



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés



**“International Meeting on Refugee Protection, Statelessness and Mixed Migration Movements in the Americas:
Launch of the UNHCR Commemorations in the Americas”
(Brasilia, Brazil, 11 November 2010)**

Introductory remarks by Mr. Volker Türk
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Excelencias, Señores y Señoras,

En nombre del Alto Comisionado de la Naciones Unidas para los Refugiados, el Señor António Guterres, deseo agradecer al Gobierno de Brasil su iniciativa de organizar esta importante reunión. Quiero igualmente agradecer a Su Excelencia, el Señor Ministro de Justicia y antiguo Presidente de la Comisión Nacional para los Refugiados de Brazil, Luiz Paulo Teles Ferreira Barreto, por su generoso apoyo para este encuentro.

The Americas have an old and generous tradition of providing asylum and protection to those in need. The continent has welcomed and protected people from the region as well as from all corners of the globe for decades. Hand in hand with this tradition of hospitality is a history of good practices that have had global influence. These include the concept of diplomatic asylum, the incorporation of the right to asylum in both the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights, as well as the 1984 Cartagena Declaration on Refugees. At the policy level, the CIREFCA process and the 2004 Mexico Plan of Action to Strengthen the

International Protection of Refugees have provided innovative comprehensive approaches, including in relation to internally displaced persons.

Another area where the Americas have paved the way is in relation to the defence of human rights by national institutions for the promotion and protection of human rights. In the Americas these national institutions have become increasingly important protection partners for UNHCR. Memoranda of Understanding aimed at strengthening cooperation, including by promoting international refugee law, have, for instance, been signed with national institutions in countries such as Bolivia, Colombia, Costa Rica, El Salvador, Ecuador, Guatemala, Honduras and Mexico.

The successful completion of the enhanced registration process in Ecuador is another positive development that UNHCR has seen in its partnership with States. The registration, documentation and determination of refugee status for more than 27,000 persons has increased Ecuador's operational and national protection capacity. The registration process has provided status to an invisible population residing in the country, sometimes for years. Similar initiatives are being promoted in other countries.

Moreover, since November 2004, the Solidarity Resettlement component of the Mexico Plan of Action has played an important role in UNHCR's global resettlement programme. It is a concrete demonstration of regional solidarity and responsibility-sharing. The willingness of countries from the region to take the lead in responding to urgent resettlement needs of Palestinian refugees stranded on the border of Iraq was instrumental in encouraging other States to offer resettlement places for this population. I would like to mention here the

Brazilian 'Fast Track Mechanism', since it is playing a particularly important role in addressing emergency resettlement cases in the region. Argentina and Chile have also developed projects for the reception and integration of Women at Risk. UNHCR is aware that other Solidarity Resettlement countries are considering similar initiatives, which is very welcome.

Against this background, it is therefore fitting that it is in the Americas where the first regional meeting on the occasion of the anniversaries of the 1951 Refugee Convention and the 1961 Convention on the Reduction of Statelessness is taking place.

Today's global protection environment is complex. We are not only faced with intractable and protracted conflicts around the world. We are also confronted with new and different forms of violence perpetrated by non-State, even private actors, operating outside formal structures. As a result, it is difficult not only to comprehend the dynamics of such violence but also to respond to it. Accelerating urbanization and mixed migratory movements are other global phenomena that are linked to displacement. All of this needs to be set against diminishing protection space for humanitarian organizations in parts of the world where law and order are not established.

These global phenomena also resonate in the Americas. My visit to this region has brought this home to me in stark terms. I would be remiss in my responsibility as Director of International Protection if I were not to point out some of these challenges in the Americas.

Progress on legal frameworks, while exemplary, is at times not matched by the necessary will and capacity at different levels of governance to implement them. It seems to me that there is a disconnect in such situations between the discourse and the practice. Displacement also occurs in the Americas, often under circumstances not dissimilar from those in other parts of the world. Impunity reigns in areas where government presence is weak, including for victims of sexual violence and trafficking. Minority groups, in particular indigenous populations, those of African descent, or sexual minorities fall prey to severe forms of discrimination that often lead to displacement and a particular vulnerability to abuse.

We must make sure that the values, principles and strong legal traditions that exist on this continent are not hollow promises, but are anchored firmly in daily realities. This is why this gathering is so important. Based on the significant achievements that have been made in the Americas, I am confident that it will be possible to address the ongoing challenges that I have just mentioned. Let me walk you through some of them.

Urbanization

One area where the Americas has led the way is in confronting the phenomenon of urbanization and ruling out the warehousing of refugee and internally displaced populations in camps. Almost half of the world's 10.5 million refugees now reside in cities and towns, compared to one third who live in refugee camps. I have been impressed by the advances and good practices that exist on this continent in terms of the strong engagement of local authorities and civil society in protecting and caring for refugees. It is therefore

not surprising that it was the 2004 Mexico Plan of Action that developed the concept of ‘solidarity cities’. Quito’s ‘Casas de la Movilidad’, San José’s ‘Casa de los Derechos’ and similar initiatives in Colombia are examples that we hope will inspire other cities, not just on this continent but also elsewhere.

Gang-related violence

Related to urbanization is gang-related violence. Levels of violence by non-State actors have, for example, prompted over 20,000 Mexican nationals to seek asylum during 2009, mainly in the USA and Canada. Gang-related violence also continues to generate forced displacement in El Salvador and Guatemala, where some 10,000 individuals from each country requested asylum during 2009.

Earlier this year, UNHCR released a *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, to assist adjudicators with the assessment of such claims and to ensure a consistent interpretation of the refugee definition. Recently in Mexico, in a landmark case, two women were recognized as refugees for reason of their membership in a particular social group: “family of *mareros*” (members of the “*maras*”) and “victims of sexual and gender-based violence perpetrated by the *maras*”. Some cases have also been recognized as refugees in Costa Rica.

Mixed Migration

When it comes to mixed migration, the Regional Conference on Refugee Protection and International Migration, held in Costa Rica in November 2009,

helped to create a better understanding of the dynamics at play, including the need for proper protection safeguards in deportation proceedings and strong partnership with key actors, such as IOM, OAS, OHCHR, UNICEF and civil society organizations. We are heartened that the Brasilia Declaration emerging from this gathering recognizes the Mexico Plan Action as the most appropriate regional framework to incorporate activities to address mixed movements in the region.

A particular manifestation of the mixed migration issue is the use of asylum systems by migrants and the arrival of asylum-seekers and refugees from outside the continent – so-called ‘extra-continental’ or ‘extra-regional’ movers. The issue has also been recognized, among others, by the OAS and the Puebla Process. One way to address concerns regarding the integrity of the asylum process in light of such movements has been the setting up of a profiling and referral mechanism to discourage manifestly unfounded asylum applications, without prejudice to the individual’s protection needs or the principle of confidentiality.

Such a profiling and referral mechanism to ensure that arrivals are informed early and accurately about the options that may be available to them has, for instance, been piloted in Costa Rica, with the participation of UNHCR, IOM, State authorities and other stakeholders, such as the Ombudsman’s Office. It would ideally permit the quick identification of asylum-seekers, victims of trafficking, unaccompanied/separated children, smuggled persons, and irregular migrants in general, and persons who wish to return to their country of origin.

Another dimension of mixed migration is addressing human trafficking and smuggling. The OAS General Assembly last year adopted resolution AG/RES. 2511, which encouraged member States “to provide victims of trafficking in persons and others who cannot return to their countries of origin, in accordance with domestic legislation, some form of subsidiary protection, or international refugee protection for those meeting the requirements for refugee status under the United Nations Convention Relating to the Status of Refugees of 1951 and its Protocol of 1967”. In February 2010, for the first time Mexico recognized as a refugee a victim of trafficking (sexual and labour exploitation). Some victims of trafficking have also been granted refugee recognition in countries such as Argentina, Canada, Costa Rica, Ecuador, Peru and the United States of America. The United States, in particular, has emphasized anti-trafficking measures and enacted various legislative measures to enhance identification and protection of victims.

Internally Displaced Persons

Of course, we cannot talk about international protection in the Americas without mentioning the situation of internally displaced persons. IDPs account for over three million of the four million persons of concern to UNHCR in the region. Since 1997, UNHCR has assisted the Colombian Government to improve protection and seek durable solutions for IDPs. Colombia is to be commended for having one of the most advanced institutional and legal frameworks for IDP protection in the world. In particular, UNHCR welcomes efforts by the new government to ensure land restitution to IDPs and address the issue of reparations to victims.

Important challenges remain, however, as IDPs continue to be victims of violence in some parts of the country. This necessitates a comprehensive approach encompassing prevention of the causes of displacement and a durable solutions strategy. Colombia is not the only internal displacement situation in the Americas. UNHCR is also involved in protecting and assisting persons displaced or otherwise affected by the earthquake that leveled Port-au-Prince and inflicted unspeakable suffering in Haiti last January. UNHCR is supporting the UN High Commissioner for Human Rights and implementing Quick Impact Projects along the border with the Dominican Republic, as well as in remote areas outside Port-au-Prince.

Mention needs to be made of the increasingly important role that both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights are playing in the protection of internally displaced persons. Jurisprudence by the Inter-American Court, together with that of the Colombian Constitutional Court, is increasingly influential in shaping international standards for the protection of internally displaced persons. They have reiterated the right not to be forcibly displaced, the need to address the protection needs of internally displaced populations, that return movements should be carried out under conditions of safety and dignity and, if this is not the case, that other alternatives such as relocation should be explored. Furthermore, the importance of the UN Guiding Principles on Internal Displacement has been underscored by the OAS human rights organs. For its part, the Colombian Constitutional Court, while reaffirming that the Guiding Principles on Internal Displacement have been incorporated into the constitutional framework of Colombia, has also reiterated the need to adopt

differentiated protection responses for IDPs which take account of age, gender and diversity.

Statelessness

Statelessness will be an important theme for the commemorations next year. The Brazilian Government has actively supported our efforts to promote accession to the statelessness conventions and to address statelessness at the global level.

The countries of the Americas have long addressed the issue of statelessness by adopting national legal frameworks to prevent it. The region has a generous tradition of granting nationality on the basis of *jus soli* in addition to *jus sanguinis*; and the American Convention on Human Rights is the first regional human rights treaty to establish a safeguard against statelessness at birth (Article 20). Other aspects of nationality legislation in the region are also generally consistent with international standards. As a result, statelessness occurs relatively rarely.

Moreover, several Latin American States have now established or are in the process of establishing determination procedures to identify stateless persons and grant status to them under the 1954 Statelessness Convention (Mexico, Argentina and Costa Rica). Thus far there have been few cases of stateless individuals arriving in the region in need of protection, but we believe that these procedures are valuable to address an important gap. In North America, legislation has been introduced for the first time in the United States that would provide a pathway for legalization for certain stateless individuals living in the

country. The Americas are therefore the natural ally of UNHCR in our efforts at the global level to address the problem of statelessness.

Yet only 13 States in the region are parties to the 1954 Convention relating to the Status of Stateless Persons and only six are parties to the 1961 Convention on the Reduction of Statelessness. The importance of prevention and reduction of statelessness and of the protection of stateless people through the ratification of the international instruments was recently acknowledged and underscored by the OAS General Assembly resolution of 8 June 2010.

Accession to these instruments in the case of the Americas is consistent with national legal frameworks as well as regional human rights treaties. Accession not only makes a difference for the State in question, it also reinforces the global standards set out in both conventions and bolsters UNHCR's efforts to address statelessness in other regions. In anticipation of the 50th anniversary of the 1961 Convention on the Reduction of Statelessness, UNHCR has launched the *Statelessness Conventions Campaign*, for which the High Commissioner has made a personal appeal to States to accede to the two statelessness conventions. Our Office stands ready to support Governments wishing to become parties to these conventions and highly appreciates the efforts currently being undertaken by some Latin American States to become parties to these Conventions in the near future.

Conclusion

In conclusion, it is clear that we must take advantage of the commemorations to address protection gaps in the region and elsewhere. This meeting is only the beginning of a process that will culminate in the ministerial-level meeting in December of next year. We look forward to hearing a strong voice from the Americas in forward-looking pledges during the ministerial event on 7-8 December 2011 in Geneva.