

## REVIEW OF THE ANNUAL CONSULTATIONS WITH NGOS

UNHCR's 2006 Annual Consultations with NGOs were attended by 329 representatives of 166 agencies from 72 countries. The number of agencies comprised 93 international NGOs and 73 national NGOs. Over the three days, NGOs and UNHCR discussed and consulted on issues of mutual concern. This report highlights the main points of discussion and is structured around the four themes of the NGO consultations – the asylum-migration nexus; UN reform; durable solutions; and ExCom conclusions.

### 1) ASYLUM-MIGRATION NEXUS

The highlights from the discussion on the asylum and migration nexus were the following:

1. Irregular migration is increasing, it is a global phenomenon. The issue came up in nearly all the regional discussions.
2. The focus on border management measures at the expense of ensuring access to rights leads to serious human rights concerns for all migrants, asylum-seekers and refugees.
3. The flows are mixed, and include those in need of international protection, as well as people being trafficked.
4. Governments are implementing border controls responses to these mixed flows, rather than safeguarding refugee protection. Such practices include: increased use of detention as a deterrent, lack of access to asylum procedures, visa requirements, immigration control in countries of origin, carrier sanctions, offshore processing, interdiction or interception policies, protection-insensitive readmission agreements, etc. There is a great need for entry processes that are sensitive to protection concerns as well as for legal migration mechanisms.
5. There is a political component in these policies: nourishing misperceptions, branding asylum seekers and irregular migrants as criminals and terrorists, politically motivated xenophobia and manipulation of these issues as a way to gain political power.

In the session on **Combating the use of detention as a deterrent – a case study from the Mediterranean**, we heard shocking accounts of the increase in the use of detention as a deterrent by many countries, and of the awful and inhumane conditions in many detention facilities around the Mediterranean. Some of the recommendations coming out of the discussions were:

1. The need for the EU to create managed migration systems instead of focusing exclusively on enforcement.

2. The importance of lobbying governments to ratify the Optional Protocol to the Torture Convention (OPCAT) as a mechanism to protect detainees by making spot checks on detention facilities, and to lobby to have refugee/migration law experts on the Optional Protocol sub-committee.
3. UNHCR should work to gain access to detention centres in North Africa and elsewhere, but equally important that NGOs work closely with UNHCR especially with regard to information sharing.
4. The need for humanitarian actors to develop ethical standards and apply them when they provide services in detention facilities.

The conclusions of the asylum-migration discussions were focused on:

1. The 1951 Convention cannot be used as an instrument to keep out migrants who are needed but not welcomed in the developed world.
2. We urgently need properly managed migration channels that can take the pressure of the institution of asylum.
3. We need to keep vigilant in upholding the rights of all displaced persons, whether migrants, asylum seekers or refugees. To that end, we would recommend that the migrant receiving countries ratify the Migrant Workers Convention and adopt a rights based approach for managing migration.
4. We also need to strengthen protection capacities of host countries in the developed world, as well as address the underlying root causes of the increased migratory movements. After all, most migrants would prefer to stay in their own countries if they have peace, security, and livelihood opportunities and are able to enjoy their fundamental human rights.

## 2) UN REFORM

The debate on UN reform in essence focused on the Cluster Approach to dealing with IDP situations. The issue of **the implementation of a new Cluster Approach in IDP situations** came up in the Africa and CASWANAME regional sessions. The discussions in the regional sessions included the following observations:

1. The Cluster Approach can be very different in national capitals from its application in the field, e.g. Pakistan;
2. Priority-setting was missing in clusters in Pakistan (the first pilot for this approach); and
3. Equality has been missing in partnerships in clusters (the partnership tends to be between UN agencies, and is not fully involving NGOs, especially not national/local NGOs).

Some of the key recommendations were:

1. NGOs should be at the forefront in improving the cluster concept.
2. Lead agencies must ensure all priorities and not only those of the individual agency, and they must be held accountable.
3. The need to watch the growing powers of the resident coordinators in humanitarian response.

**The session on the Cluster Approach looked at Uganda as an example.** The discussions touched upon a great number of issues but the key ones were:

1. The importance of UN/NGO partnership in the context of cluster implementation.
2. Lack of implementation of clusters other than the protection.
3. The status of the humanitarian reform in Uganda beyond clusters, and such as the need for a separate humanitarian coordinator in North Uganda.
4. The need to take into account differences between regions when planning return in Uganda.
5. The need to clarify the relationship between the Joint Monitoring Mechanism and the clusters.
6. The lack of involvement of NGOs and IDP representatives in coordination meetings.
7. The difficulty for NGOs to participate in the increased number of meetings.

The conclusions of the session were that a strong NGO/UN partnership is a prerequisite for the functioning and success of cluster implementation. It was likewise concluded that the protection cluster implementation in Northern Uganda appears to be on track after a slow start, but a number of important challenges remain to be addressed.

In the session on **Mainstreaming education within the humanitarian response**, the formation of an educational cluster was the primary focus. Another point that was raised in the discussion was the issue of cultural acceptability of education, e.g. the need to ensure that education provided in emergencies is in the language of the affected and should generally be adapted to the cultural norms of those affected. Another significant issue was the lack of programming for adolescents.

The conclusions of the session were the following:

1. Education is now widely accepted as an integral component of emergency response, including as a tremendously important protection tool for children and adolescents, but the potential of this response has not yet been fully realized in the field.
2. The creation of an education cluster was generally well accepted although questions remain as to how this will specifically function, reinforce existing coordination mechanisms, and fill gaps in policy and operations.
3. Education is under-funded in relative and in absolute terms in emergency response which has an immediate impact on affected populations and on ensuring links to recovery and development.

**Children's protection and the humanitarian reform** discussed child protection within the protection cluster. The session touched upon the following points:

1. UNHCR and UNICEF have been bolted together in the protection cluster arrangements – they need to operationalize child protection together with NGOs.
2. We are seeing a paradigm shift amongst some agencies on protection, particular UNICEF, towards becoming more operational.
3. The need to de-mystify the cluster approach – it is about doing things better through a strengthened collaboration between various UN agencies and NGOs.
4. Assessments (such as the Age, Gender, Diversity Mainstreaming tool, which UNHCR is now rolling out) are useful to determine the impact of displacement on children.

5. We need to consider national agencies in places where the UN has no access, such as in Somalia. Perhaps with the right resources and the right capacity-building Somalis could run their own clusters.
6. We are concerned about mainstreaming too much, which could dilute expertise and good programmes in child protection.

The session concluded the following:

1. The objective of the cluster approach is not coordination. The objective is better and more reliable humanitarian assistance. Coordination is the tool to achieve this.
2. We need to stay focused on the impact on children. This is not always easy for agencies when security situations are very difficult.
3. Assessments are useful for sharing lessons learned.
4. Participants agreed the discussions have to continue involving global, field and local levels.

### **3) DURABLE SOLUTIONS**

The issue of durable solutions was discussed in the regional sessions, as well as in the thematic session on **“Challenges of return: Rights and sustainable solutions.”** The Asia regional session touched a lot upon the protracted refugee situations in the region such as the Burmese in Thailand, Bhutanese in Nepal, Burmese Rohingas in Bangladesh, and the protracted urban refugee caseloads. The session stressed the importance of UNHCR, NGOs and states coming together to explore and jointly develop creative new ways to solve protracted refugee situations responding to changing political situations.

The thematic session on return focused on several contemporary challenges in the repatriation of refugees and return of IDPs. The discussion concentrated on the Bhutanese in Nepal as well as South Sudanese in Kakuma camp in Kenya. A variety of challenges were noted:

1. Protracted situations are, by nature, complex. Bilateral and regional political issues are particularly relevant and must be recognized; resolution of the situations will require concerted political action, often by friendly states. How do UNHCR and NGOs facilitate this without becoming politicised themselves?
2. General education and specialized human rights awareness may be higher in countries of asylum. How should UNHCR and NGOs respond to returnees who find sub-standard conditions and who know their rights?
3. How can access to resettlement be preserved within the context of a campaign of facilitated or spontaneous voluntary repatriation?
4. When should UNHCR and NGOs begin to facilitate voluntary repatriation? In the context of a ceasefire, it was noted that a ceasefire is not yet a peace agreement and not yet sustainable peace. At the same time, significant numbers of spontaneous returns may take place during ceasefires, most recently seen in the Lebanon.
5. What are UNHCR’s obligations to retain a physical and operational presence in areas of return?

The session also touched upon the fact that there can be a huge gap between the standard for voluntary repatriation and the actual situation on the ground, especially if we use a rights-based approach. For example, there is a need to ensure that conditions are satisfactory in countries of asylum before voluntariness of any expression of the will to repatriate can be confirmed. Indeed, often we are repatriating or returning people in an unsustainable manner. More focus should be on peace building, early recovery, and reconstruction of infrastructure and on assisting the returning populations to rebuild livelihood opportunities.

The points that came out from the session “**Integration: the forgotten solution**” were the following:

1. Comprehensive approaches to protracted situations are needed involving voluntary repatriation, resettlement and local integration. In any refugee situation, a combination of these solutions should be used, depending on local circumstances. Local integration is likely to be a viable solution in situations, where refugees have some affinity with the host community.
2. The notion of local integration has to be considered in multiple ways. In some cases full integration involving naturalization and citizenship might be possible, but in many situations approaches such as local settlement and self-reliance are more appropriate and more workable.
3. Local integration, local settlement and self-reliance cannot be divorced from the question of rights. Refugees who are denied freedom of movement or access to the labour market cannot be expected to become self-reliant or to integrate successfully.
4. Host country policies usually determine the extent to which local integration is possible. When a new refugee influx occurs, UNHCR must try to negotiate with the host government to ensure that an appropriate environment for local integration and self-reliance is created. At a later stage it may be impossible to persuade the host government to amend policies, although advocacy coalition-building and donor state involvement should be used to achieve that objective.
5. Local integration does not obstruct voluntary repatriation. Even integrated refugees retain an attachment to their homeland and may choose to go back when conditions allow.

In the session on “**the strategies for countries supportive of resettlement**” the following issues were raised:

1. The role of NGOs is indispensable to advocate for refugees, to develop the basis for resettlement programmes in view of national capacity, and to create public understanding that refugees are an asset not a liability, and finally as links to civil society and service-providers.
2. The NGO experience in resettlement countries regarding reception and reintegration / information / legal counselling / development of integration projects should be further enhanced and included in selection involvement, placement of resettled persons and management of expectations.
3. Priority for emerging resettlement countries should be to develop quality standards, namely improvement of family reunion procedures, and dossier resettlement for emergency submissions. In this context it is important to make sure that integration potential should not be a selection criterion.

4. Capacity-building of NGOs to be able to meet the increased needs. This would include cooperation between NGOs, such as twinning programmes, and UNHCR help training, support for fund-raising and encouraging NGO participation in strategic/regional meetings.
5. UNHCR should pursue the expansion of resettlement opportunities by simultaneously increasing first countries of asylum holding selection missions and by promoting the willingness of new countries to resettle refugees.

The issue of resettlement also came up in the discussion on how to implement the new UNHCR ExCom conclusions on women and girls at risk and statelessness. NGOs focused on the need to mainstream and improve procedures for dealing with women at risk cases, especially with a view to faster processing for them. The session on statelessness likewise looked at the need for identifying durable solutions for protracted statelessness situations, such as the possibility of exploring resettlement to help address them.

#### 4) EXCOM CONCLUSIONS

The aim of the sessions was to explore how NGOs can take a pro-active role in ensuring that these conclusions, which NGOs urge ExCom to adopt this week, are implemented. The NGOs need to take responsibility for making these conclusions operational, as well as using them as advocacy tools with governments and UNHCR.

The session on the **Prevention and reduction of statelessness and protection of stateless persons** discussed the problem of stateless persons. Conservative estimates suggest that as many as 11 million people around the world are stateless, a lot of them in protracted statelessness situations. The new conclusion focuses on the identification, prevention, and reduction of statelessness, as well as the protection of stateless persons.

The conclusions from the session were the following:

1. Key to resolving statelessness issues is collaboration between governments, CBOs NGOs, INGOs, UNHCR and other UN agencies, particularly in the domain of operationalizing the new ExCom conclusion ensuring programs to identify, prevent, and reduce statelessness in the field and to protect stateless persons, through initiatives such as birth registration campaigns. NGOs also have an important role to play in the domain of legal remedies and advocacy.
2. UNHCR will continue to advise states how to revise nationality laws to fill the legal gaps that permit or contribute to statelessness, and NGOs should advocate for change and pursue legal decisions through national courts, international tribunals and UN treaty bodies.

The session on the conclusion on women and girls at risk **“They don’t talk about rape!! Improving protection for refugee women and girls”** gave a grim account of the continuing rape, sexual abuse and exploitation of displaced women and girls. Now that this issue is firmly on the agenda, it was felt that **not** to take action to address it was both unethical and irresponsible. The key issues addressed in the session were the following:

1. There are a number of myths surrounding the gender-based violence, which need to be addressed. It is sometimes claimed that women will not talk about rape and sexual abuse, or that they lie about rape in order to receive resettlement, and there is a widely held belief that rape and domestic violence are acceptable forms of cultural practise. These myths must be dispelled through staff training and by programs which encourage better communication between service-providers and refugee women.
2. Refugee women and children are vulnerable to a large number of gender-related risks, which include the risk of trafficking, engagement in survival sex, and early and forced marriage. Suggested strategies to address these issues include the creation of safe spaces for women and girls, which offer a range of services and do not add to the potential stigma suffered by women who are survivors of rape and other forms of sexual violence.
3. It is essential to end impunity for perpetrators and the active involvement of refugee women and girls in the design and provision of services for women and girls at risk. Men and boys must also be involved in this response.
4. The discussion acknowledged the key role that access to income and livelihood can play in the protection of refugee women and recommends that women and girls are given access to income-generating activities and freedom of movement to pursue these activities.
5. The importance of community involvement was stressed and the need for closer and more effective partnerships between UNHCR, NGOs and refugee communities was mentioned by all presenters. UNHCR's Age, Gender and Diversity Mainstreaming methodology is a good tool for this.

The last session on the conclusions “**Collaboration in addressing gender issues**” discussed how UNHCR and NGOs can better ensure a gender-sensitive approach in our programming. The session discussed:

1. The need to commence the gender-sensitive programming from the start of an emergency and throughout the project cycle by deployment of gender-sensitive staff in emergency responses, training in gender-sensitive approaches, engaging in dialogue with the community and religious leaders on gender issues, and awareness raising among men of what is ill-treatment of women and children.
2. The need to involve more men in the work and take responsibility for achieving gender equality, to ensure that gender training comprise 50% men and 50% women, and ensuring that women allow a space for men in NGOs and UN agencies to take the lead in gender work.
3. The need to work collaboratively to address gender issues, e.g. wider networking among agencies.