

58th Executive Committee
of the High Commissioner's Programme
1-5 October 2007

**NGO Statement
Agenda Item 4**

General Debate

Mr. Chairman, Ladies, and Gentlemen,

Structural Change and Budgets

NGOs commend UNHCR on its ongoing structural and management change process, including the relocation of support functions closer to the point of delivery. To continue the strengthening of UNHCR's field impact, this process should move beyond the current plans for regionalisation and look at ways to improve protection and assistance at the field level. There has been a huge rise over recent years in the total number of persons of concern to UNHCR, including refugees, internally displaced persons (IDPs), and stateless persons, with UNHCR's budget failing to keep up with the increase in numbers. In this context, it is critical that the change process and donors help to ensure that UNHCR is able to meet the needs of persons of concern now and into the future.

The Humanitarian Consequences of the Conflict in Iraq

The conflict in Iraq continues to result in refugees and IDPs – 50-60,000 people attempt to cross the border each month – with the situation showing no sign of improvement. NGOs would, once again, like to commend Iraq's neighbours for opening their borders and also recognise the support provided by other States and, of course, UNHCR. However, NGOs are alarmed at the imposition of restrictive visa regimes that prevent Iraqis from fleeing the country and seeking asylum. NGOs are also distressed at the paltry levels of humanitarian assistance for Iraqi refugees on two fronts; because lack of assistance prevents refugees, who generally are not allowed to work, from living in basic dignity; and also because failure to support countries of first asylum appears to be contributing to their reluctance to host Iraqi refugees and to the imposition of increasingly restrictive measures to keep them out. NGOs thus call upon States to ensure greater burden and responsibility sharing.

In addition, NGOs are increasingly alarmed by the growing number of countries that are forcibly returning Iraqi asylum-seekers to Iraq. UNHCR advises against return to southern and central Iraq and has repeatedly stated that it does not promote "voluntary return" of Iraqis. Still, many countries are actively returning Iraqi asylum-seekers, some of whom are currently in detention, without any guarantees of security or assistance. NGOs call upon all States to suspend the deportation of Iraqis.

NGOs appreciate the increased efforts of UNHCR in its registering Iraqi refugees and in its search for immediate and durable solutions. It appears certain that very few Iraqi refugees will be referred for resettlement or temporary protection under the present commitments of States. We,

therefore, urge States with resettlement programmes to increase the number of places for Iraqis and to expedite decision-making processes in view of the urgency that exists. Moreover, we encourage States with Iraqi nationals to resettle those with family ties and close links, either through existing provisions for family reunification or through special provisions for this exceptional situation. NGOs note that while UNHCR provided the requested referrals from the United States, now over 8,000, the US has admitted fewer than 800 Iraqi refugees in 2007. Slow processing times and consequent backlogs compound already complex protection problems in the region. Other States with capacity and resources, in particular those with troops who have been and/or continue to be involved in the conflict, such as the United Kingdom, Australia, Japan, Denmark, Italy, Spain, and South Korea, need to consider resettlement programmes for Iraqis.

NGOs applaud Jordan and Syria's decisions to allow Iraqi children to attend school. The most recent pledges to fund the joint UNHCR-UNICEF appeal to facilitate this effort are welcome steps forward. NGOs call upon the international community to continue to provide financial, technical, and in-kind assistance to Syria, especially, as well as to UNHCR and to national and international NGOs, so that they can provide vital goods and services. Further, refugees should be allowed to work, practice professions, run businesses, own property, move about freely, choose their place of residence, and have access to international travel documents, rights guaranteed by the 1951 Refugee Convention. NGOs also call upon all States to recognise the *Convention Travel Document*. Other States, particularly those with troops deployed in and around Iraq, should substantially increase their assistance towards the strengthening of local capacity to provide necessary services to refugees and local populations alike and avoid segregated, parallel service delivery structures.

NGOs congratulate UNHCR and those States that have finally achieved durable solutions for the Palestinian refugees and Iranian Kurds sequestered in the al-Ruwaishid camp. However, we call on States to pursue their efforts to ensure that the remaining Palestinian refugees in al-Tanf, al-Walid, and al-Hul camps on the border with, and inside, Syria as well, as the Iranian Kurdish refugees stranded in the no-man's land between Iraq and Jordan, are provided with temporary protection, resettlement opportunities, and other durable solutions. In cooperation with UNHCR, all Palestinian refugees from Iraq should be registered with the *UN Relief and Works Agency* as a matter of high priority.

NGOs call on States to deliver, in a timely and effective manner, on all pledges that they made at the April 2007 *Conference on Iraqi Refugees and Internally Displaced Persons*. In addition, political leadership from the highest ranks of the UN is needed to direct and coordinate all UN agencies actively involved with Iraqi refugees in the Middle East. UN country teams must be mobilised and Resident and Humanitarian Coordinators must make responding to the needs of Iraqi and Palestinian refugees a top priority.

Other Humanitarian Situations of Concern

While displacement within and outside of Iraq has captured much of our attention of late, it is also imperative that the international community does not forget other compelling situations where millions fleeing persecution remain in need.

NGOs report that since 21 April this year, 188,962 Afghans have been deported back to Afghanistan from Iran without any consideration of their status as refugees. NGOs are also concerned at plans for the repatriation of Afghan refugees from Pakistan. At present, there is some protection through the registration process, but considerable uncertainty as to how long this will last.

In the past few weeks, renewed fighting in quite a limited area of the eastern province of North Kivu in the Democratic Republic of the Congo has caused some 10,000 people to flee to neighbouring Uganda, bringing the total to more than 180,000 who have fled since December last year.

NGOs report major issues concerning the protection of IDPs in Darfur, Sudan. The government is putting a great deal of pressure on camps to disband prior to the arrival of the “hybrid mission”. A first step was a series of arrests in Kalma Camp on the pretext of controlling criminality. There is also concern at the number of “Arab immigrants” being settled in villages and fields abandoned by those who fled to the camps. A number of groups, who are not party to the *Darfur Peace Agreement*, are stating that the expulsion of these, so called, immigrants is a pre-requisite to IDP return.

NGOs are concerned at the delay in reaching a decision on the status of Chadians entering West Darfur in the area of Foro Baranga. UNHCR and the *Sudanese Commission of Refugees (COR)* have both recommended granting status to the whole group rather than to individuals, with the exception of active or former combatants.

The situation of Somali refugees in the Ogaden region of Ethiopia has reached a crisis point, with NGOs having been denied access to this caseload since July and thus being unable to supply much-needed medical assistance. NGOs further state that the response of the UN lacks clarity of purpose and is, in any event, slow. Meanwhile there are considerable protection needs.

NGOs are still concerned that Somalis, mainly women and children, who are fleeing fighting in their country have been unable to seek refuge across the border since it was closed by the Kenyan authorities earlier this year with the deployment of tanks and helicopters. A substantial number of Somalis who have managed to cross have been *refouled* by the Kenyan authorities. NGOs call upon the Kenyan government to comply with its obligations under international law to provide asylum to those fleeing persecution.

At the same time, NGOs call upon the international community to support IDPs in Somalia with both protection and assistance, in particular, those in and around Mogadishu and Afgooye who are being forcibly displaced by the Transitional Federal Government from sites where they have been resident for many years.

In addition, we note with concern reports received from refugees in UNHCR operated camps in parts of Africa and, in particular, the Buduburam refugee camp in Ghana, indicating an inability by UNHCR to provide basic health and sanitation facilities and clean drinking water free of charge to refugees. The failure to provide such free services not only impacts on the capacity of UNHCR to ensure effective protection in its refugee camps, but also contributes to refugees being

forced to leave the camps for even less safe environs, either within host countries or countries of origin. Protection and assistance should follow refugees, consistent with their rights, under Article 26 of the Refugee Convention, of freedom of movement and choice of residence.

We wish to draw attention to the situation of the Sahrawi refugees who have been living in Algeria since 1975. The Sahrawi refugees represent one of the world's most protracted refugee crises. We note, with concern, the recent and gradual reduction of humanitarian aid to these refugees and urge States to increase such assistance in a way that is predictable, sustained, and timely.

The NGO community also notes that funding for IDP operations in Timor-Leste, requested under the Consolidated Appeals Process (CAP) has not been forthcoming and thus, UNHCR ceased its operations in Timor-Leste in July 2007. There continue to be 100,000 IDPs in the country with persisting protection needs. For these people, the government's return and reintegration strategy has so far proven unsuccessful. Return for these IDPs is difficult and will largely depend on progress in reconstruction and reconciliation, as well as significant improvements in the political, economic, and security environment including the strengthening of State institutions. In this climate, the departure of UNHCR gives rise to a concern that the protection needs of the remaining IDPs in Timor-Leste will not be addressed.

In Dili, the main concerns of the humanitarian community relate to the health, water, and sanitation challenges created by the sustained presence of a displaced population of 30,000 in makeshift camps. There have also been serious protection concerns for the displaced population and, in particular, for children who are exposed to a variety of protection risks, including physical and sexual abuse, due to the volatile situation. On 17 August 2007, a large number of international and national NGOs publicly raised concerns about the alarming trend of increasing violence against children in the country.

NGOs, particularly national NGOs, are at the forefront in all these situations and are often, because of the security climate, forced to operate alone. It is vital that they receive adequate financial support and in a timely manner.

The Asylum-Migration Nexus

NGOs welcome the High Commissioner's intention to hold a *Dialogue on Protection Challenges* in December 2007, focusing on the asylum-migration nexus. As NGOs, we trust that we will be full partners in this very necessary dialogue and look forward to a constructive exchange of ideas in which the serious challenges to protection posed by the nexus, including State interception measures, can be more fully discussed and practical solutions sought. We hope that the format will follow that of the *Global Consultations on International Protection*, with its free and open exchange of views.

NGOs broadly welcomed *Refugee Protection and Mixed Migration: A 10-Point Plan of Action* issued in June 2006. Nevertheless, there is grave concern as to the plight of the vast majority of people in mixed flows who either cannot benefit from international protection or who cannot access the asylum process. Much work is needed to ensure that the large numbers of migrants and asylum-seekers who are dying every day off the Canary Islands, in the Mediterranean, and in

other places around the world are given the protection they need, as well as access to the asylum process.

Interception and Interdiction

NGOs are gravely concerned that restrictive State practices and policies including interception on land, at airports, and at sea; exclusionary visa regimes; and accelerated return procedures, continue to prevent asylum-seekers from gaining access to asylum procedures and are eroding the institution of asylum. Moreover, they undermine international solidarity in refugee protection by shifting responsibility to other States. We are particularly concerned by cases of interception that have resulted in the violation of human rights, the denial of access to asylum, and the return of asylum-seekers to their countries of origin, without due consideration of their asylum claims. Some European States and Australia have rescued (or intercepted) migrants and asylum seekers and then detained them outside their territory, without clearly acknowledging their jurisdiction and thus their full responsibilities for Refugee Status Determination (RSD). Passengers from a ship called the *Marine 1*, for example, were detained for some weeks by Spanish authorities in a centre in Mauritania.

States that engage in interception have the responsibility and obligation to ensure that their actions - whether directly or indirectly and particularly when interception occurs in the territory of a State that is not party to the Refugee Convention or that lacks fair and effective asylum procedures - do not result in the return of refugees to a situation where they could face serious danger or persecution. We note that the 2003 *Conclusion on Protection Safeguards in Interception Measures* is somewhat ambiguous on the allocation of State responsibility in the interception context. However, we would remind the Executive Committee that State responsibility is clear: it applies to any State action, regardless of where that action takes place. Extraterritorial interception must, therefore, be consistent with the State's obligations under international human rights and refugee law. The intercepting State must accept responsibility for the protection of the person intercepted.

There is an immediate need to avoid deaths at sea and to ensure that asylum-seekers who are intercepted daily around the world have access to protection. States, who have not done so, should ratify relevant amendments to the 1979 *Search and Rescue Convention* and the 1974 *Convention for the Safety of Life at Sea*. In addition, a legal vacuum needs to be filled, for example, with guidelines on the State responsible for receiving rescued passengers. States must ensure that ships' masters are aware that determining the nearest safe port in which to disembark passengers must include considerations of safety from persecution or the risk of *refoulement*.

We urge UNHCR not to delay any further the issuance of *Guidelines on Safeguards for Interception Measures*, as it was tasked to do five years ago as part of the *Agenda for Protection (Goal 2, Objective 1)*. We further call on UNHCR, with the support of NGOs, to expand its monitoring of State interception activities on land, at airports, and at sea to ensure that asylum-seekers gain access to a meaningful RSD process and on States to co-operate fully with UNHCR in these monitoring activities.

The Asylum Process

The erosion of the asylum process is nowhere better exemplified than the situation in Thailand, which grows increasingly alarming. NGOs report increasingly restricted access to asylum claims and refugee status. In May 2007, the Thai government requested UNHCR to stop conducting refugee status determination, resulting in a three week cessation by UNHCR. In addition, UNHCR has been denied access to the Airport Detention Centre and the Immigration Detention Centre (IDC) in Bangkok to process asylum claims or conduct resettlement interviews. Further, no exit permits to recognised refugees can be issued.

Since the start of July, arrests of asylum-seekers and refugees have increased, notwithstanding the fact that they have UNHCR certificates. Among many examples is that of 10 July, when 10 Sri Lankans were arrested and transferred to the IDC. Nine were asylum-seekers and one was a recognised refugee. One woman fell to her death while trying to escape from a window at the IDC.

NGOs request that Thailand permit UNHCR to carry out its full mandate to protect and assist refugees and asylum-seekers from Burma as defined by the Refugee Convention and, by the same token, UNHCR, its Executive Committee members, and donors are requested to be more robust in their dealings with the Thai government. Thailand should allow unimpeded access by UNHCR and humanitarian NGOs to all refugees and asylum-seekers.

Internally Displaced Persons

The global crisis of internal displacement continues to remain an enormous challenge. In the framework of the cluster approach, UNHCR plays a key role in leading international efforts to assist States in tackling this challenge. In this regard, NGOs welcome UNHCR's new *IDP Policy Framework and Implementation Strategy* and urge governments to support UNHCR in its efforts to ensure a more predictable and comprehensive response to situations of internal displacement.

The contribution of NGOs is vital for an effective IDP response, and the full involvement of NGOs in coordination mechanisms at the global and national level should be given priority. We are concerned that although donors have voiced strong support for NGO participation in the clusters, funding decisions to date have been fairly UN-centric. For example, only 11 per cent of NGO activities under the global protection cluster appeal have received funding, while UN activities under the same cluster are covered by more than 50 per cent.

NGOs welcome the real time evaluations conducted by UNHCR to assess its function in the roll-out of the cluster approach and call for the implementation of the recommendations that emerged from those evaluations.

At the same time, it is important not to lose sight of the millions of IDPs in need of assistance and protection in countries where the cluster approach is not implemented. We urge UNHCR to engage other relevant partners, both UN and non-UN, to agree on a common set of standards and approaches, including situations with existing (non-cluster) coordination mechanisms, to be applied to all IDP responses.

Thank you, Mr. Chairman.