

Summary of the Strategic Oral Presentation for the Americas

Standing Committee

21st meeting

25 – 27 June 2001

I. Recent Developments

1. The international asylum-migration nexus has assumed a regional dimension in the Americas. Increasingly, irregular migrants, mixed with asylum seekers, are entering one country in the Americas with the intention of reaching another. In both Latin America and the Caribbean, this situation is straining fragile national institutions involved in status determination or local integration.

2. Efforts to strengthen the regional asylum framework over the past few months have focused on the following:

- In the US, following UNHCR's advocacy efforts, the Immigration and Naturalization Service (INS) gave NGOs the same access to the expedited removal process as UNHCR and issued detention standards which apply to INS detention centres and other facilities used by INS;
- UNHCR continues to participate in the on-going inter-governmental dialogue on migration issues through the "Puebla Process";
- In Southern South America, the "Rio de Janeiro Declaration" adopted in November 2000 by MERCOSUR (*Mercado Común del sur*) member and associated countries, following UNHCR's advocacy efforts, called for harmonization of asylum policies and legal frameworks in line with international protection principles; UNHCR's Regional Office in Buenos Aires is currently promoting the adoption of a "model" refugee law text throughout the region;
- Creation of a Spanish Website containing a legal database to serve as a key tool for refugee law promotion in the region.
- Since June 2000, Mexico and Trinidad and Tobago have acceded to the international refugee instruments.
- UNHCR has signed cooperation agreements with the Inter-American Court on Human Rights and the Inter American Commission for Human Rights (IACHR) to enhance coordination with the Inter-American system.

3. The implications of the Colombian conflict entail a "mix" of risks and opportunities requiring flexible adjustment of UNHCR's operational response to a range of situations:

- In Colombia itself, the Humanitarian Accord between the Government of Colombia and the FARC (*Fuerzas Armadas Revolucionarias de Colombia*) was welcomed by the entire international community as a positive step towards respect for International Humanitarian Law and a key confidence-building measure;
- However, the socio-economic impact of the conflict and trends in forced displacement continue unabated. Levels of forced displacement during 2000 were the highest in the past five years, with the cumulative total between 1995 and 2000 now exceeding 1.5 million, according to most sources;

- Conflict between armed groups in key border zones have resulted in regular "cross border" flows into most neighbouring countries, namely Ecuador, Panama and Venezuela; the Government of Colombia reports that over 15,000 Colombians were forced to flee to neighbouring countries in 2000;
- Restrictive asylum policies towards Colombian asylum-seekers continue to be practiced by some countries, whilst others pursue a generous policy and cooperate fully with UNHCR;
- Arrivals of Colombian asylum-seekers have risen sharply, both within the region and in Europe and North America: worldwide the number of asylum claims filed by Colombians increased from 3,298 to 11,150 between 1999/2000. In the first quarter of 2001, an estimated 4,500 claims have been filed world-wide;
- A Tripartite mechanism was established between UNHCR and the Governments of Colombia and Ecuador to discuss border movements, the situation of refugees and voluntary repatriation procedures; A total of four meetings have been held since November 2000;
- In Panama, the first group of Colombians has benefited from full refugee status, granting them freedom of movement, the right to work and to family reunification;
- A Memorandum of Understanding (MOU) has been signed between Colombia and Panama, which includes a role for UNHCR and covers procedures for new arrivals of Colombians in Panama;
- In Venezuela, the opening of a UNHCR Field Office in San Cristobal has facilitated the establishment of emergency assistance and protection monitoring for some 600 Colombians along the Rio de Oro in Zulia State;
- An MOU has recently been signed by the Governments of Peru and Colombia on the management of cross border movements which includes cooperation with UNHCR;
- In Colombia, protection of IDP rights has been reinforced by a series of landmark decisions by the Constitutional Court as well as advances in the normative framework pertaining to access by IDPs to health, education and land.

II. Main challenges 2001/2002

North America

- In the US, UNHCR will promote further revisions to the 1996 Refugee and Immigration Law, focusing on provisions to limit the use of expedited removal procedures and allowing asylum-seekers in detention to appeal to independent, impartial adjudicators for their release;
- In Canada, UNHCR will continue to follow the progress of the proposed new Immigration and Refugee Protection Act and its proposed regulations, and to provide advice and comments to legislators and government counterparts. UNHCR will shortly participate in consultations on the regulations to accompany the bill, with particular interest for those pertaining to the asylum procedure, enforcement measures and refugee resettlement

- In both countries, UNHCR must continue to meet a constant demand to inform policy- and decision-makers, as well as the general public, through advocacy and information campaigns designed to generate more positive public attitudes towards refugees and asylum-seekers.

The Caribbean

- In Cuba, UNHCR will help identify durable solutions for an increased number of asylum seekers from outside the region arriving in Cuba; numbers have risen by 56% between 1999-2000. Although Cuba has yet to sign the international refugee instruments, *non-refoulement* has been respected to date;
- Elsewhere in the Caribbean area, UNHCR will: strengthen and develop the institutional capacity of countries which have signed the Convention/Protocol to receive and protect asylum-seekers and refugees; much progress is needed given that all signatory States, except the Dominican Republic, still lack implementing legislation and treat asylum claims on an ad hoc basis; even in the Dominican Republic, systematic implementation of legislation needs to be ensured;
- Step up preparedness to respond to increasing departures of Haitians;
- Advocate accession to the refugee instruments in the five remaining non-signatory States (i.e. Barbados, Grenada, St. Kitts and Nevis, St. Lucia, as well as Cuba); assisted by regional bodies such as the Organization of American States (OAS) and the Pan-American Union;
- Further strengthen the capacity of the protection network to ensure the protection of people of concern to UNHCR in the sub-region through pro-bono experts in each country.

Mexico and Central America

- Ensure smooth functioning of the recently created national refugee status determination committee;
- Ensure that documentation is provided for naturalisation purposes to the remaining 12,000 Guatemalan refugees in Chiapas (Mexico); UNHCR will maintain a presence in Comitán (Chiapas) to monitor the final phase of the documentation programme, in cooperation with local and federal authorities, and strengthen local protection networks in Mexico's southern states;

- Strengthen the national eligibility determination mechanism in Costa Rica which is facing sharply increasing numbers of asylum-applicants, especially from Colombia. By the end of March 2001, Costa Rica had experienced a twelve-fold increase in asylum-seekers, primarily Colombians, from January 2000. This situation has strained the government's capacity and created a significant case backlog. In June 2001, UNHCR is deploying a refugee status determination team to Costa Rica to reinforce the government in their reorganisation of systems and personnel;
- Throughout Central America, where both migration and national refugee legislation is under review in several countries, ensure that relevant laws comply with international standards.

Colombia Situation (*Ecuador, Panama and Venezuela, Colombia*)

Asylum countries (*Ecuador, Panama, Peru and Venezuela*)

- Ensure regular UNHCR presence in border areas to provide protection and emergency assistance to persons of concern; in Venezuela, UNHCR will participate in the planned joint mission to the border, at the invitation of the Government; in Peru, UNHCR will carry out a border monitoring mission and support the Government of Peru in preparing contingency plans in border areas, as needed; in Ecuador and Panama, UNHCR's existing presence will be reinforced;
- Strengthen the refugee protection framework through relevant legal reforms; in Panama this implies revision of existing legislation in line with international standards; in Venezuela, UNHCR must support implementation at the field level of national refugee legislation, once drafted;
- Explore all available options for durable solutions (local settlement, voluntary repatriation, resettlement) for refugees, preferably through creation of Tripartite Commissions (comprising host country, country of origin and UNHCR) to pursue a comprehensive approach to protection and solutions; in the case of Ecuador, for example, more than 12,000 Colombians crossed the border during 2000, of which a total of 1,603 persons have been recognised and documented as refugees. The remainder have spontaneously returned to Colombia.

Colombia

- Consolidate the mutually reinforcing national and local level dimensions of the programme; priority will be given to the overall legal/policy framework for IDPs as well as strengthening coping capacities and awareness of basic rights of IDP communities engaged in solutions processes, with specific focus on IDP women's organizations; women comprise 47% of IDPs;
- Support national counterparts in addressing the specific needs of ethnic minorities (i.e. indigenous groups and Afro-Colombians) who together comprise 25% of the IDP population;
- Emphasize the protection of child rights through implementation of "education for peace" pilot programmes, in cooperation with the Ministry of Education and "Opcion Legal" (UNHCR's national partner), in UNHCR's three priority regions; specific emphasis will be placed on adaptation of school curricula to respond to the psycho-social needs of IDP children and promoting establishment of parent-teachers associations as a mechanism for resolution of social conflicts and community protection of a child's fundamental right to education;

- Ensure continuation in national IDP policy after the presidential elections in mid 2002;
- Carry out an assessment and consult with donors and other partners on the feasibility of opening a fourth UNHCR field office on the Atlantic Coast, in line with the Government's request, during 2002;
- Prepare for the national counterpart/donor evaluation of the UNHCR Operational Plan for IDPs at the end of its three year duration in 2002 to determine the future of UNHCR's presence in Colombia;
- Carry out UNHCR's coordination role on behalf of the UN system for IDP issues, with support from OCHA;
- Monitor and ensure adequate follow-up of "cross border" refugee movements, in coordination with UNHCR's Regional Office in Caracas.

Southern South America

- Strengthen the regional protection framework and encourage sustainable local integration of refugees, despite serious financial constraints facing both UNHCR and national counterparts, compounded by the current socio-economic context prevailing in the region;
- Prepare a plan with the Government of Argentina, to address problems affecting the smooth functioning of the national eligibility committee, notably delays in the refugee status determination procedure which average two years and mean that applicants remain in an illegal status, generally without full access to courts, education, health care or shelter.
- Promote resettlement opportunities, especially in Chile and Brazil, which enable an increased intake of resettlement cases in 2002;
- Achieve continued positive results in private sector fund raising through the national association ARCA (*Argentina con ACNUR*), achieving coverage of operational costs in 2002.

III. Overall policy priorities

- Follow-up on the regional Gender Plan of Action adopted in 2000;
- Provide specialized training on gender equity and implementation of guidelines for children to UNHCR staff and implementing partners;
- Ensure that "protection networks" being supported by UNHCR address the specific needs of children, including unaccompanied minors;
- Provide technical support on environmental impact to national counterparts in border areas heavily impacted by Colombian refugees (Panama and Ecuador).