewed for the research had some understanding of policies affecting refugees in Egypt, most of them did not have a clear picture of the specifics. For example, some of the groups had not heard about the new policy on access to national health services for foreigners and refugees. Those who knew about it were skeptical about the usefulness of such services for refugees who have high mistrust of

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<sup>96</sup> *ibid.*

<sup>97</sup> Interview with the Chairman of a CBO in Arba W Nuss, Cairo, 17 March 2005.

<sup>98</sup> Interview with Richard Avine Nigo, Chairman of Union of Greater Equatoria, 21 February 2005.

Egyptian services and will never go to national clinics. The limits of the policy were also pointed out, as access was restricted only to those with valid residence permits or passports.

Another concern expressed by many refugees was access to proper information regarding rights of refugees and policies affecting them. Several members of refugee CBOs expressed their disappointment with the restricted access to information. Requests to UNHCR to hold seminars or talks on refugee rights have apparently gone unheeded, though UNHCR claim these have been conducted. Refugees claim that the current sources of information on rights produced by UNHCR are not adequately meeting the needs of the community: the newsletter only deals with issues around the Sudanese repatriation process, whereas the UNHCR information booklet is not easily understood by refugees, who are often illiterate or poorly educated. As one of the CBA representatives pointed out:

Refugees need to understand what a refugee is and what rights he/she are entitled to. Because refugees are not aware of their situation and their rights, they often fight in the UNHCR office.<sup>99</sup>

Awareness raising about rights of refugees in the host community should also be carried out among the host population. Such an approach would increase the recognition of refugees and their rights among the locals and ease tensions between the two communities. Several refugee groups have suggested it in the past to UNHCR.

### **Mobilization and Rights**

Many refugees and refugee groups expressed a sense of lack of control over determining their lives and livelihoods. In the words of an Ethiopian refugee, 'Ethiopians are not aware of their rights. Their main aim is to regain control over their lives.' Hence, as Mehta and Gupte (2003) argue 'resistance is largely about the "recognition and restoration" of the rights of displaced people' (see also Oliver-Smith 1991). In Cairo, family and community-based support systems constitute the main mechanism through which most refugees survive and sustain themselves on a daily basis (Al Sharmani 2005; Grabska 2005). Refugees depend on one another to share information about housing, UNHCR news, residence permits, detention problems, jobs, educational opportunities and other aspects related to their lives in Egypt. Especially small refugee communities, such as Rwandans (14 persons), Burundians (about 50 persons), Iraqis and so on, live tightly together and survive as a community rather than as individuals. A Rwandan refugee explained: 'I cannot leave my brother's suffering, this is the only way we can survive.'

### *Remittances*

The major support network — relatives and friends abroad — contributes significantly to the inflow of hard currency into the Egyptian economy. With the Sudanese and Somali diasporas growing in the Gulf, Europe, North America, and Australia, the flow of capital has become easier. A good number of the respondents among Somalis and Sudanese (Al Sharmani 2004; Grabska 2005) relied completely on the financial assistance received from relatives and friends abroad (including from Sudan and Somalia). The money is usually transferred through Western Union offices and, in a few cases, refugees use Thomas Cook or Norta wire-transfer services. Evidence of the importance of Sudanese as clients to the money transfer business in Egypt is the number of newly opened Western Union offices located in places frequented by Sudanese,

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<sup>99</sup> Sons of Sudan Association, 7 April 2005.

such as locations close to churches or in the main Sudanese residential neighborhoods. Other businesses often used by Sudanese, especially southerners, are small telephone shops and internet cafes. Through telephone and internet, resettled relatives and friends can be reached easily and reminded not to forget those in Cairo.

Money is generally sent on a monthly basis, with some receiving larger amounts less regularly. It is used to cover daily living expenses, as well as to fund weddings, funerals, and departure parties for those leaving for resettlement. In emergency situations, relatives and friends send money to cover medical treatment, children's education, or the cost of travel to Australia for those accepted under the private sponsorship scheme. The amounts range between USD100 to USD 150 per month, with some receiving over USD 400, usually irregularly. Remittances have a direct economic impact on both the countries from which they are sent (as this income will not be spent there) as well as on those economies where the recipients live. From research carried out in Egypt among urban populations, it was estimated that about 88 percent of the Somali sample (264 out of 300 households) receive remittances amounting to over USD 500,000. In comparison, 35 percent of Sudanese households (94 out of 270), receive about USD 170,000<sup>100</sup> from their family members and friends who have been either resettled or have immigrated abroad (Al Sharmani 2004; Grabska 2005).<sup>101</sup> The impact of remittances on the livelihoods of refugees in Egypt should not be overstated however. Although remittances by far are the largest source of income, they are sometimes sent irregularly and the amounts vary. Also, financial resources provide access to some services and meet some aspects of people's lives. Hence, coping strategies and the claiming of rights take a form of multiple and multi-layered efforts, both individual and community.

### *Community Activities*

CBOs and CBAs: In general, it is challenging for refugees to gain sufficient income to meet their basic needs and hence they resort to wider community and family networks for support. Al Sharmani (2005) argues that 'in fact, because there are a significant number of [Somali] refugee families who are unable to secure their livelihood, community leaders in Ard il Liwa and Nasr City regularly organize collective efforts to collect donations to help refugee families who are in very vulnerable economic conditions and to support projects that provide some of the basic services that the refugee community lack such as literacy classes, foreign language classes, and a day care centre.' This community-based assistance network is present in any of the refugee communities, be it Sudanese, Somali, Ethiopian, Sierra Leonean, or other.

Although there have been a number of informal refugee community groups for a long time, only more recently have these become more formally organized and professionalized.<sup>102</sup> Almost all nationalities residing in Egypt have established some type of association, many along tribal and ethnic lines.<sup>103</sup> One of the reasons for the recent mushrooming in refugee-based associations is the increasing number of recognized refugees who are non-eligible for resettlement and will

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<sup>100</sup> This estimate is based on the remittances reported by Somali and Sudanese refugees in two livelihood studies by Al Sharmani (2003) and by Grabska (2005), respectively. It is estimated that an average of USD 150 is received by households monthly.

<sup>101</sup> These findings are likely to be grossly underestimated as people in general are loathe to reveal income accurately. This group represents only a small number of Sudanese living in Egypt who rely on them.

<sup>102</sup> Formalization of the groups involves often official registration, establishment of a proper board of directors, office space, and ability to raise funds.

<sup>103</sup> There are at least 20 official associations representing different tribes and regions from Sudan.

be staying in Egypt for the foreseeable future.<sup>104</sup> As the official assistance provided by UNHCR and service providers does not meet the increased demand, refugees resort to their community resources to address some of their urgent needs.<sup>105</sup> Another key element behind the formalization of refugee groups might be linked to the recent policies promoted by UNHCR RO Cairo. In the past two years, UNHCR started implementing a more community-based services approach to reaching out to refugee communities.<sup>106</sup> There has also been some funding available for CBOs and CBAs for activities like day-care centres or AIDS campaigns.

UNHCR provided funding for the first time to refugee based associations in 2004; four organizations were funded to run day-care centres for children between the ages of three and six, and one association became a partner in the HIV/AIDS awareness raising programme run jointly by UNHCR and UNAIDS. The three CBOs which received funding for day-care centres had been planning these projects for a while due to the need among refugee women who due to their work are not able to take care of children during the day. CBOs however found it difficult to raise funds for their activities. Some of them received limited support from the Sudanese Women Union, which provided them with some basic equipment.<sup>107</sup> The UNHCR grant provided through CRS to one Somali and three Sudanese CBAs covered costs of equipment and running of the programme for several months. Organizations also received training in day care and basic management of grants (including accounting and bookkeeping) from CRS. While most of the day-care centres were for refugee children, one included Egyptian children as well.

In addition to day care services, CBAs offer other services, ranging from providing information on policies, facilitating access to education and health services available for refugees, to offering training in computers, literacy and (English) language classes, and some basic vocational skills, such as sewing for women. Some also provide minimal relief assistance through occasional distribution of clothing and food. A couple offer assistance with finding accommodation, job placement and burial services.<sup>108</sup> The most active and best organized are Sudanese and Somali CBOs. The other nationalities have so far created associations whose role is to advocate on behalf of their refugee communities. Almost all associations have relations with UNHCR and carry out advocacy work on behalf of their respective refugee constituencies. Most of them are self-funded, relying on membership fees. Some receive support from resettled refugees, Egyptian business people, or successful nationals, and more recently UNHCR.

Limits to Community-Based Development: Due to the community resourcefulness, leadership and devotion of some individuals, refugees have finally managed to have their voices heard by policy makers, and although still only to a limited extent, be part of the wider refugee policy forum in Egypt. Their efforts at the micro-level should, however, not be underestimated. Through their activities, they challenge the dominant image of refugees as hopeless, victimized, and dependent creatures. However, there are several limitations to the effectiveness and sustainability of these community efforts.

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<sup>104</sup> Although more refugees were granted status as a result of the expanded use of the OAU Convention, its expanded definition is not contained in the domestic asylum legislation of resettlement countries, thus generally excluding those recognized under it from resettlement.

<sup>105</sup> This point was made by all CBOs and CBAs interviewed for this research as well as by some of UNHCR staff.

<sup>106</sup> Interview with Lorraine Currie, Community Services Unit, UNHCR RO Cairo, 6 April 2005, UNHCR, Cairo.

<sup>107</sup> Nuba Association Centre in Arba W Nuss and the Egypt-Sudan Community Development and Building Organization in Arba W Nuss. Interviews with members of these CBAs, 23 March 2005.

<sup>108</sup> Interview with Mr Nasr El Din Abdallah Sakr, Secretary General, Sons of Sudan Association, 6<sup>th</sup> of October, 7 April 2005.

First, the establishment of these associations is fairly new and therefore the associations often lack effective organizational skills and long-term commitment. The majority of the work is done by active and committed individuals, and as a result, once they leave on resettlement, the associations lose impetus and often dissolve. Second, there is the issue of building trust among refugee groups. Since there have been previous attempts by not very sincere and honest individuals to establish associations, often leading to corruption, refugees are suspicious and do not easily trust new CBAs. Thus associations struggle to establish their own trustworthiness in the community in a climate sometimes riddled with tribal and clan disputes and mistrust.<sup>109</sup> Third, the main concern expressed by all interviewed associations was their financial stability. CBAs struggle to access funds and often have to rely on voluntary work and contributions from their members. They often do not know how to tap into the funding available by embassies and other donors. Financial instability is directly related to legal status. Most of these CBAs are not formally registered with the government, which makes it difficult to obtain funding, as most donors can only support official NGOs. In some cases, NCPD acts as a legal security, providing associations registered with NCPD with an official legal umbrella. UNHCR has also begun issuing official letters of support to CBOs, providing them with some administrative guarantees pending their official registration.

Access to Schools in Alexandria: Apart from organized and more formal community efforts, there are also cases of collective claiming of rights by refugees. The case of Sudanese refugees in Alexandria provides an example of the readiness and ability of refugees in solving their problems and claiming rights collectively. A group of southern Sudanese in Alexandria mobilized as a community, and claimed their rights to public education for their children by approaching the Egyptian administration directly. As a result, all Sudanese children, regardless of their status, have access to Egyptian public education. The educational authorities in Alexandria cooperate well with the Sudanese community. As one of the respondents said, 'It is because we are very well organized here. The parents do not approach the authorities individually. We have a committee which deals with these issues. Also the Sacred Heart Church and the Southern Sudanese Students Association in Alexandria help us solve these problems.' The relatively small southern Sudanese community living in Alexandria (around 400 families according to estimates from one of the churches) is not perceived as a burden by the Egyptian authorities as it is in Cairo. As a result, the authorities do not insist on residence permits for school registration. Also, the fact that the refugees have organized themselves and are able to claim their rights as a community makes it more difficult for the authorities to disregard them. They are also resourceful and imaginative, successfully finding ways to exercise their rights. Although not the actual reason behind the access to schools for Sudanese in Alexandria, the visit of President Mubarak was used as proof by the Sudanese of their success in dealing with local educational authorities:

We are fortunate that once President Hosni Mubarak visited Alexandria and in his address to the inhabitants of the city he stated that the governmental schools in Alexandria treat the Egyptian and Sudanese children equally. All Sudanese were there. It was covered widely in newspapers and we often use it when we approach the educational authorities in Alexandria and it works well.

Southern Sudanese Committee member in Alexandria

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<sup>109</sup> These disputes are especially disruptive among the Somalis, which led to the dissolution of earlier CBAs.

## *Protests*

In past years, there have been cases of demonstrations organized by different refugee groups to protest UNHCR's policies and the lack of livelihood possibilities in Egypt. These protests are always divided by nationality. Hence it would be difficult to speak about one refugee community in Egypt. Somali refugees demonstrated in the past years on several occasions to protest their low recognition rate, lack of resettlement opportunities and inadequate assistance, especially the unbearable living conditions faced by women-headed households (Al Sharmani 2005).

The Sudanese, on the other hand, organized two major demonstrations. One was initiated by an Egyptian NGO claiming to represent refugees, and took place in August 2004 in front of the UNHCR office to demonstrate against the decision of UNHCR to suspend the refugee status determination for Sudanese refugees on account of the peace process in Sudan.<sup>110</sup> The demonstration ended in a violent confrontation between refugees and Egyptian police in which several police officers were wounded and 19 Sudanese were detained.

At the end of September 2005, an unprecedented long-term sit-in started in a park near the UNHCR office. It was a well organized protest, with refugees having planned it for months. According to one of the organizers, the idea of the sit-in was born during a human rights and refugee rights course conducted by FMRS at the American University in Cairo and attended by several of the refugees, who later took the lead in organizing the demonstration.<sup>111</sup> A new association was born named Refugee Voices, which decided to gather all complaints from Sudanese refugees and share them with the UNHCR office. By September, however, frustrated by the lack of progress with UNHCR, they decided to take direct action.

The sit-in was organized and run by refugees. The park was closed off with internal security monitoring the crowd. Over 1,200 people gathered there, divided into sections for women with children and men. The organizers arranged the use of toilet facilities with a nearby mosque and there were blankets and sheets sheltering protestors from the sun. Designated refugees were responsible for public relations and communication with visitors, including handing out the demonstrators' list of 13 demands, which included protection from forced repatriation, protection of and assistance to vulnerable groups, the reopening of 'closed files' and resettlement to a third country. Some of the banners hung on the fences called for the release of refugees gone missing in Egypt. Other slogans included: 'Attention please: Who will restore our rights?'

The issue of rights was the dominant theme: 'Unite and demand your rights in order not to be abused again' read the manifesto prepared by the sit-in participants. Although some of the UNHCR staff came to meet with demonstrators, there was not much progress for a long time. In general, there was distrust of UNHCR and little hope that the demands would be met. One of the refugees commented that they were aware that Sudanese refugees would not find a solution in Egypt and this is why they demanded the intervention of the international community (they asked for resettlement to western countries). The demonstration ended on 30 December 2005 in a brutal intervention by Egyptian security forces, leaving some 28 persons dead, many injured, and hundreds detained and threatened with deportation to Sudan (FMRS 2006). This event will certainly have a significant impact on the situation of all Sudanese refugees in Egypt.

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<sup>110</sup> As noted, since June 2004, Sudanese asylum seekers are registered with the UNHCR and given temporary protection in the form of a yellow asylum seekers' card. They are also entitled to a renewable residence permit.

<sup>111</sup> Article published on the Forced Migration Mailing List and authored by several FMRS graduate students, 20 October 2005.

## Refugees' Perceptions of Policies

Through interviews with CBA and CBO representatives, refugees shared their views on official policies promoted both by the government and UNHCR. In general, refugees felt that the developmental and community-outreach services approaches currently being promoted by UNHCR were positive as they increased the contacts between refugees and UNHCR as well as provided limited funding for refugee-based CBAs. Micro-credit and income-generating activities were especially welcomed by refugees, as they created ways for refugees to gain greater self-sufficiency.

### *Developmental Approach*

According to the refugee CBAs, the success of the developmental approach was intrinsically linked to politics and the government's policies towards refugees. Refugee issues are seen as deeply political and hence, as one of the CBA members explained, 'If you want to provide assistance to refugees in Egypt, you have to deal with politics.'<sup>112</sup> All felt that current Egyptian policies towards refugees were not conducive to such an approach. Although several government officials state that refugees are welcome in Egypt,<sup>113</sup> in practice refugees have a rather different experience of hospitality. Daily harassment and mistreatment at the hands of the host community leaves them on the margins of society. In their perception, respect for refugee rights in the host society must underlie any developmental approach. A Somali refugee, a member of SODO (a Somali community-based association), pointed out that in order to succeed in implementation, UNHCR must first lobby with the government for refugee rights.<sup>114</sup> According to a CBA representative, the developmental policy should be guided by the rights-based approach.<sup>115</sup>

Another concern expressed by refugees with regard to the developmental approach was the implementation process. Some argued that the policy should have been planned carefully and implemented gradually instead of abruptly cutting refugee assistance. The idea of reducing financial assistance was generally supported. As the president of the Union of Greater Equatoria explained, 'I don't support the policy of providing funds from Caritas. It makes us more dependent and like beggars.'<sup>116</sup> The sudden cuts in assistance from Caritas were however difficult for the community, particularly single persons. If other programmes leading to greater self-sufficiency such as job placements and micro-credit were in place before the reduction of assistance, refugees would have been better able to cope with the policy changes.

The third issue emphasized by the refugee CBAs was the security of refugees both from the government and the host society. As already noted, detention and arrest are not only concerns of rejected refugees; many recognized refugees also suffer from discriminatory treatment. If developmental policy were to include greater access to the job market and possibilities of starting small businesses through micro-credit programmes, then issues of security for refugees would have to be addressed.

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<sup>112</sup> Interviews with eight CBA representatives, 17 March 2005, Cairo.

<sup>113</sup> H.E. Bakhum, MOFA and Ambassador Khattab, NCCM.

<sup>114</sup> Interview with Somali refugee-based community association, SODO, with other researchers, 20 February 2005.

<sup>115</sup> President of Union of Greater Equatoria, Mr. Richard Avine Nigo, 21 February 2005.

<sup>116</sup> *ibid.*



### *Integration Approach*

The community-based developmental approach to refugees attempts to provide ways of integrating refugees into services provided to nationals. In order to get away from the shortcomings of refugee-centred assistance, developmental assistance is supposed to target *both* groups in integrated projects. Although refugee CBAs welcomed the idea in general, they pointed out to potential problems with this approach.

First, there are often tensions between poor Egyptians and refugees residing in the same neighborhoods. In order for the integration and developmental approach to succeed, these persons need to be recognized and strategically addressed. Representatives of CBAs also related many stories of harassment and discrimination which refugees often experience at the hands of Egyptians. They pointed out that there needs to be a greater awareness-raising and sensitization to refugee issues among the local community so that they can understand who refugees are and why they are in Egypt. The current image of refugees perpetuated by the local press often presents them as a burden on society and a source of serious social problems. The popular daily newspaper *Al-Ahram* and the weekly magazine *Ros al Yusif* have been publishing editorials, special reports, and letters to the editor that speak of the 'sea' of illegal African migrants 'flooding' Egyptian society and 'robbing' its youth of employment (Al Sharmani and Grabska forthcoming). African migrants have also been represented in such printed media as drug dealers and a threat to the moral values of Egyptian society. An Ethiopian refugee interviewed for the project pointed out that a change in governmental policies in terms of accepting refugees in Egypt will not produce an immediate change of attitudes in the Egyptian population. 'When you do not feel at home you will never want to integrate there.'<sup>117</sup>

Second, almost all refugees expressed reservations about the possibility of full integration in Egypt due to local conditions: the harsh economic conditions of the host community and secondly, the cultural and linguistic incompatibility between the host and refugee communities. On the first issue, many agreed that it was understandable that refugees have problems accessing jobs as they compete against locals in a context of high unemployment. The second point was particularly pertinent to refugees coming from non-Arabic backgrounds. A Rwandan refugee commented that Rwandans and Burundians feel like outsiders socially, linguistically, and culturally. This results in lack of communication and interaction with the host community.<sup>118</sup> In his view, for some nationalities such as the Sudanese, integration is potentially easier as they have closer cultural and linguistic links to the host society. However, for southern Sudanese there were also limits with regard to full integration. The issue of keeping their culture and traditions was important and they felt threatened that integration with the locals would make them lose their identity. One of the CBA representatives pointed to the possible incompatibility between global policies on integration and local realities:

I don't think that this type of global policy would work here. In east Africa such a policy could work because people have similar backgrounds, but it could not work here because people are so different. I understand that this policy is one of the best to help people locally integrate, but I don't think people can really assimilate here.' (President of Union of Greater Equatoria, Mr. Richard Avine Nigo, 21 February 2005)

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<sup>117</sup> An Ethiopian refugee, 10 May 2005.

<sup>118</sup> A Rwandan refugee, 26 May 2005.

One of the concerns was the level of respect that refugees receive from the host community. As one refugee stated, rights are not only policies on paper, but also a reality.<sup>119</sup> If these rights are not respected by the local community and governmental institutions, integration would not be possible. Thus, when designing developmental projects for both refugees and hosts, there needs to be a greater concern for securing rights for refugees, as it is more difficult for them to access rights to work, respect and non-discrimination.<sup>120</sup> There is also a lack of trust towards projects implemented by the government and UNHCR, especially amongst Southern Sudanese. For example, the community based project in Arba W Nuss implemented jointly between NCCM and UNHCR has been treated with skepticism by some of the refugee-based CBOs and CBAs as they suspect that there are political motivations behind the project.<sup>121</sup> For the same reason, refugee-based groups are often reluctant to pursue projects in cooperation with Egyptian organizations as they also fear being cheated and taken advantage of.

### *Self-Reliance*

The developmental approach aims to increase self-reliance among refugees by decreasing dependency on cash assistance through activities such as micro-credit, job placement, and vocational training leading to employment. UNHCR as well as NGOs, churches and refugee-based CBOs and CBAs have been operating such programs with varying degrees of success, targeting predominantly those refugees who are non-eligible for resettlement or whose claims for asylum have been rejected. However, two points need to be stressed. As has been illustrated by several research projects in Egypt (Sperl 2001; El Abed 2003; Al Sharmani 2004; Grabska 2004), refugees are self-reliant to start with. Their dependence on financial assistance received from UNHCR was minimal and constituted a small percentage of their budgets (Sperl 2001; Grabska 2005). Second, as has been shown above, refugees have been actively seeking solutions to their problems by inventing creative self-reliance strategies. These should be taken into account when designing new projects leading to self-reliance. Interviewed refugee-CBAs and groups expressed several concerns regarding UNHCR and NGO planned activities and made suggestions for projects that could help their communities. Some of these are elaborated on below.

First, there was a general feeling among refugee groups and some refugee-based NGOs that the current projects offered by NGOs and churches are primarily geared towards refugees who would be resettled -- 'those people who are in transit'. They provide language and skills training which are incompatible with the local setting.

Second, although skills training is important, most of the programs do not lead to job placement. Hence, such education is not seen as productive: 'They are just keeping people busy. They do not make people self-sufficient economically.'<sup>122</sup> The Sudanese NGO, MAAN, commented that refugees participate in vocational training not because they want to do it, but because they had nothing else to do and they wanted to keep themselves busy.<sup>123</sup> For example, the Care with Love program for training in homecare for the elderly, run jointly for refugees and Egyptians, failed to lead to any employment for women. Such training was also seen as taking away from the time to pursue income-generating activity.

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<sup>119</sup> An Ethiopian refugee, 10 May 2005.

<sup>120</sup> Refugee CBA, 20 February 2005.

<sup>121</sup> Sudanese refugees perceive the Egyptian government to be pro-Khartoum and fear that Egyptian security is trying to control refugees' activities in Egypt and ultimately send them back to Sudan.

<sup>122</sup> President of Union of Greater Ekuatoria, Richard Avine Nigo, 21 February 2005.

<sup>123</sup> Dr Magda Ali, MAAN, 10 March 2005.

Third, while the current emphasis of UNHCR policy on job creation was welcomed, they all expressed reservations with regard to employment in the formal sector. The bureaucratic procedures requiring official work permits, coupled with high levels of local unemployment and lack of skills of most of the refugee population, made the success of placing refugees in the formal sector daunting. In addition, as the majority of refugees work in the informal sector, they often receive a lower salary than Egyptians and have no legal recourse if they are mistreated by their employer (Al Sharmani 2004; Grabska 2005). However, some refugees, especially those with specialized skills, find access to formal and high-skilled employment (Grabska 2005). Refugee CBAs stressed that there should be a greater emphasis on creating official legal channels for refugees to access work and that they should enjoy equal treatment with Egyptians.<sup>124</sup>

Moreover, the current job-placement programs offered through UNHCR and implementing partners have not proven successful. There were several instances of refugees being offered jobs, which they did not accept, primarily because of the low salary. The jobs currently offered through Caritas never exceeds LE 300 per month (USD 60) and most require long working hours. UNHCR and Caritas staff saw the fact of refugees not accepting low-skilled low-paid jobs as a sign that they were not 'vulnerable' and possibly had access to other sources of income.<sup>125</sup> Refugees, especially men, consider it humiliating to be working in low-skilled jobs when their wives are able to earn higher salaries as domestic workers. Also, Sudanese refugees expressed a preference for running their own businesses such as street vending, because 'it gave respondents [them] the freedom to work according to their own schedule and minimize the mistreatment from their Egyptian employers' (Grabska 2005: 61). Somalis, on the other hand, tend to be involved in income-generating activities in their own communities, by selling items within the Somali community, housekeeping or childcare for other Somali families, and setting up language classes for Somali children or adults (Al Sharmani 2004: 17).

CBAs stressed the importance of sustainability of income-generating projects. Refugees felt that current projects for self-sufficiency are not adequate, as they do not provide reinvestment into the community. The President of the Union of Greater Equatoria pointed out that 'it is important to come up with an economic self-reliance policy that truly empowers refugees.... We want to help refugees today, tomorrow and for the future.'<sup>126</sup> In his eyes, self-sufficiency includes the whole community, not just an individual. Projects should be run by refugees themselves as opposed to churches or NGOs in order to build a sense of real ownership in the community. For example, one association is trying to start income-generating projects which would both provide an opportunity for refugees to learn and advance their skills while at the same time earning a living (Ingraham 2005: 98). Some refugees expressed frustration with organizations and other people making decisions for them on matters that directly affect their lives.<sup>127</sup>

The recent initiative of micro-credit loans provided by El Mobadara was generally welcomed by CBAs, though they pointed to three main obstacles. First they saw the giving of loans to refugees as risky due to their mobility and transient lifestyles. Also, they felt uneasy about the

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<sup>124</sup> Member of SODO, 20 February 2005.

<sup>125</sup> Sheriff Fetouh, Program Assistant UNHCR, commented that it is sometimes difficult to know what to do with such information. 'Does it mean that refugees are not as desperate as we think and they have other ways of getting enough money? [...] Sometimes you are in a situation where you don't understand whether these people are vulnerable or not.' Interview, 6 April 2005.

<sup>126</sup> President of Union of Greater Equatoria, Richard Avine Nigo, 21 February 2005.

<sup>127</sup> Ethiopian refugee, 10 May 2005.

partnership with Egyptians in the loans, as they had a great distrust of the sincerity and reliance of Egyptian partners. Third, as the loan program would be a new initiative for many refugees, it has to be linked to a training program, where refugees are familiarized with the procedures of making effective use of loans.

## 4. FEASIBILITY OF BOTTOM-UP AND RIGHTS-BASED APPROACHES

### Obligations and Responsibilities

In order to propose bottom-up and rights-based approaches to policies on refugees, we need to address the issue of obligations and accountability vis-à-vis refugees. Answers have to be found to questions relating to responsibility and accountability (Posner and Clancy 2005): Who is responsible for protecting refugees and who are the protectors accountable to? The state? Aid agencies? The international community? What does protection mean? Physical protection? Protection against starvation and disease?

The answers to these questions are at the core of the rights-based debate. According to international law, those governments which have signed up to international conventions, be it concerning human rights or refugee rights more specifically, have taken upon themselves the responsibility of guaranteeing rights and providing access to rights. However, what is lacking at the moment in the international system is a system of accountability to expose the failure of states in their responsibility to provide refugees with the protection they are due under agreed international standards (MacMillan and Olsson 2001). The obligation of providing assistance is even more complicated (Gorman 1998), as it implies that there is assistance governed by legal entitlement. The other problem with the existing refugee system and human rights system in general is the fact that although there are some basic refugee rights which are non-derogative (states cannot put reservations on these rights, such as the right to seek and enjoy asylum and the *non-refoulement* principle), the socio-economic rights are often seen as progressive rights which can be realized according to the state of development of the host country. When talking about the failure of protection it is impossible to pinpoint to one guilty party. As MacMillan and Olsson argue, 'In the realm of refugee protection, it is not possible simply to find one actor responsible for the flaws in the system: all those with roles and responsibilities for protecting refugees have failed' (2001: 38). The failure to provide effective protection is a result of the failing of the states to abide by the standards they have agreed to uphold and the limited ability of UNHCR to ensure that governments live up to their commitments.

Refugee protection and assistance are unique in the realm of the international human rights system as they require close cooperation among many actors, including host governments, governments in countries of origin, donors, intergovernmental organizations, and international and local NGOs. Governments regard considerations of national interest as paramount in foreign policy decision-making, but international humanitarian institutions claim to make their decisions on the basis of ethical and moral considerations (Weiner 1998). However, international humanitarian institutions are also driven by self-interest. They are also vulnerable to the politics of the donors, as they rely heavily on external funding. The role of UNHCR is highly politicized due to the environment in which it operates (host governments) and its reliance on donor funding. The remainder of this chapter will consider the different stakeholders' influence on policies towards refugees in Egypt and the possibility of introducing a rights-based way of thinking into the refugee system there.

### Whose Needs and What Rights: Rights-based Versus Needs-Based Approaches in Programming

Theoretically, as Posner and Clancy (2005) argue, a rights-based approach treats the individual as a responsible actor. Involving refugees in decisions that affect their lives helps to

improve their readiness to return home by preserving the strengths and skills of a community in exile. A rights-based approach can also significantly improve the quality of aid that the refugees receive in the near term. However, the question remains as to how to translate these principles into practical application and policy implementation. One of the problems which arose from the fieldwork was the variety of understandings of rights and needs held by different stakeholders.

In order to find out the meaning that different actors involved in refugee assistance and protection attached to the concept of rights versus needs as well as how rights-based approaches are interpreted, we asked the respondents the following two questions:

1. Can you tell us what is your understanding of (human) rights versus needs?
2. Have you heard of rights-based approaches to policy making and programming? If your organization is using one of these concepts, can you tell us how they are understood and applied?

(We asked those who had not heard about rights- versus needs-based approaches to explain what the process was for deciding on policies and programming)

When asked about the difference between rights and needs, most of the organizations assisting refugees found it difficult to understand the concepts. Soheir Fawzy of Caritas commented that 'as a charity organization, [our] policies are based on needs because they are also their [refugees'] rights. I cannot differentiate between needs and rights.'<sup>128</sup> From her perspective, if needs are neglected, they will lead to the infringement of rights. However, there is no right to assistance. Others linked the responsibility of responding to others' needs as part of the religious mandate. Dr Nabil Morcos, coordinator of Refuge Egypt at the All Saints Cathedral, explained that '[It] is written in the Bible that if you want to show love to God, you should practice that in the love of others. The best way of showing love to God is to show it to His creations.'<sup>129</sup> In his view, even self-reliance programs are acts of love. Most of the programs of service providers emerged as a result of the needs of the community and the fact that these needs were not met by governmental services. As Father Claudio of Sakakini argued, they found themselves in a kind of an emergency situation, realizing that they needed to deal with the concerns of the community. In this context, he found it difficult to split the question of rights from the question of needs. 'If you speak about rights, this is a more theoretical approach. Needs mean dealing with a real man, with a concrete man and his needs.'<sup>130</sup> In the perspective of the church, the first right of the human being is the right of existence (supra-existence); and second come the possibilities of expressing spiritual existence (practicing one's religion and living according to the religious norms). There are rights which are of concern to the church and to which the church has to attend; however, there are others which 'do not move much inside us'.<sup>131</sup>

When faced with a question of rights and needs in policy-making, most government officials were not able to answer the question. The exception was Ambassador Mushira Khattab of NCCM who asserted that integrative projects for refugees in Egypt are dealt with from a rights-based approach. Thus, not only access to education but also quality is important. According to Ambassador Khattab, as a signatory to the UN Convention on the Rights of the Child, all children in Egypt have the right to education.<sup>132</sup> However, rights are not seen as universal. They are linked to local conditions and the ability to realize them given the socio-economic

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<sup>128</sup> Interview with Sohier Fawzy, Director, Caritas, 13 April 2005 Caritas, Cairo.

<sup>129</sup> Interview with Dr Nabil Morcos, Coordinator of the Refuge Egypt, All Saints Cathedral, 17 May 2005.

<sup>130</sup> Father Claudio, Sacred Heart Church.

<sup>131</sup> *ibid.*

<sup>132</sup> H.E. Mushira Khattab, NCCM.

situation of the host country. This view was confirmed by Dr Hoda Tahawy of NCCM who commented that 'education is a problem for refugees because it is also a problem for Egyptians.'<sup>133</sup> Ambassador Minha Bakhum of MOFA emphasized that the ability of lifting reservations on rights depends on the level of development of the country. Although refugees might have rights, actual access to services cannot be extended to them on a basis equal to those enjoyed by nationals.<sup>134</sup>

For some policy makers the distinction between rights and needs was difficult because they saw the core of their mandate as being based on rights. Often the two approaches were intertwined. Damtew Dessaiegne of UNHCR argued that UNHCR's policy is universal as far as the protection standard is universal and is linked to rights. Hence, rights linked to protection (*non-refoulement*, right to claim asylum, residence, freedom of movement) are the guiding principles of UNHCR's policy. However, when it comes to assistance, it is facilitative and depends on the ability of the host government to provide access to socio-economic rights. When requested, UNHCR steps in to assist the government in caring for refugees, but the provision of assistance is based on needs. 'Our policy is based on the assumption that assistance is for those who need it the most, provided that funding for it comes from donors.'<sup>135</sup>

For other UN agencies, where the jargon of rights-based has been often overused to the point of losing its meaning, rights constitute a dominant discourse. Maha Aun of UNAIDS commented that the rights-based approach is very present in the HIV program and for people living with HIV in general. 'I take it for granted, it is not questionable to me. They [refugees] have a right to education as a part of the wider human rights framework.'<sup>136</sup>

In the eyes of some, rights-based thinking is linked to the way assistance is delivered, how decisions are taken and whether beneficiaries are included in the decision-making process. Hannan Sulieman of UNICEF pointed out that the rights versus needs debate is culturally specific. For the West, the jargon of rights means much more than it means for the East. For western countries it is important to look at assistance as a right, a matter of entitlement as opposed to charity. However, for other cultures' issues of wanting education might imply a need rather than a right.<sup>137</sup>

### *Responsibilities and Perceptions*

Rights and the ability to realize rights become meaningful when a proper system of justice and accountability is in place. This system of justice in the refugee regime operates predominantly at the national, i.e. state level, with the monitoring mechanisms set at the international level. The refugee regime, whether international or national, has lost its focus to a certain extent as there is often little willingness to take responsibility for upholding and sometimes creating an environment in which refugees can enjoy their rights. Due to the intertwined roles and lack of clarity in the system, different stakeholders have different perspectives on roles and responsibilities. According to UNHCR's policy of the universality of protection, the states which signed up to the 1951 Refugee Convention and the 1969 OAU Convention took upon themselves the duty of providing protection and assistance to refugees. Assistance is a responsibility of the asylum state. If the asylum state is unable to provide it, the international

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<sup>133</sup> Dr Hoda Tahawy, NCCM.

<sup>134</sup> H.E. Minha Bakhum, MOFA.

<sup>135</sup> Damtew Dessaiegne, UNHCR.

<sup>136</sup> Maha Aun, UN AIDS.

<sup>137</sup> Hannan Sulieman, UNICEF.

community may express its concern and ask UNHCR to come in. However, assistance is seen as facilitative and dependent on available resources. In this regard, socio-economic rights are seen as progressive rights whose implementation depends on the developmental level of the state.<sup>138</sup>

This approach of splitting responsibilities and roles is at times confusing and sends contradictory messages to the rest of the actors involved in refugee affairs. For the government, the fact that UNHCR is involved in RSD and provision of assistance translates into refugees being perceived as a separate group and as such a responsibility of UNHCR. Ambassador Bakhum commented that refugees are much better off than Egyptians, who do not have UNHCR to help them, especially with resettlement. As such, Ambassador Bakhum perceives Egypt as doing more for refugees than required by the 1951 Convention.<sup>139</sup> It is clear that government institutions see their role in dealing with refugees as providing them with residence and necessary documents. However, in terms of full protection and assistance, the government points to UNHCR. Dessaegne admits that this was a specific policy pursued by UNHCR when it engaged with the government in creating national legislation and an asylum system. UNHCR did not want to put too much pressure on the government and hence, took upon itself the provision of assistance and RSD procedures. 'In order to encourage the government to put something longer-term in place, we were prepared to do more for refugees in terms of assistance. The government had and has very limited resources.'<sup>140</sup> However, as pointed out by Collinson (2005), it is important to ensure that national authorities are made more responsible and accountable for protection and assistance, which might be more difficult if international actors single out particular groups for special assistance (in this case refugees) and fail to ensure broader ownership and responsibility by local authorities for assistance of all vulnerable persons (Collinson 2005: 17). In this case, a more integrative approach where assistance to refugees is channeled through development aid for Egyptians might serve to overcome some of the resistance on the part of the Egyptian government to take up the task of protecting refugees effectively.

For UN agencies, the locus of responsibility for refugees lies with UNHCR. As an agency with the mandate to protect refugees, UNHCR has the leading role in influencing the government's policy changes, guaranteeing protection, providing assistance, lobbying and advocating for refugees and fundraising.<sup>141</sup> In the absence of a solid governmental structure directly responsible for protection and assistance of refugees, the donor community also looks to UNHCR as the organization in charge of protection for refugees.

These diffused roles, multiplicity of responsible actors and bureaucratic procedures create challenges for the effective provision of protection. For example, when children of asylum seekers or recognized refugees approach public schools, they are told by the school authorities that they need to submit a letter from UNHCR. At the same time, UNHCR argues that it is the duty of the Ministry of Interior to provide such letters. According to a new policy on health, refugees and asylum seekers should have access to public hospitals like nationals. When they approached government clinics they were told that they need a letter from the Ministry of Health. Lastly, the police often fail to register claims and reports from refugees, arguing that

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<sup>138</sup> These comments were provided by Damtew Dessaegne, UNHCR.

<sup>139</sup> H.E. Minha Bakhum, MOFA.

<sup>140</sup> Damtew Dessaegne, UNHCR.

<sup>141</sup> These ideas were mentioned in several interviews with UN representatives, including UNDP, UNICEF, WHO, WFP, and ILO.



refugees are under the protection of UNHCR.<sup>142</sup> UNHCR maintains that it provides legal protection for refugees and that the asylum state should take up the responsibility of physically protecting refugees, as they are entitled to this by virtue of their refugee status.

Refugees, on the other hand, feel that it is the role of UNHCR to provide them with protection and assistance; they do not see themselves as the Egyptian government's responsibility. Some even refer to UNHCR as their government: 'We live in a country of UNHCR.' As James, a young, married Sudanese man, commented:

UNHCR might not have enough resources to resettle everyone, but protection would cost nothing for UNHCR. UNHCR knows our problems in Sudan but it only pretends. We [closed files] are victimized for nothing by UNHCR and as a result many Sudanese have developed psychological problems. UNHCR has abandoned them and they have nowhere to go for assistance, be it medical, financial or protection from being arrested by the Egyptian authorities.

In the eyes of refugees, UNHCR is the institution with the power to grant them status and protection. Hence, if recognized, refugees should be provided with means to a livelihood, which is in their perspective an integral part of protection. The interactions between governmental institutions and refugees are superficial and limited to securing residence through Mugamma and MOFA and for some registering children in public schools. Mulki Al Sharmani argues that some Somali refugees think that the government is on their side, and the institution which is against them is UNHCR.<sup>143</sup> For refugees, a permanent solution to their situation is important. Such a solution can only be provided through permanent protection, i.e. access to full integration. As this is not possible in Egypt, refugees look to resettlement as their right and the duty of UNHCR to provide them with this right.

Refugees' perception of Egypt as a host country is also directly linked to UNHCR's policies. A Rwandan refugee pointed out that 'if UNHCR agreed on resettlement policies, then Egypt will be perceived as a transit country, but if it decided for integration, refugees would stay here.'<sup>144</sup> Although UNHCR is not the only actor deciding policies of resettlement but has to do it in close cooperation with the governments of resettlement countries, refugees perceive UNHCR as the critical organization deciding their fate. Resettlement policies are often perceived by refugees as a way of migrating to another (western) country. At the same time, another CBO leader explained that refugees in Egypt are under the protection of UNHCR, and not under the protection of the Egyptian government and hence, they are outside the purview of the country's domestic laws.

### *Accountability and Access to Justice*

As a result of diffused levels of responsibility, the issue of accountability has become problematic. For example, in refugee status determination the only organization that takes full responsibility in Egypt is UNHCR. Although it is possible to appeal a negative decision, the same office carries out the procedure, which leaves the process open to abuse (Kagan 2002). Due to lack of national legislation, RSD decisions cannot be appealed in national courts. In terms of seeking justice in case of discrimination or violation of other rights, in theory refugees

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<sup>142</sup> Information provided by refugees interviewed for the research as well as confirmed by several service providers.

<sup>143</sup> Interview with Dr Mulki Al Sharmani, researcher at the Social Research Council, The American University in Cairo, 28 June 2005.

<sup>144</sup> Interview with a Rwandese refugee by another researcher, 26 May 2005.

have access to national courts. However, lawyers and advocates have never tried to use these procedures. Although theoretically access to justice for refugees in Egypt exists, the system of justice (from the police failing to issue reports of violations of rights of refugees to human rights organizations not having the capacity to take cases to court themselves) fails to operate adequately and there are few organisations that dare to challenge this. As a result, refugees themselves do not feel that they could use the national justice system to claim violation of their rights in Egypt. In the perception of Musa from the Nuba Association of the Egyptian judicial system there is little access to justice for refugees in Egypt. He commented that in Sudan foreigners are treated very differently: 'No one can harm a foreigner. Here, in Egypt, you are a refugee and you cannot even sit in a court with an Egyptian if you are attacked.'<sup>145</sup>

### *Refugees and Participation in Policy Making and Programming*

For the rights-based approach to be truly functional, primary stakeholders, i.e. refugees need to be involved in the decision-making process. Although there is growing consensus that such an approach would strengthen the understanding of causes and consequences of displacement, assessing needs and identifying the most vulnerable populations, and creating sustainable projects which would lead to greater refugee self-reliance, the mainstreaming of these participatory approaches into the humanitarian sector has proven to be a failure for the most part (Collinson 2005: 10). The community-based development services promoted currently by UNHCR in Cairo have been only partially successful so far in reaching out to the refugee community and creating a greater sense of participation in the decision-making process.

Although refugee CBAs valued the new community-outreach by UNHCR, they also pointed out the disconnect between the official policy promoted by UNHCR and actual implementation. Most refugee CBAs expressed their satisfaction with the increased interaction between UNHCR and refugee-based groups. They stressed the importance in communicating their views directly with UNHCR as well as the general cooperation between different organizations working with refugees. This point was also recognized by the UNHCR deputy representative, who stressed that UNHCR wants to communicate with refugees directly and not always through an intermediary. However, the fact that refugees in Egypt live in urban settings and are dispersed throughout the city creates a practical difficulty in establishing direct channels of communication. There are no structures and facilities where UNHCR can interact with refugees. Even when refugees are invited to meetings at the office, those who come do not necessarily represent the community. Instead of addressing issues faced by refugees in general, often they want to discuss their individual cases.<sup>146</sup> One of the ways of addressing this issue for UNHCR and other partners would be to create more community-based programming in cooperation with NGOs and CBOs which might have a presence in different parts of the town and could reach out to refugees more directly.

Several of the problems relating to the limits of effective refugee participation in decision-making have already been mentioned, including the transient nature of refugee populations, difficulty of accessing urban refugees, financial and bureaucratic difficulties faced by CBAs in running their programs, and the general political environment of the host community limiting activities of NGOs. The main difficulty relates to the issue of representation.

Often groups and associations formed by refugees might not be representative of their community. They might come from wealthier or better educated backgrounds, or might mainly

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<sup>145</sup> Interview with Musa, Nuba Association in Arba W Nuss, 23 March 2005.

<sup>146</sup> Damtew Dessalegne, UNHCR, 6 April 2005.

comprise of men, who have more time to engage in community activities as they tend not to work. Most of the associations interviewed for this research were represented by highly educated men with only very few women included in the decision-making structures. Such representation might not be able to adequately address issues of the community as their perception of and access to the community will be skewed. UNHCR has recognized this problem and asked associations to include a greater representation of women on their boards. Also, in some of the training activities such as the one on gender-based violence in the refugee community, UNHCR specifically asked for the participation of women.

The key issue in refugee representation is linked to the membership of the refugee population in Egypt. There are over 34 nationalities who have claimed refugee status. It would be a fallacy to talk about one refugee community in Egypt, as each of these groups have different interests and concerns. Associations tend to form not only according to nationality but often also along tribal and ethnic lines. Community leaders are often seen not to represent the full views and interests of the community. Thus in order to 'talk to the refugee community,' UNHCR and service providers need to employ imaginative strategies of having several entry points into the communities and not only discuss issues with designated community leaders.<sup>147</sup>

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<sup>147</sup> Lorraine Currie, UNHCR RO Cairo, 6 April 2005.

## 5. CONCLUSIONS AND RECOMMENDATIONS

The case study of the underlying assumptions behind the policies affecting refugees in Egypt shows that implementing rights-based approaches in these policies is challenging both in the context of the specificities of Egypt itself and from the institutional perspective of refugee regime in general. It might be asked whether rights and access to these rights can be guaranteed to refugees in a country with a poor record of human rights protection for its own citizens. By linking the protection and provision of rights to the resources available to the host country, a dangerous precedence of denying and violating rights could be set. At the same time, treating refugees as a special category of citizens creates tensions with the host community which has to be taken into consideration while designing integrated community assistance and development programs.

Second, the multiplicity of actors involved in the protection and promotion of refugee rights makes the system highly inefficient, with the diffusion of the locus of accountability and responsibility. Hence, the justiciability principle enshrined in rights-based policies becomes highly theoretical without actual recourse to justice. At the same time, handing over the responsibility for providing effective protection to refugees to national authorities is pivotal. For tragedies such as the brutal ending to the Sudanese sit-in in front of the UNHCR office in December to be avoided, direct dialogue with refugees and all actors in the refugee system in Egypt is crucial. Clear national structures of responsibility have to be in place in order to provide access to justice for the victims and make those who violated the rights of refugees accountable for their actions.

Third, although all policies must be based on rights, the questionable issue is whether bureaucratic institutions and agencies are ready to adopt principles which they themselves have put forward. Bakewell (2003: 17) argues that this is not the case for the principles and practices put forward within the UNHCR's community development approach: 'An organisation that has not developed a participatory, empowering management structure cannot run a participatory program.' For this shift to take place, the language of 'dependency' and 'vulnerability' needs to be removed from the operational programming of UNHCR and all other agencies (ibid). Instead, policies and programming should be based on the principles enshrined in the Convention Relating to the Status of Refugees which treats the refugee as an individual whose rights must be protected and respected. The meaning of protection has to be rethought not only within UNHCR but also within the wider international and national communities which provide protection and assistance to refugees.

Fourth, for the rights-based approaches in the policy making and implementation to be fully operationalised, all actors involved should be made aware of the meaning of these approaches. Where necessary, human rights and rights-based training should be provided for all actors involved in the policy making and implementation as well as in the provision of protection and assistance. Such trainings might be necessary in Egypt not only for the governmental authorities, but also for international organizations, NGOs, local and community based organizations and refugees themselves. There should be a mechanism in place which evaluates the rights-based knowledge and adherence to rights principles in the work of each of these actors.

Fifth, refugees' mobilization around rights and livelihoods in Cairo shows that their perceptions of policies and programs, combined with their understanding of rights and own priorities, have

a critical bearing on the outcome of those policies and ultimately on the livelihoods of refugees. Rights-based planning by policy makers and the provision of assistance and protection to refugees has to be linked to bottom-up participatory approaches. Participation of refugees and refugee communities in programming is not purely a matter of recognizing their rights. Kaiser (2004: 25) points to the political dynamic often present in promoting refugee participation, where '[T]he participation of refugees in assistance programmes is neither a cost-free nor a politically neutral activity.' Refugees have to be part of the policy process in more meaningful ways by incorporating their own perceptions of rights and how they can be realized in the context of an urban setting in a developing country. Hence, to be effective, the participation of refugees in the policy setting should go beyond mere 'consultation'.

The kind of protection that refugees (as human beings) need is multi-layered. Its starting point is legal but it cannot be divorced from opportunities for their economic self-sustenance and social development. Otherwise, legal protection becomes void of meaning and effectiveness. Because of the realities of poverty and deprivation that different marginalized groups suffer, the most effective protection and integration of refugees is likely to take place through bottom up developmental programs in which poor nationals and non-nationals participate fully and actively.

So far, assistance provided to refugees, be it through UNHCR, churches, community-based organizations or NGOs, singled out and separated refugees from the rest of Egyptian society. This resulted in tensions between the impoverished host community and refugees. This approach was based on the dominant thinking by all involved, including the government, UNHCR, service providers and refugees themselves of refugees as a transitory 'problem'. It is important to ensure that national authorities are made more responsible and accountable for protection and assistance, which might be more difficult if international actors single out particular groups for special assistance (in this case refugees) and fail to ensure broader ownership and responsibility by local authorities for assistance of all vulnerable persons (Collinson 2004: 17). A more integrative approach where assistance to refugees is channeled through development aid for Egyptians might serve to overcome some of the resistance of the Egyptian government to take up the task of protecting refugees effectively. However, more importantly, the government itself must see the necessity and their duty in protecting refugees. As difficult as it might be to achieve this, there is a need for effective lobbying and coordinated international and national pressure on the government, including the Presidential office.

In conclusion, although rights-based programming with the emphasis on a developmental approach in policies towards refugees has been supported theoretically by most of the actors, the actual implementation of this strand of thought remains questionable. The coordination required between the many actors involved in the process, the different power positions enjoyed by each group, the structural constraints and ingrained top-down processes in the bureaucracies, the issues of national and institutional self-interest, and the transient nature of refugee populations pose great challenges to the operationalization of bottom-up approaches. Although theoretically and rationally necessary, the question still remains whether bottom-up approaches to policy-making are logistically and politically feasible.

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## APPENDIX

### *List of Interviews*

Africa and Middle East Refugee Assistance (AMERA). Ms. Perveen Ali, Program Director and Interns, Interview by author and other researcher, 7 March 2005, AMERA, Cairo.

Arab League. Mr. Ibrahim El-Souri, Director of Development and Social Policies Department, Interview by author and research assistant, 17 April 2005, Arab League Office in Mohandessin, Cairo.

Arab League. Mahmoud Rached M. Ghaleb, Director of Human Rights Department Head of the Technical Secretariat for the Permanent Arab League Committee for Human Rights, Interview by author and research assistant, 20 April 2005, Arab League Headquarters, Cairo.

Caritas. Ms. Mariam Shawki, Social worker, Interview by author and research assistant, 13 April 2005, Caritas, Cairo.

Caritas. Ms. Sohier Fawzy, Director, Interview by author and research assistant, 13 April 2005 Caritas, Cairo.

Catholic Relief Services (CRS). Ms. Susan Silvieus, Director, Interview by author, 17 April, CRS, Cairo.

Catholic Relief Services (CRS). Ms. Shareen, Education consultant, Interview by author, 17 April, CRS, Cairo.

Canadian International Development Agency (CIDA). Mr. Rick McTaggard, Phone interview by author, 7 April 2005.

Canada Fund. Ms. Salma Elbeblawi, Program Coordinator, Interview with author and other researchers, 16 March 2005, CIDA, Cairo.

Community Meeting, El Hagana Medical Center. Attended by author and other researchers, 17 March 2005, Kilo Arba wa Nus, Cairo.

Dutch Embassy. Mr. Peter Ellens, Second Secretary, Interview with author and other researchers, 16 March 2005, Dutch Embassy, Cairo.

European Commission Delegation. Dr. Claudia Fischer-Borgmann, Social Affairs Counselor, Interview by author and other researcher, 20 March 2005, EC, Cairo.

International Labor Organization (ILO). Dr. Ibrahim Awad, Regional Representative, Interview by author and other researcher. 13 April 2005, ILO, Cairo.

El Mobadara. Dr. Ayman Mahmoud, Executive Director, Interview by author and other researchers, 22 March 2005, El Mobadara, Cairo.

Ministry of Education. Mrs. Nahed and Mr. Abdel Razek, Immigrant Students Department, Interview by author and an associate researcher, 12 March 2005, Ministry of Education, Cairo.

Ministry of Foreign Affairs (MFA). Minister Plenipotentiary Minha Bakhum, Department of Refugee Affairs, Interview by author and other researchers, 13 March 2005, MFA, Cairo.

Ministry of Health. Dr. Ahmed El Henawy, Director of Integrated Medical Care Centre, Interview by author and research assistant, 14 April 2005, Ministry of Health, Cairo.

Ministry of Interior. General Abdel Hady Badr, Head of Passport Unit, Department of Immigration, Interview by author and an associate researcher, 9 May 2005, Mugama Building, Cairo.

Ministry of Man Power. Mr. Mohamed M. Abd El Latif, Under-secretary for Employment, Interview by author and research assistant, 11 April 2005, Ministry of Manpower, Cairo.

Maan Association. Dr. Magda Ali, Interview by author and other researchers, 10 March 2005, AUC, Cairo.

National Council for Childhood and Motherhood (NCCM). Ms. Dalia Hassan, General Coordinator of the Girls' Education Initiative, Interview by author and other researchers, 6 April 2005, NCCM, Cairo.

NCCM. Dr. Hoda Tahawy, General Director of Gender and Development, National Council of Childhood and Motherhood Interview by author and other researchers, 9 March 2005, NCCM, Cairo.

NCCM. Ambassador Moushira Khattab, Secretary General,. Interview by author and other researchers, 6 April 2005, NCCM, Cairo.

National Center for Population and Development (NCPD). Dr. Samir Eleish, Executive Director, Interview by author and other researchers, 7 March 2005, AUC, Cairo.

Refuge Egypt. Dr. Nabil Marcos, Program Director, Interview by author and research assistant, 17 May 2005, All Saints Cathedral, Cairo.

Refugee CBA. Interview by author and research assistant with CBA representative, 5 February 2005, Cairo.

Refugee CBA. Interview by researchers with two CBA representatives, 20 February 2005, Cairo.

Refugee CBA. Interview by author and other researchers with CBA representative, 21 February 2005, Cairo.

Refugee CBA. Interview by author with CBA representative, 24 February 2005, Cairo.

Refugee CBA. Interview by author and research assistant with eight CBA representatives, 17 March 2005, Cairo.

Refugee CBA. Interview by author and research assistant with two CBA representatives, 23 March 2005a, Cairo.

Refugee CBA. Interview by author and research assistant with CBA representative, 23 March 2005b, Cairo.

Refugee CBA. Interview by author and research assistant with CBA representative, 7 April 2005, Cairo.

Refugee CBA. Interview by research assistant with two CBA representatives, 11 May 2005, Cairo.

Refugee. Interview by research assistant with two Ethiopian refugees, 10 May 2005, Cairo.

Refugee. Interview by research assistant with a Rwandese refugee, 26 May 2005, Cairo.

Sacred Heart church. Brother Enrico, Coordinator of Refugee Schools, Interview by author and research assistant, 16 April 2005, Sacred Heart Church, Cairo.

Sacred Heart Church. Father Claudio Lurati, Interview by author and research assistant, 23 March 2005, Sacred Heart Church, Cairo.

St. Bekhita Center. Father Aldo, Interview by author and other researchers, 17 March 2005, St. Bekhita Center, Kilo Arba wa Nus, Cairo.

St. Joseph Church. Father Esfaha, Interview by author and research assistant, 11 April 2005, St. Joseph church, Cairo.

SUDIA Ms. Maha El-Bakri, Operations Manager, Interview by author and other researchers, 9 March 2005, SUDIA, Cairo.

Swiss Embassy. Mr. Peter Nelson, First Secretary, Interview with author and other researcher, 16 March 2005, Swiss Embassy, Cairo.

UN-AIDS. Ms. Maha Aun, Project Coordinator, Interview by author and research assistant, 30 May 2005, UN-AIDS, Cairo.

UNDP. Mr. Michele Ribotta, Head of Coordination Unit, Interview by author and other researcher, 8 March 2005, UNDP, Cairo.

UNHCR RO Cairo. Mr. Ashraf Azer, Community Services Officer, Interview by author, 13 April 2005, UNHCR, Cairo.

UNHCR RO Cairo. Mr. Damtew Dessaegne, Deputy Regional Representative (Legal), Interview by author and other researcher, 12 April 2005, UNHCR, Cairo.

UNHCR RO Cairo. Ms. Lorraine Currie, Community Services Intern, Interview by author and other researchers, 6 April 2005, UNHCR, Cairo.

UNHCR RO Cairo. Mr. Sherif Fetouh, Program Assistant, Interview by author and other researchers, 6 April 2005, UNHCR, Cairo.

UNICEF. Ms. Hanan Suliman, Senior Program Officer, Interview by author and research assistant, 30 May 2005, UNICEF, Cairo.

USAID. Mr. Richard Gold, Director, Democracy and Governance Office, Interview by author and other researcher, 10 April 2005, USAID, Cairo.

World Health Organization (WHO). Dr. Zouheir Hallaj, Resident Representative, Interview by author and research assistant, 14 April 2005, WHO, Ministry of Health, Cairo.

World Food Program (WFP). Mr. Bishow Parajuli, Resident Representative, Interview by author and research assistant, 17 April 2005, WFP, Cairo.