

EXECUTIVE SUMMARY

Introduction

The 2006 UNHCR Executive Committee (UNHCR ExCom), and Pre-ExCom, held in Geneva from 27 .09.06 – 06.10.06, addressed a number of key issues pertaining to both refugees and internally displaced persons (IDPs). These issues fall into the five categories of the Asylum/Migration Nexus; Women at Risk (Conclusion); Statelessness (Conclusion); Durable Solutions; and UN Reform. The discussion which took place around each of these topic areas is summarised below.

Asylum/Migration Nexus

The mixed flow of refugees and asylum seekers and the broader phenomenon of international migration is an increasing global concern. The relationship between border protection, migration management and international protection were key topics of discussion.

UNHCR clarified its mandate to provide protection for refugees and other forcibly displaced people, whilst recognising the need to engage with migration issues that have an impact upon refugee protection. However, it reinforced that the organisation is not a 'migration agency'. Algeria (for the Africa group), Canada, Austria and Switzerland, France, Norway and Finland (for the European Union) showed support for migration policies that are balanced with access to asylum.

UNHCR and NGOs are concerned that the restrictive measures introduced by many states are indiscriminate in their application and prevent refugees from gaining access to asylum procedures. The increased use of detention as a deterrent around the Mediterranean was examined and shocking accounts of inhumane conditions and lack of access to facilities, particularly in Northern Africa, were relayed. A damning examination of Australia's 'Pacific Solution' was provided, with strong arguments against the viability of detention and off-shore processing.

In the session ‘Exporting the Australian Model – The case of Afghanistan’, a report was launched by the Edmund Rice Centre providing evidence of Australia's failure to meet the requirement of effective protection. The report raised serious questions about procedures in relation to refoulement and highlighted the dubious nature of ‘voluntary return’. India, the Democratic Republic of Congo, Korea, the Holy See and the International Federation of the Red Cross (IFRC) stressed the importance of non-refoulement, with Germany strongly advocating for UNHCR to monitor returns.

Erika Feller addressed the need for protection sensitive border management and alternative migration options for differing migration needs. Concerns were expressed regarding the waning quality of asylum and the detrimental impact of political policies that nourish misperceptions of refugees and encourage xenophobia. The NGO comment highlighted the disappointing use of the term ‘queue-jumper’ by Canada in the context of the Executive Committee forum.

A targeted response that preserves and enlarges the asylum space is required, addressing issues at the inter-agency, policy and field levels. Recognition that development is more than economic growth is essential, with the protection and enjoyment of human rights paramount so that the benefits can be shared.

Of particular note was the 10 Point Plan of Action developed earlier this year, covering areas where responses could be more effective in identifying solutions at an earlier stage. This drew wide support, with the European Commission advising of funding allocation. Although it is not designed to be a blue-print for action, Thailand opposed the 10 point plan, citing concerns over the principle of burden sharing and complexity of migration flows in the Asia Pacific region. Malta and Bangladesh also expressed concerns of the plans applicability to regional contexts.

The need for closer cooperation between partners involved to properly understand mixed flows and root causes in transit countries was widely acknowledged. A considerable

challenge for the international community is effectively managing migration whilst ensuring the protection of refugees, two functions which UNHCR considers to be distinct but complementary and mutually reinforcing.

Women at Risk

The Conclusion on *Women and Girls at Risk* was passed at this year's Executive Committee meeting of UNHCR. This critical conclusion provides vital support to efforts to effectively respond to the challenges faced by refugee women and girls around the world. It is both an operational conclusion and effective advocacy tool.

The continuing rape, sexual abuse and exploitation of refugee women and girls is well documented. The session 'They don't talk about rape! Improving protection for refugee women and girls' aimed to take the issue forward, stressing an ethical obligation to act.

Lack of political will, negative and dismissive attitudes from many service providers and the myths surrounding rape and gender based violence continue to inhibit effective responses. Various methods of enhancing protection were discussed, from improved identification and individual documentation to pursuing all three durable solutions early and simultaneously. The importance of income generation activities and safe spaces for women that are non-stigmatising were highlighted.

UNHCR emphasised the need for cooperation and partnerships with NGOs; involving women and girls in the identification of risks and proposed solutions; and the need for the inclusion of men in community-based solutions. Age, Gender and Diversity Mainstreaming tools are noted as an effective route towards these goals. Echoed across multiple sessions was the vital importance of refugee women advocating on their own behalf and the lack of resources in this regard.

Methods for reducing the vulnerability of displaced women during firewood collection were explored in the session 'Getting Fuel on the Map: Promoting a coordinated strategy

for addressing fuel needs in conflict affected settings'. Of particular note is the recommendation for cooking fuel to be seen as a central, multi-sectoral humanitarian issue, and ensuring effective global strategies are in place from the earliest phase of new emergencies.

The session on 'Collaboration in addressing gender issues' focused on how UNHCR and NGOs can better ensure a gender-sensitive approach in programming in humanitarian responses. It is imperative to commence gender-sensitive programming from the start of an emergency and throughout the project cycle. Projects need to have an integrated approach and develop support in all areas.

How to ensure women most at risk are targeted for resettlement was a primary concern. Prevention of abuse by humanitarian workers in the field was also discussed, with the needs of those who have already been abused being raised. How to manage and respond to the issue of survival sex was noted as a future policy issue for UNHCR.

Recognition of the importance of the Conclusion on *Women and Girls at Risk* was offered by Australia, the Netherlands, Norway, Greece, Namibia, Argentina, Nigeria, Estonia, South Africa, Canada, Malawi, UNDP, Denmark, NGO African Humanitarian Partnership and Switzerland. Many expressed high expectations of the Conclusion as a platform for practical action, with some calling attention to the funding it deserves. Contributions by The University of NSW Centre for Refugee Research were seen as critical in the development of the Women at Risk conclusion. Australia was also commended for its Women at Risk resettlement program.

Statelessness

One of the two Conclusions passed by the Executive Committee of UNHCR in 2006 was the *Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*. This document calls upon States to "support the identification, prevention and reduction of statelessness and to further the protection of

stateless persons.” States are asked to operationalise this conclusion through enhanced co-operation with UNHCR and other relevant UN agencies and by adopting a number of measures, such as legal safeguards which prevent the occurrence of statelessness. This document is a response to continuing situations of protracted statelessness and emerging situations of statelessness around the world.

There are currently approximately 11 million stateless persons in the world who are denied a broad range of human rights. A number of the issues which contribute to statelessness were discussed at Pre-ExCom, at a session entitled “Prevention and reduction of statelessness and protection of stateless persons.” These issues include inconsistencies in birth registration and discrimination against women in passing citizenship on to their children. If statelessness is to be prevented, issues such as these must be addressed.

One of the greatest barriers to working towards a resolution of the statelessness issue is a lack of identification and registration of stateless persons. Few States have precise data on stateless populations. Collaboration between NGOs, States, UNHCR and other UN agencies is therefore vital if such identification and registration is to occur. Sharing of information and statistics was identified as being one of the key ways in which identification of stateless persons can take place.

Protection was identified as another key area in which action needs to take place on the statelessness issue. Many human rights are only enjoyed by virtue of holding citizenship of a State. Therefore, host countries need to be encouraged to uphold the human rights of stateless persons and allow them to access rights such as education. Reference was made during the Pre-ExCom session on Statelessness to the 1954 Convention Relating to the Status of Stateless Persons, which requires States who are Party to this Convention to “treat stateless persons lawfully residing on their territory in accordance with international human rights law.”

Concerns were raised by a number of States at ExCom with regard to UNHCR's new responsibilities towards Internally Displaced People (IDPs). It was anticipated by a number of States that UNHCR's new mandate for this group will obscure the organisation's responsibilities towards Stateless people.

A number of States at ExCom expressed support for the *Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*, including the Russian Federation, Nigeria, Australia, Finland on behalf of the European Union, and NGOs.

Numerous situations of statelessness have been resolved through the engagement of UNHCR in co-operation with NGOs. The UN was encouraged by NGOs attending Pre-ExCom to develop a consistent UN response to protracted situations of statelessness in order that more of these situations may be resolved.

Durable Solutions

The issue of Durable Solutions was discussed extensively at both Pre-ExCom and ExCom, particularly in regards to protracted refugee situations currently prevailing in Africa and Asia. The importance of governments and NGOs working in a multilateral relationship with UNHCR to find viable durable solutions to each refugee situation was stressed.

During ExCom, many states placed emphasis upon UNHCR's assertion that return is the preferred durable solution, including Thailand and Australia. However, discussions during Pre-ExCom highlighted the fact that, if conditions are not in place for return to take place safely and securely, this durable solution is not, in fact, a solution at all. Return must be truly voluntary and refugees must be given full and accurate information on the conditions, safety and resources available in areas of return if this solution is to be durable. Currently, UNHCR's mandate is unclear regarding the agency's obligations to retain a physical and operational presence in areas of return and this was one issue which came under discussion during Pre-ExCom.

Local Integration is one durable solution which, having fallen out of favour with many States, was referred to by UNHCR as “the forgotten solution”. UNHCR, in accord with many NGOs, stressed during ExCom that Local Integration is a durable solution that needs to be put back on the agenda. Resources need to be channelled away from camps towards supporting infrastructure and social services, so that refugees can be hosted as part of a community, rather than being segregated. This was discussed extensively at the Pre-ExCom session titled “Durable Solutions – Integration: The forgotten ‘solution.’” Local Integration can be implemented in a number of ways and UNHCR needs to negotiate with host governments, when new refugee influxes arrive, to find a suitable system of local integration.

Much discussion at Pre-ExCom focused on resettlement and the ways in which current resettlement numbers can be increased. European NGOs stressed the need for a greater European role in resettlement and the possibility of more formal resettlement programs being set up in Europe was canvassed and received the support of UNHCR at Pre-ExCom, at a session which asked “What are the strategies for countries supportive of resettlement?”

At the Asia-Pacific Bureau session during Pre-ExCom, UNHCR stated that major steps are being taken in the resettlement of Karen (Burmese) refugees currently residing in camps on the Thai border. Although resettlement is a vital protection tool for refugees, it was agreed that this durable solution cannot be used to replace other durable solutions, or to lend legitimacy to damaging State policies which create refugee populations. It is also necessary to examine potential political motives behind large-scale resettlement programs of distinct ethnic groups.

In order for protracted refugee situations to be unlocked, a comprehensive approach to such situations needs to be taken, using a combination of voluntary return, local integration and resettlement.

UN Reform

A major area of focus was UNHCR's increased mandate to work with Internally Displaced People (IDPs). Both governments and NGOs were particularly concerned about the possibility of IDPs overshadowing the place of priority once held by refugees.

UNHCR's budget, resources and capacity to address this increased mandate was high on the agenda, with participants in the Africa bureau session stressing that efforts in the field are acutely limited by financial shortfalls, and that there is a great divide between nations' obligations and their contributions. A number of States emphasised that additional funding is needed for IDPs. Sweden suggested that a two-tiered budget could be adopted. Finland, on behalf of the European Union, emphasised that the EU supports the expanded mandate of UNHCR, but pointed out that the organisation's central role of refugee protection must remain integral.

Of significance to UNHCR's increased mandate is the cluster approach – an area of UN reform that aims to improve humanitarian response to the protection and assistance needs of IDPs through strengthened leadership and accountability¹. This implies that one agency takes full responsibility for bridging the gap between the various parties involved in a response to a humanitarian crisis.

Although acknowledged by some that it is too early to effectively evaluate the reform², a number of observations were made. On a positive note, terms of reference for cluster leaders have been established, meaning performance standards can be demanded. When working well, information sharing has increased, with some partnerships between UNHCR and NGOs evolving to far more comprehensive collaborations. A Memorandum of Understanding was signed in May, which is hoped will further improve communication and coordination between UN and NGO agencies.

¹ UNHCR chairs the clusters on emergency shelter (for conflict-generated IDPs); camp coordination and management (for conflict-generated IDPs); and protection.

Despite this, many feel that the UN is losing out on competencies with more meetings being held than before, with discussions not necessarily translating into practice on the ground. It was felt that a lack of consultation resulting in inadequate planning and interaction is leading to slow response times. Equality was a problem in Pakistani experience, with the UN being described as exclusive in setting priorities and the process being described as lacking the involvement of local NGOs.

A number of States, including Norway and Switzerland, called for further clarification of the cluster approach. The Chairman responded that the cluster approach would continue to be evaluated in consultation with members. Moving forward, it was widely accepted that ongoing debate, evaluation, NGO feedback, flexibility and strengthened partnerships are critical for the success of the approach.

The 'Children's protection and humanitarian reform' session identified a need for international capacity building and operationalisation, with UNICEF and UNHCR mandated to take the lead role with NGOs. Education as a tool of protection was addressed in the session on 'Mainstreaming education within the humanitarian response', with the formation of educational cluster a prime topic of discussion. By not being clustered, the priority of education in humanitarian response could be viewed as lacking in importance and less worthy of funding, which would be further exacerbated by lack of access to key cluster discussions.

The role of the new Human Rights Council (HRC) in relation to interaction with UNHCR was also of concern. UNHCR advised that refugee rights are human rights, and stressed that UNHCR and HRC roles are complimentary. It was acknowledged that coordination may not be perfect at present, but it is working.

² The Cluster Approach is currently being implemented in Uganda, Somalia, DRC and Liberia (IASC agreed roll-out countries). It was also used in Pakistan, Lebanon and Yogyakarta, Indonesia. It is now also being introduced in other countries such as Cote d'Ivoire.