Providing international protection

In 2005, UNHCR's main objectives with regard to protection were:

- Strengthening implementation of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Protecting refugees within broader migration movements;
- Sharing burdens and responsibilities more equitably and building local and regional capacities to protect and receive refugees;
- Addressing security-related concerns – especially those of refugee women and children – more effectively; and
- Redoubling the search for durable solutions.

During 2005, UNHCR worked towards these objectives – grounded within the *Agenda for Protection* – and embarked on several new initiatives. These achievements, as well as new challenges arising during the year, are detailed below.

1. Strengthening implementation of the 1951 Convention and its 1967 Protocol

The protection afforded by the 1951 Convention and its 1967 Protocol begins with effective access to territory of asylum, appropriate reception arrangements (including registration) and access to asylum procedures, all based within a proper legislative framework. The work of UNHCR throughout 2005 targeted each of these principles.

The 1951 Convention is undermined where people seeking international protection cannot gain access to territory of the country providing asylum. Interception on land and at sea, security checks and tightened border controls increase the difficulty of gaining legal access. This leads to increasing resort to smugglers and thus, exposure to trafficking of women and children. Throughout 2005, UNHCR continued to train border guards, police, airport and immigration officials all over the world on the unique asylum aspects of their responsibilities.

Once in a territory, asylum-seekers and refugees may have difficulties in obtaining identity documents and/or registering with local authorities. UNHCR's protection interventions in this sphere are realistic and practical including, for example: in Papua New Guinea and Ghana, refugee children born in exile were registered and received birth certificates with the cooperation of local authorities; in Malaysia, liaison with local police ensured the recognition of UNHCR documentation, reducing instances of arrest of asylum-seekers.

The jurisprudence of protection further improved during 2005 within several States, with refugee or complementary protection afforded to, for example, victims of domestic violence and women refusing to enter into forced marriages. UNHCR's *Guidelines on International Protection* were also increasingly cited by tribunals and high courts.

Strengthening implementation of the 1951 Convention and the 1967 Protocol also entails the promotion of their accession, signature and/or ratification. In August 2005, Afghanistan acceded to the 1951 Convention and the 1967 Protocol. Given the repeated upheaval suffered by the Afghan people during the past three decades, accession by the new Afghan State is a remarkable first-hand testimony to the power and validity of these international instruments.

Papua New Guinea: A 14-year-old Indonesian refugee shows off her new birth certificate in a refugee settlement in Kiunga.
UNHCR / F. Novak

The Convention Plus initiative

The *Agenda for Protection* recognizes that the 1951 Convention relating to the Status of Refugees and its 1967 Protocol do not address all the pressing issues pertaining to refugee protection in today's rapidly changing world. It encourages UNHCR, States and other partners to deepen reflection and identify actions aimed at buttressing implementation of the Convention and Protocol through improved burden- and responsibility-sharing arrangements, notably to support durable solutions for protracted refugee situations.

In follow-up to the *Agenda for Protection*, in 2004, UNHCR launched the Convention Plus initiative. Its aim was to improve refugee protection worldwide and facilitate the resolution of refugee problems through multilateral special agreements. The initiative took the form of a process of discussion and negotiation with States and other partners aimed at garnering multilateral commitments for: 1) resettling refugees; 2) targeting development assistance to underpin durable solutions; and 3) clarifying the roles and responsibilities of States in relation to secondary movements of asylum-seekers and refugees. Canada, Denmark, Japan, South Africa and Switzerland served as "facilitating States" for the three strands of the initiative.

Following the endorsement of a *Multilateral Framework of Understandings (MFU) on **Resettlement*** in 2004, activities in 2005 focused on concluding negotiations with respect to better addressing secondary movements and targeting development assistance for durable solutions, as well as exploring opportunities for applying the MFU on resettlement.

With respect to **secondary movements**, the survey *Movements of Somali refugees and asylum-seekers and State responses thereto* carried out by the Swiss Forum for Migration and Population Studies in Djibouti, Egypt, Ethiopia, Kenya, the Netherlands, Switzerland and Yemen, shed light on the reasons for the secondary movements of Somali refugees and asylum-seekers and proved the value of such group-specific surveys in ascertaining the underlying causes and in crafting practical responses. The information derived from the Somali survey also provided valuable inputs for the *Preparatory Project for a Comprehensive Plan of Action for Somali Refugees*, prepared by the Regional Bureau for Africa, as well as the "Strengthening Protection Capacities Project", a project spearheaded by the Department of International Protection.

Negotiations aimed at concluding a multilateral framework of understandings on addressing irregular secondary movements of refugees and asylum-seekers were suspended in July 2005. In November, South Africa and Switzerland, with the support of UNHCR, prepared a *Joint Statement by the Co-Chairs*, which was unanimously endorsed by the Core Group on Addressing Irregular Secondary Movements of Refugees and Asylum-Seekers in November 2005. The Joint Statement reflects the viewpoints of all members of the Core Group, highlighting the issues on which there was a convergence of views and those where further study and reflection would be needed. The Joint Statement can be found on the Convention Plus page of UNHCR's website, **www.unhcr.org/convention plus.**

From the outset of discussions on **targeting development assistance**, the Co-Chairs (Denmark and Japan) of this strand chose to pursue a practical approach, based on concrete initiatives to target development assistance in refugee and returnee situations to ensure that uprooted as well as host communities benefited from such assistance. After a number of consultations, a *Joint Statement by the Co-Chairs on Targeting of Development Assistance for Durable Solutions to Forced Displacement* was issued to inform further work and discussions in this area. The Joint Statement was endorsed in February 2006 and can be found on the Convention Plus page of UNHCR's website.

The impact of the Convention Plus initiative can be observed in a number of ways: it has encouraged UNHCR and the international community to put the resolution of protracted refugee situations higher on the international agenda. In so doing, it is encouraging the international community to adopt comprehensive approaches to durable solutions, which include making more strategic use of resettlement, using resettlement in the context of considering all durable solutions wherever possible, and underpinning such solutions with development assistance. The initiative has also engendered innovative methodologies for assessing gaps in protection, and for bridging those gaps. Finally, Convention Plus has highlighted the complexity of addressing irregular secondary movements, especially where they occur as part of mixed migration movements. It also provided a useful forum for elucidating the concerns and positions of States regarding the search for durable solutions for protracted refugee situations, and appropriate responses to irregular secondary movements of asylum-seekers and refugees. At the last meeting of the High Commissioner's Forum devoted to Convention Plus in November 2005, the High Commissioner announced that as from 2006 the initiative would be mainstreamed into UNHCR's operations.

Italy: Arrival of immigrants on the island of Lampedusa. The challenges of identifying those in need of protection within mixed flows cannot be underestimated, but neither can the risks of denying protection to those in need by imposing tighter border controls without asylum safeguards. *ANSA/ F. Lannino*

2. Protecting refugees within broader migration movements

Perilous land and sea crossings of migrants continued throughout the year and in a variety of locations across the world, including the Mediterranean region, the Gulf of Aden and East Asia. Tighter border control is itself not an answer, even when justified in the context of contemporary heightened security concerns. Instead, what is required is a more orderly system for international cooperation to respond to migration pressures together with a related but distinct regime for the protection of refugees and asylum-seekers.

Towards this goal of a comprehensive approach to migration and asylum issues, UNHCR is engaged at both the field as well as the central levels. In the field, UNHCR is actively developing practical new approaches in registration and refugee status determination (RSD) processes to appropriately respond to mixed flows. At the central level, UNHCR continued its high-profile contribution and participation within various migration-related consultations and bodies, both at the global and regional levels. These included the Geneva Migration Group, which brings together the heads of six agencies (ILO, IOM, UNCTAD, OHCHR, UNHCR, and UNODC), and the Global Commission on International Migration which presented a report to the Secretary-General in October 2005. Regionally, UNHCR continued its engagement with the "Bali Process" in Asia and the Pacific as well as Mercosur's "Forum on Migratory Issues" and the "Puebla Process" in the Americas.

The Athens Expert Meeting: Interception and Rescue-at-Sea in the Mediterranean — Cooperative Responses

In September 2005, UNHCR organized a regional conference of experts to discuss irregular maritime migration in the Mediterranean basin. Funded by the European Union, the Conference resulted in heightened understanding of regional as well as country-specific constraints regarding illegal arrivals by sea, stowaways, interception-at-sea and the duties of States, captains and shipping companies under maritime as well as humanitarian law.

Perhaps most practical in impact is the consensus to publish an information brochure regarding rescue-at-sea of asylum-seekers, addressed to sea captains. This brochure, which gives step-by-step guidelines, is the first such cooperative publication between UNHCR and the International Maritime Organization for more than two decades. The Athens Conference will be followed by a larger meeting in mid-2006.

3. Sharing burdens and responsibilities more equitably and building local and regional capacities to protect and receive refugees

Strengthening regional and national capacities to protect refugees is a complex goal. Its achievement requires long-term commitment together with partnerships, ranging from national authorities to NGOs to academic institutions. Regionally, UNHCR has promoted "North-South" twinning for sharing expertise in refugee status determination, reception and resettlement. In Central Asia and Eastern Europe, UNHCR worked with a variety of actors, including the European Commission, towards this goal of building national capacity. At the national level, as one example, UNHCR signed a partnership agreement with the Afghan Independent Human Rights Commission in February 2005. Under this agreement, UNHCR will provide financial and technical support to the NGO and facilitate the cross-sharing of protection incident reports and trends from areas of return. UNHCR provided a range of technical and practical protection assistance to countries of asylum to share burdens more equitably and to build response capacity through its refugee status determination project, resettlement deployments and the strengthening protection capacities project (see *Global programmes* section for further details).

UNHCR also worked within the UN system to strengthen its cooperation with sister agencies, such as WFP and ILO (see *Working with partners* section).

4. Addressing security-related concerns, especially those of refugee women and children, more effectively

Security issues – and appropriate responses thereto – remain strong concerns of UNHCR. Lack of security is a primary factor touching all stages of the displacement cycle, prompting the initial flight, preventing satisfactory protection while in displacement, and impeding return. In practice, lack of security in areas of origin is often the chief reason for a refugee to delay or to refuse repatriation.

Internally Displaced Persons

The Secretary-General's March 2005 report, *In larger freedom: towards development, security and human rights for all*, recognizes the threats and challenges that exist today and the need for security, development and human rights to be addressed together, through sustained global cooperation among States, in order to provide effective responses to forced displacement.

One goal of UNHCR's *Agenda for Protection* — sharing burdens and responsibilities more equitably — fits very much within this framework of analysis. Action that tackles the lack of security, lack of development and lack of respect for human rights is mutually reinforcing, helps prevent the need for flight and resolve conflicts, and enables durable solutions by creating conditions conducive to sustainable return.

Recognizing that no single UN agency had the mandate and resources to protect and assist the world's estimated 25 million internally displaced persons (IDPs), the Inter-Agency Standing Committee (IASC) developed a "collaborative approach" which called for agencies to pool resources and response capacity. In 2005, a Humanitarian Response Review commissioned by the UN's Emergency Relief Coordinator found, however, that critical gaps in humanitarian response remained. To ensure a more predictable and efficient response, IASC Principals agreed, in July 2005, that UNHCR would assume managerial responsibility and accountability for three of nine "clusters", namely protection, emergency shelter, and camp coordination and management. This "cluster approach" was formally endorsed by the IASC in December.

UNHCR's commitment to this cluster response of the UN Country Teams is limited to IDPs (and affected populations) when displacement is due to conflict rather than natural disaster. UNHCR will, nevertheless, continue to engage in other situations of internal displacement on an individual basis, to the extent authorized under relevant resolutions of the United Nations General Assembly, as it has since 1971. Before the cluster approach was agreed upon, UNHCR had exceptionally contributed substantial personnel, logistics and relief items to help protect and assist the IDPs and affected communities following the December 2004 tsunami. It has done the same for the 2005 South Asia earthquake.

During 2005, the **civilian character of asylum** remained under threat in many countries. UNHCR responded accordingly, in partnership with refugees, national governments and NGOs. In Chad, camps of Sudanese refugees were relocated further away from the border and local-level interventions by UNHCR staff helped to defuse tensions between refugees and host communities. In Rwanda and Thailand, UNHCR worked towards eliminating military recruitment of children from camps in border areas. In Sierra Leone, the Office devised a comprehensive "security package", drawing on experience from other operations. The security package works with local law enforcement agencies and refugees to reduce disputes within the camps while at the same time separating and removing armed elements.

UNHCR also strengthened its existing links with the UN Department of Peacekeeping Operations (DPKO), especially in countries such as Burundi and Liberia, where DPKO has a specific role in protecting refugees, IDPs and returnees. To better operationalize this link, UNHCR and DPKO began a staff exchange programme in April 2005.

For additional details on the prioritisation of the protection of women and children, see also *Global programmes*.

5. Redoubling the search for durable solutions

In 2005, UNHCR sought to better attain durable solutions for persons of concern, with particular focus on solutions within protracted situations. Protracted situations are more than durable solutions delayed — undesirable for a number of reasons, they can lead to rising frustration and anger that may create security risks to refugees and others. In 2005, at the 56th session of UNHCR's Executive Committee, the High Commissioner committed the Office to an annual review of protracted refugee situations. The resolution of any one protracted situation, however, often requires comprehensive multilateral action with the active promotion of each of the three durable solutions.

Voluntary repatriation: The year 2005 witnessed substantial returns to Afghanistan, Angola and Sierra Leone. However, the significant returns to South Sudan projected for the second half of 2005 did not occur for a variety of reasons, including uncertain security and the lack of field engagement of development actors. Looking forward, UNHCR began the revision and updating process of its *Handbook on Voluntary Repatriation*, last issued in 1996.

Local integration: At best, local integration leads to naturalization, a solution achieved, for example, in Kyrgyzstan, Turkmenistan and the United Republic of Tanzania for significant numbers of refugees during 2005. At the same time, UNHCR emphasized its programmes that assist self-reliance, beneficial for any of the three durable solutions but, in practice, with particular attention to improving conditions for eventual local integration. UNHCR also promoted the inclusion of refugees and returnees in development programmes, including through its Development Assistance for Refugees (DAR) initiative.

Resettlement: The *Agenda for Protection* challenges UNHCR to lead the expansion of resettlement opportunities but also the more targeted use of resettlement as a protection tool. UNHCR has been working with several resettlement countries to develop more efficient methods to resettle groups, often persons in protracted displacement. During 2005, the concept of strategic resettlement was actively used in Africa and Central Asia (see *Headquarters* and *Global programmes* chapters).