

2006 UNHCR NGO consultations and Executive Committee Background

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This document provides background information and personal observations of the 2006 UNHCR NGO consultations (often referred to as “pre-ExCom”) and the 57th session of the UNHCR Executive Committee (ExCom).

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The Meetings

Pre-ExCom: The UNHCR NGO consultations took place from September 27 to 29, consisting of a number of plenaries and a series of concurrent sessions as part of the official program, with additional side meetings generally initiated by different NGOs. These three days incorporated a broad range of European, African, Middle Eastern, North American and Latin American perspectives on refugee issues, and provided an excellent opportunity to meet NGO counterparts from many countries.

The NGO consultations involved 329 representatives of 166 agencies from 172 countries. The agencies comprised 93 international NGOs and 73 national NGOs. Australia was represented by 22 delegates – 12 from the Centre for Refugee Research of University of NSW (including eight interns) and related organisations, four from Austcare and one each from National Council of Churches, Edmund Rice Centre, Franciscans International, A Just Australia, World Vision and RCOA.

ExCom: The ExCom meeting held from October 2 to 6 brought together representatives of 67 member states, 55 observer states, 6 UN bodies, 14 entities and inter-governmental organisations and 56 NGOs, in a series of plenaries and official concurrent sessions. Only five states had NGO reps on their government delegations (Australia 3, Finland 2, USA 2, Canada 1, Norway 1). The Australian Government delegation was made up of 4 representatives of the Department of Immigration and Affairs (led by Peter Hughes), Australia’s Ambassador in Geneva (Caroline Miller) and 1 representative each of the Department of Foreign Affairs and Trade, AusAID, the Immigration Detention Advisory Group (Sr Loreto Conroy), Austcare (Kate Berry) and RCOA (Paul Power). Nineteen Australian NGO delegates attended ExCom (including the three on the government delegation) – 11 from Centre for Refugee Research and related organisations, two from RCOA (Paul Power and John Gibson) and one each from National Council of Churches, Edmund Rice Centre, Franciscans International, A Just Australia, Austcare and Immigration Detention Advisory Group.

In addition, the 10 days provided numerous other opportunities to participate in other official functions and meetings and to catch up with various other delegates at lunch or dinner.

The Domestic Setting: Swiss referendum on asylum and immigration laws

On September 24, the Swiss people were voting on two laws previously passed by the Swiss Parliament to restrict access to asylum and restrict immigration of non-Europeans. The laws were passed in December 2005 but were challenged under Switzerland's citizen-initiated referendum system.

Under the asylum law (an amendment to the previous legislation):

- Any asylum seeker who fails to produce valid travel and identity documents within 48 hours of making a claim will automatically have the claim rejected.
- Failed asylum seekers, including children, who refuse to leave the country voluntarily can be jailed for up to two years.
- Rejected asylum seekers will no longer be entitled to any financial assistance.
- The Swiss Government can develop agreements with other states to help establish "motives for flight", a process which threatens the confidentiality of the asylum process.

The immigration legislation restricts immigration for those not from European Union or European Free Trade Association countries to highly skilled workers, placing additional obstacles to those seeking family reunion.

In the referendum, 68 per cent of those who voted supported the laws, with strongest support from rural German-speaking districts and from supporters of the Swiss People's Party, the largest party in the centre-right coalition government. This vote was a stark reminder of some of the global trends in public reaction to refugees and had an impact on the discussion in the various meetings.

The role of Australian NGOs at the meetings

Throughout the meetings, comments were regularly heard from NGO representatives from other countries about the visibility and effectiveness of the Australian NGO delegates. Led by several delegates well experienced in the ExCom process, the Australian delegates used their numbers and their cohesion to play a significant role.

- Five of the Australian delegates were speakers or moderators during official sessions of the NGO consultations. James Thomson of the National Council of Churches spoke at the plenary session on the asylum/migration nexus, critiquing Australia's Pacific solution and approach to detention.
- Of the nine official side meetings of the NGO consultations, two were organised by Australian NGOs – one by Edmund Rice Centre on its research on the fate of returned asylum seekers and one by the Centre for Refugee Research on refugee women in Ethiopia and Guinea.
- Australian delegates met regularly to discuss questions which could be raised at the various sessions and plenaries and to compare notes on who was attending which session. Priority questions were then framed and distributed, with each delegate asked to seek answers to the questions which were relevant to the sessions they attended. This approach ensured that nearly all of the issues most important to the team were aired. The responses were then recorded by the Centre for Refugee Research intern responsible for documenting the particular session.
- The Centre for Refugee Research and a number of the other Australian NGO delegates, under the banner of the Australian Refugee Rights Alliance, produced a series of short papers on a variety of issues, for circulation to delegates. These issues covered Australia's refugee and asylum seeker policies, the "Pacific solution", refugee advocacy in Australia, the return of failed asylum seekers, the responsibility to protect, refugees and the Human

Rights Council, refugee women and children in Guinea, Palestinian refugees and West Papua.

- Australian delegates were heavily involved in assisting ICVA to draft the NGO responses at the ExCom meeting. Australian delegates delivered two of the four main NGO responses at ExCom – Tenneh Kpaka (part of the Centre for Refugee Research team) delivered the NGO response in the general debate and Sr Aileen Crowe (Franciscans International) delivered the NGO response in the debate on protection.
- The most important Australian contribution was the long-term advocacy for the conclusion on women and girls at risk – the most significant outcome at ExCom. Dr Eileen Pittaway, Linda Bartolomei and the team from the Centre for Refugee Research have been working with others for at least five years to raise their concerns, through the UNHCR system, about the protection of women and girls in refugee situations. Their role as principal architects of the conclusion was acknowledged during the ExCom meeting by Peter Hughes of the Australian Government delegation and by Erika Feller, UNHCR's Assistant High Commissioner for Protection, in her meeting with Australian NGOs.

The main issues for discussion

The main issues for discussion were:

- The asylum/migration nexus, particularly the confusion of issues of protection with illegal immigration, terrorism and border protection;
- Protection of women and girls at risk;
- Statelessness;
- Durable solutions for protracted refugee situations;
- The push for reform of UNHCR.

These issues are outlined in more detail in the attached Executive Summary.

Some other observations

Some of the points discussed which grabbed my attention, as a newcomer to many of the issues, were:

- **The future of asylum** – While there were differing views about the direction of global asylum policy, the prevailing view was one of pessimism, given the direction of government policies in many countries. Mamadou Ndiaye from the Office Africain pour le Developpement et la Cooperation in Senegal even went as far as to question whether we were seeing “the beginning of the death of asylum”, as asylum issues are swamped by considerations of illegal immigration, terrorism, border control and public antipathy. Bo Schack, head of UNHCR's Europe Policy Unit, believes UNHCR and NGOs have focused too little of their advocacy on the public, to address widespread and profound mistrust in the way refugee status is determined. “We cannot simply dismiss people as stupid,” he said.
- **Practical approaches to protracted situations** – Janet Lim, the head of UNHCR's Asia-Pacific bureau, was widely praised for her honest and common sense approach to trying to unravel the difficult web of issues and interests surrounding long-running refugee situations such as those experienced by the Burmese (mostly Karen) refugees in Thailand, the Bhutanese refugees in Nepal and the Rohingya refugees (from Burma) in Bangladesh. In all three situations, the usual “durable solutions” of return, integration or resettlement are hard to find but slow progress is now being made in Thailand.
- **Scrutiny for UNHCR's refugee status determination** – Michael Kagan of Africa and Middle East Refugee Assistance in Cairo spoke of the need for an independent appeal system for cases determined by the UNHCR refugee status determination (RSD) process, following a European Court decision which found in favour of a family whose case had been rejected

five times by UNHCR. In response, UNHCR expressed the view that its preference was that governments carried out RSD and UNHCR's role be restricted to review. However, in 70 to 80 countries, UNHCR was carrying out RSD to prevent refoulement and to release refugees from detention.

- **A shocking response to the needs of women at risk** – When Tenneh Kpaka (part of the Centre for Refugee Research team) expressed her concerns about the rape and torture of Sierra Leonean refugee women in Guinea during the Pre-ExCom gathering, the audience was shocked by the response of the head of UNHCR's Africa Bureau (as recorded by a CRR intern): “These women seem to be raped in every country on earth. Sierra Leonean women in Guinea want only resettlement; they are saying they are raped only because they want resettlement.” It underlined the urgent need for a greater focus by UNHCR on the protection of women and girls.
- **UNHCR's keenness for greater involvement of Australian NGOs** – Each of the senior UNHCR people with whom John Gibson and I met spoke enthusiastically about the possible greater involvement of Australian NGO staff in deployment schemes in partnership with UNHCR. This work, which would require funding from outside of UNHCR, could include refugee status determination and field assessment prior to resettlement in cultural orientation, data collection, child protection and assessment of the needs of victims of torture and trauma. Vincent Cochetel from UNHCR sees great possibilities for staff from Australian settlement agencies assisting in many of these roles.