

MANDATE OF THE HIGH COMMISSIONER FOR REFUGEES AND HIS OFFICE

EXECUTIVE SUMMARY

The United Nations High Commissioner for Refugees and his Office (UNHCR) form a multilateral, intergovernmental institution, established by the United Nations General Assembly (GA) in the wake of the Second World War on 3 December 1949.

UNHCR is primarily mandated to provide international protection and humanitarian assistance,¹ and to seek permanent solutions for persons within its core mandate responsibilities. UNHCR's original core mandate covered only refugees, that is, all persons outside their country of origin for reasons of feared persecution, conflict, generalized violence, or other circumstances that have seriously disturbed public order and who, as a result, require international protection. However, over time UNHCR's mandate has been expanded to cover returnees² and stateless persons.³ Although UNHCR does not have a general mandate for internally displaced people, UNHCR may be involved in certain circumstances to enhance protection and provide humanitarian assistance.

The effective exercise of UNHCR's mandate both presupposes, and is underpinned by, the commitment from Governments to cooperate and acknowledge UNHCR's role in the “*effective coordination of measures taken to deal with this problem [the refugee problem]*”. In delivering these functions, UNHCR has a history of over 60 years of collaborating with Governments and developing partnerships with other international agencies and non-governmental organizations.

Given the particular character of refugees as people who lack the protection of their own countries, UNHCR was established as the legal entity to intercede on their behalf, as best illustrated by its supervisory responsibilities in respect of international refugee instruments. UNHCR's role in relation to States' compliance with their international obligations towards refugees, asylum-seekers

¹ See the *1950 Statute of the Office of the United Nations High Commissioner for Refugees*, paras. 8(c) & (b), 9 and 10.

² Returnees are former refugees who have returned to their country of origin spontaneously or in an organized fashion but are yet to be fully integrated, including those returning as part of the operationalisation of the cessation clauses in the 1951 Convention and regional equivalents. See Art. 1C(5) and (6), 1951 Convention; Art. 1(4), OAU Convention.

³ A stateless person is someone who is not considered a national by any State under the operation of its law (article 1 of the 1954 Convention relating to the Status of Stateless Persons). In accordance with GA resolutions 3274 XXIX and 31/36, the Office of the High Commissioner has been designated, pursuant to Articles 11 and 20 of the 1961 Convention on the Reduction of Statelessness, as the body to which a person claiming the benefits of this Convention may apply for the examination of his or her claim and for assistance in presenting it to the appropriate authorities. See UN doc. A/AC.96/830, 7 September 1994, paras. 8, 10-11, 31-32.

and stateless persons, is an integral part of the core mandate and directly linked to ensuring a principled application of the international protection regime. The rationale behind this role is that strengthened oversight by an international organization is indispensable for a predictable framework of international cooperation and to ensure the proper functioning of such a system.

UNHCR's supervisory responsibility is set out explicitly in its Statute, as well as in Article 35 of the 1951 Refugee Convention and Article II of the 1967 Protocol, and requires all Contracting States to cooperate with UNHCR in the exercise of its responsibilities. UNHCR is therefore competent *qua* its Statute and international treaty law to oversee all instruments relevant to refugee protection. In essence, Contracting States undertake to cooperate with UNHCR in the exercise of its functions, and in particular with regard to the application of the provisions of these instruments. They also agree to "*provid[e] the High Commissioner with information concerning the number and condition of refugees, and laws and regulations concerning them.*"

The exercise of UNHCR's supervisory role is unique in many respects. In fact, UNHCR has in some country operations been directly involved in national status determination procedures and national decision-making. UNHCR has also worked closely with the judiciary by providing *amicus curiae* briefs on leading cases to set out its legal position. A direct emanation of UNHCR's responsibility is, *inter alia*, that UNHCR be given prompt and unhindered access to asylum-seekers and refugees, wherever they are,⁴ and be allowed to oversee their well-being.⁵

In terms of functions, UNHCR is obliged to carry out various activities in relation to assistance. Other standard functions have included relief distribution, emergency preparedness, special humanitarian activities, and broader development work, as well as registration, determination of status and issuance of documentation for persons falling under the mandate. In addition, the institution of "good offices" remains a useful tool for situations outside mandated activities. While UNHCR's mandate does not extend to migrants generally, asylum-seekers and refugees are often part of mixed migratory movements, thus necessitating a response on the part of UNHCR.⁶

⁴ See also ExCom Concls. No. 22 (III) (1981); 33 (XXXV) (1984) (h); 72 (XLIV) (1993) (b); 73 (XLV) (1993) (b)(iii); 77 (XLVI) (1995) (q); 79 (XLVII) (1996) (p); see further GA res. 50/152, 21 December 1995, para 13; res. 52/103, 12 December 1997, para. 7; res. 53/125, 9 December 1998, para. 9; res. 54/146, 17 December 1999, para. 10; res. 55/74, 4 December 2000, para. 11.

⁵ See ExCom Concls. No. 22 (III) (1981); 48 (XXXVIII) (1987) (4) (d); see further GA res. 35/135, 11 December 1980, para. 1; res. 49/169, 23 December 1994, para. 9.

⁶ See, for example, UNHCR *Agenda for Protection*, A/AC.96/965/Add.1, Goal 2: Protecting refugees within broader migration movements, 26 June 2002; UNHCR's *10-Point Plan on Refugee Protection and Mixed Migration*, 1 January 2007.