

# Providing international protection

In a climate of increased security concerns, disrespect for international law in the conduct of warfare and mounting xenophobia and intolerance in general across the globe, it is all the more important that the protection of refugees, internally displaced people and others of concern to UNHCR remain a top priority throughout all forms of humanitarian action.

As numbers fluctuate, situations become complex and humanitarian resource mobilization remains challenging, UNHCR and its partners struggle to uphold the institution of asylum and provide the quality of protection that is due to those of concern to the Office. That is why so much attention is being placed today on enabling the organization to focus more on results and become more flexible in its responses.

Thus, UNHCR's first global strategic objective is to ensure that international standards of protection are met for all refugees and others of concern to UNHCR taking into account their age, gender or personal background, with priority given to improving protection against *refoulement* and reducing incidents of violence, in particular of sexual and gender-based violence; ensuring civil, social and economic rights and improving the coverage and quality of registration and documentation.

The second global strategic objective aims at the development and maintenance of an international protection regime, by advocating and providing support to governments in the establishment of national protection regimes in accordance with international standards. This includes preserving the asylum space through the effective implementation of the 1951 Convention and its 1967 Protocol and related international standards; strengthening the capacity of host countries to undertake refugee status determination, provide asylum and offer durable solutions; protecting refugees within broader migration movements; and addressing situations of statelessness more effectively. The search for durable solutions, with a focus on self-reliance and integration, and the use of resettlement as a strategic protection tool also feature high on the organization's agenda, as does the protection of and assistance to internally displaced persons (IDPs). These issues are discussed in subsequent chapters.

To achieve its objectives, in 2007 UNHCR will prioritize three types of response, which are rooted in the *Agenda for Protection*:

- supporting governments in their implementation of a national protection regime in accordance with international standards;
- responding to the challenge of protecting refugees in broader migration movements; and
- ensuring that international standards of protection are met for all persons of concern to UNHCR taking into account their age, gender or personal background.

The Office will reorient its protection services and methods of work in order to maximize the impact of these responses. Efforts to build the capacity of authorities, host communities, refugees and displaced people will help advance an environment that is both more secure and conducive to achieving solutions. Using a rights- and community-based approach to planning, implementation and monitoring, the Office will strengthen the impact of protection interventions and ensure that there are no gaps in the protection of groups frequently discriminated against. Moreover, such an approach is designed to reduce incidents of violence, in particular by improving prevention and response to sexual and gender-based violence.

## Supporting governments in their implementation of a national protection regime in accordance with international standards

Working with States to improve the protection situation of refugees and others of concern is central to UNHCR's mandate. UNHCR's capacity-building efforts engage authorities on all aspects of state competence to receive and protect refugees and others of concern, from reception of those in need of international protection and adjudication of refugee status, to finding solutions to their situation.

UNHCR's capacity-building activities are diverse. In 2007, the Office will reinforce its efforts to provide such services in a systematic and comprehensive manner which is consistent with the rights-based approach, and will capacitate not only governments but also other actors including, most importantly, refugees, IDPs, and their host communities. For example, through its Strengthening Protection Capacity Project, UNHCR has developed a methodology that starts with an assessment of the

situation and the gaps in the protection of refugees and others of concern. This assessment is based on inputs from the State concerned, partners and refugees or IDPs, and builds consensus around the interventions needed to remedy the gaps identified. In partnership with all those involved, it develops a comprehensive plan, with specific project interventions, to strengthen protection capacity in the immediate and longer term.

In 2007, the Strengthening Protection Capacity Project will continue with this work, initiated over the past two years in Africa, and expand its activities on that continent as well as in the southern Caucasus and Asia.

UNHCR's work to strengthen protection includes efforts to build and/or reinforce legal and administrative capacities including through training initiatives and working with governments to improve registration, documentation and refugee status determination procedures. In addition, capacity building has also entailed providing input on legislation – in 2006, UNHCR did so in 19 countries around the world.

UNHCR also works with governments and partners to address serious security concerns faced by refugees including *refoulement*, arbitrary detention, and sexual and gender-based violence. This work includes workshops and training in conflict resolution, programmes for the prevention and response of sexual and

gender-based violence, youth entertainment and education centres, and support and training of community paralegals.

With protection encompassing all actions aimed at ensuring the equal access to and enjoyment of human rights in accordance with the relevant bodies of law, UNHCR's work also includes interventions to address the serious food, health and education problems faced by refugees and others of concern. These include complementary food assistance programmes; improved capacity for health services; access to primary and secondary school; skills development for school dropouts and long-term unemployed youth; and technical and vocational training programmes.

UNHCR will continue to carry out its multi-faceted protection interventions and to develop operational tools for addressing complex issues for use by States, NGO partners and field operations, such as a handbook on voluntary repatriation; safeguards in interception on high seas; a handbook on the protection of women and girls, guidelines on family unity, as well as those on the age- and gender-sensitive interpretation of the refugee criteria. Further, the Office will continue training government counterparts and making available accurate protection information relevant to adjudicators and asylum policy makers. Increasingly, UNHCR is called upon to give direct technical support and on-the-job training to



Ecuador. Protection also involves making refugees aware of their rights. UNHCR / M. Verney



One of the first steps to ensuring protection is registration. In Pakistan, UNHCR provides birth certificates to all Afghan newborns. UNHCR / J. Redden

States endeavouring to accept responsibility for refugee status adjudication, Turkey being a recent example.

Another issue where UNHCR has made much progress and will continue to be active in 2007 is registration. Registration and provision of documentation are fundamental components of international protection and serve as practical tools in preventing *refoulement*, arbitrary arrest and detention. Increasing and improving the level and quality of registration and documentation of persons of concern is therefore another area in which the Office capacitates States to meet their obligations. By identifying those of concern to UNHCR, registration and documentation help them get access to the services and assistance they need and are indeed crucial for identifying those who are at risk and those who have special needs. Accurately registering children helps ensure family unity, and, in the case of separated children, reunite families. Registration also helps to ensure that decisions about durable solutions are voluntary by recording an individual's agreement to a particular solution.

In addition, UNHCR continues to be concerned about the situation of stateless persons throughout the world. Although precise data on statelessness is not available, it is estimated that 11 million people are not recognized as nationals of any country. During 2007, UNHCR will further strengthen cooperation with States, other UN agencies and civil society to fulfil its mandate to address statelessness, taking into account a recent conclusion adopted by the Executive Committee (ExCom) on

identification, prevention and reduction of statelessness and protection of stateless persons. The conclusion notes that statelessness may arise as a result of a variety of circumstances such as denial of a woman's ability to pass on nationality to her children; automatic loss of citizenship from prolonged residence abroad; loss of nationality due to a person's marriage to a foreigner or due to a change in nationality of a spouse during marriage; and deprivation of nationality resulting from discriminatory practices.

One of the biggest challenges preventing an adequate response is the absence of detailed information on stateless populations in many areas of the world. Therefore, the Office will continue efforts to identify stateless persons and populations in order that measures be taken to protect their rights and resolve their nationality status. UNHCR will strengthen its operational assistance to States on the prevention of statelessness through, for example, effective birth registration. Pursuant to Global Strategic Objective 2.3, the Office will seek to build on recent successes and redouble efforts to resolve situations of protracted statelessness by assisting States to undertake nationality campaigns and facilitate integration of stateless populations. For the particular situation of those who have no prospect of obtaining nationality, UNHCR will aim at the establishment of a specific protection regime which guarantees their rights.

As internationally agreed rules are essential for addressing statelessness, the Office will continue to encourage States to accede to the 1954 Convention relating to the



Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. As at 1 October 2006, 60 States had acceded to the former and 32 to the latter instrument. As in the past, the Office will also dedicate significant efforts to providing technical advice to States when adopting or redrafting legislation relating to nationality and statelessness.

## Protecting refugees in broader migration movements

Refugees are “migrants” in the broadest sense of the term. Yet, they are a distinct category of people. As specified in the 1951 Convention, they are unable or unwilling to return to their country of nationality because of a well-founded fear of persecution. What makes refugees different from other categories of migrants is their need for international protection and their right to seek and enjoy asylum in another State.

Patterns of human mobility have become increasingly complex in recent years, and refugee and migratory movements now intersect in a number of different ways. People, whether refugees or other migrants, moving from one country to another do so increasingly without the requisite documentation, use the same routes and vehicles and employ the same smugglers. In addition, faced with barriers to legal migration, many migrants have put forward fraudulent asylum claims, as they see no other way to enter more prosperous countries. While these factors have no bearing on the fundamental difference between refugees and other migrants, they have contributed to a confusion between the two. Exploited by unscrupulous politicians and journalists pursuing a wider anti-foreigner agenda, this confusion has led to the perception that asylum-seekers and refugees abuse the hospitality of their hosts, and that there are too many of them, with more on the way.

Irregular migration is, indeed, on the rise. For example, in August 2006 alone, Spain’s Canary Islands registered some 6,000 irregular arrivals, which boosted the total, at that point, to 20,000 people since the beginning of the year. In 2005, irregular arrivals had numbered 4,700. A high number of those arriving are unaccompanied and separated boys who require appropriate attention and support. In Italy, the number of arrivals by sea at the time of writing was over 14,600, some 13,000 of whom reached the tiny island of Lampedusa. And these figures barely reflect the scale of the global problem, which includes large numbers of people arriving as part of mixed flows to Yemen, the Libyan Arab Jamahiriya, or those passing through Southern Africa, the Indian sub-continent, South-East Asia or the Balkans.

In today’s migratory movements, refugees and asylum-seekers account in fact for a relatively small

portion of the global movement of people, and the number of those seeking asylum in the most industrialized countries has been on the decrease for a number of years. However, concerns about national security, efforts to stem abuse of asylum systems and growing inter-state cooperation to curb irregular migration have resulted in more restrictive policies that make it difficult for refugees to have access to international protection.

A principal challenge for the international community is to develop responses which combine a coherent approach to the management of migration with the effective protection of refugees, two functions which UNHCR considers to be distinct but complementary and mutually reinforcing. States do have a legitimate right to control and secure their borders, but this does not relieve them from their obligation to provide international protection to those whose life and liberty would be at risk if they returned to their country. Measures to curb irregular migration should not prevent refugees from accessing and enjoying the asylum to which they are entitled.

UNHCR does not consider itself to be a migration organization, nor does it consider migration management one of its functions. Nonetheless, the Office is concerned that the phenomenon of irregular migration is impacting negatively on the possibilities for those in need of international protection to have access to and enjoy asylum.

Thus, UNHCR aims, first of all, to preserve and rebuild asylum space through activities which ensure that border management is sensitive to protection needs and is able to differentiate appropriately between the different groups of people arriving in a country. Asylum must



Considerable numbers of asylum-seekers from Somalia continue to make the perilous journey into Yemen in unseaworthy boats provided by unscrupulous human traffickers. UNHCR / K. McKinsey

inevitably be part of any coherent and comprehensive response to mixed migration. Secondly, refugees have an enormous potential to contribute to the development of their host countries, as they bring new skills which could fill labour gaps, and can certainly broaden cultural perspectives to help bridge cultural divides. Having States recognize this, and correcting the prevalent misperceptions about who are refugees, why they are arriving and what they can potentially give as opposed to take, are high priorities in UNHCR's agenda.

On the issue of migration two important developments occurred in this regard in late 2006. A High-Level Dialogue on Migration and Development took place in New York in September 2006. This dialogue was geared towards focussing attention on the need to improve international cooperation for the betterment of migration management, and recognized that migration could be a positive force for development in both the countries of origin and the countries of destination, provided that it was supported by the right set of policies. In October 2006, UNHCR welcomed the agreement by European Union Justice and Home Affairs Ministers that measures to reinforce the Union's southern maritime borders and to counter migration on high seas must be "without prejudice to the principles laid down in the international legal framework on the law of the sea and the protection of refugees".

Still, much more needs to be done, and the Office has taken action on a number of fronts. At the inter-agency level, UNHCR is a founding member, together with IOM, of the Global Migration Group, which brings together those international agencies whose mandates are, in one way or another, directly relevant to one or several aspects of the migration phenomenon. The Group serves as an important entity for information exchange and has the ambitious aim to coordinate common positions on migration situations.

At the operational level, UNHCR has recently issued a ten-point action plan which proposes activities to be built into more broadly-based migration management systems in order to address the asylum component of mixed movements in a manner that takes into account the protection of those in need and opens up opportunities for solutions which address appropriately and differently the needs and situation of the various respective groups. The plan proposes collaboration among key partners; data collection and analysis; protection-sensitive entry management (in-country, at borders and at sea); reception arrangements; mechanisms for profiling and referral of people in need of international protection; differentiated processes and procedures; solutions for refugees; addressing secondary movements; return arrangements and alternative migration options for non-refugees; and an information strategy in countries of origin, transit and arrival.

## Ensuring that international standards of protection are met for all persons of concern to UNHCR taking into account their age, gender or personal background

The majority of problems faced by refugees, in particular women and girls, are to do with the wider protection environment, gender inequalities and the economic reality of their communities. Prevention and solutions to combat survival sex and exploitation thus require not only a close review of how assistance is provided but also mechanisms to build the capacities of refugees and others as agents of protection to complement the work of UNHCR. In order to strengthen the delivery of international protection in operations, particularly for women, children, older people, and other groups, UNHCR has adopted a strategy to mainstream age, gender and diversity considerations in all its programmes.

Mainstreaming age, gender and diversity means that the meaningful participation of all those of concern to UNHCR, of all ages and backgrounds, is integral to the design, implementation, monitoring and evaluation of all policies and operations so that these impact equitably on them. An elaboration of protection problems faced by older refugees and refugees with disabilities can be found in the *Policy priorities* section. The overall goals are gender equality and the enjoyment of the rights of all refugees of all ages and backgrounds. Thus, UNHCR aims to:

- Implement a system-wide multifunctional team approach to mainstream age, gender and diversity using participatory assessment to facilitate the identification of protection risks and gaps with partners, staff and persons of concern to UNHCR.
- Reinforce a rights- and community-based approach in operations which builds on the skills and capacities of refugees and others of concern and promotes their active participation in the protection of their rights.
- In partnership with UN agencies and government and non-government partners, build institutional capacity to undertake age, gender and diversity analysis and promote targeted action to address protection gaps faced by discriminated groups in all areas of work.
- Provide an accountability framework for UNHCR's responsibilities to promote gender equality, the rights of women, children, older people, those with disabilities and other discriminated groups which are rooted in its mandate, international legal instruments and Executive Committee conclusions.

The community-based approach is a way of working based on an inclusive partnership with communities of

refugees and others of concern. It recognizes their resilience, capacities and resources, and mobilizes and builds on these to deliver protection and assistance through community support mechanisms and goals. This approach reinforces the dignity and self-esteem of individuals of concern and seeks to empower and support the different members of the community to exercise their human rights.

Different UNHCR internal processes, such as planning and programming, now incorporate requirements which support the consolidation of the mainstreaming strategy through the regular undertaking of and reporting on participatory assessments. For 2007, participatory assessment is being introduced into learning programmes and emergency operations, drawing on the 2006 experiences in Timor-Leste and Lebanon.

In 2007, the field testing of the accountability framework will be completed with some 20 representatives and senior managers and it will be evaluated in the first quarter with a view to expanding it globally. By the first

half of 2007, UNHCR will have undertaken a consultation process with all internal and external stakeholders to obtain feedback on the implementation of the age, gender and diversity mainstreaming strategy to date and will have elaborated a three-year strategic plan to consolidate the gains made and adjust the strategy.

The three-year plan will address some priority issues in terms of delivering protection which were highlighted through the analysis undertaken with UNHCR and partner teams in the Field and the people of concern. In addition to the link between protection, food security and livelihoods elaborated upon above, one particular area under consideration is protection systems.

Participatory assessments in more than 80 offices across the globe have highlighted that some offices have established standard operating procedures and other good practices on how to mainstream age, gender and diversity. The focus in 2007 will be to build on such field practice and develop a practical model to support offices to design age, gender and diversity-sensitive

## Participatory assessments

UNHCR firmly believes that the specific needs of all refugees and others of concern should be taken into account when designing programmes to serve, assist, and protect them. Participation is particularly important for those who are often excluded, such as women, children, adolescents and older people. The Office regards participatory assessments as a crucial part of its protection programme.

Participatory assessment is a process of building partnerships with refugees and others of concern, of all ages and backgrounds, through systematic, structured dialogue on issues that they identify as important. In other words, they describe their situation from their own perspectives, articulate their needs and mobilize their own capacities, skills, and efforts in solving problems within the community, thus taking control of their immediate future.

Participatory assessments have now been undertaken in over 80 countries in camp, urban and internal displacement contexts. UNHCR teams have been able to support community-initiated projects by changing the way of doing things and engaging with new actors.

For example, in Benin and Burkina Faso, during participatory assessment discussions, both male and female refugees and asylum-seekers asked for the creation of community centres so they could form their own support groups to help each other and discuss personal problems. UNHCR's Regional Office in Benin was thus not only able to establish the centre, but also to provide training to refugee women associations to create support groups for the community. It also engaged a psychiatrist who provided follow-up for seriously traumatized refugees.

In Thailand, refugees often held misconceptions about their status which undermined their ability to become self-sufficient and adversely affected their relationship with UNHCR. As a solution, refugees proposed that access to and communication with the Office be improved to prevent misinformation on important issues such as status determination and resettlement. UNHCR now has a designated a roster of protection, community services and programme officers to run counselling sessions for urban refugees and asylum-seekers.

Finally, in Angola's Sungui refugee settlement, both female and male members of youth groups wanted to volunteer to do sports training for other young refugees. UNHCR helped link them with a UNDP appeal for a volunteer project. The youth community then presented a small project on sport activities, which was approved by UNDP.

protection systems together with the people of concern and partners. These will facilitate the speedy identification of protection risks and gaps, create mechanisms for responding and monitoring people facing heightened risks because of their particular circumstances or condition and bring attention to the need for solutions to be developed with individuals from the outset. Such a system requires bringing together the multiple benefits of UNHCR activities and tools such as registration; standards and indicators; protection gaps analysis; participatory assessment; the guidelines on best interests determination and on prevention and response to sexual and gender-based violence; the manual on the community-based approach in operations, as well as manuals on self-reliance and local integration, women-at-risk assessment and resettlement, mapping out for offices how they can be used together and the kind of results they should generate.

## Sexual and gender-based violence

UNHCR's mandate includes supporting governments to provide protection to forcibly displaced people to enable them to live in safety and security. Therefore, addressing the absence of assistance and livelihood options and the consequences thereof in terms of exploitation and abuse is an integral part of delivering protection.

Sexual and gender-based violence is the most common violent crime in the refugee context. It is often associated with, and thus addressed by, adjustments in refugee camp design and programmes to allow access to firewood, and, in the case of harmful traditional practices, through community mobilization. However, this does not address the issue of "survival sex", which is prevalent in many refugee situations, both urban and rural. Survival sex is understood to refer to a situation whereby a person engages in sex in order to obtain money or material assistance, for example for education, or to meet her/his basic needs and/or those of other family members due to the lack of alternative options available. Abusive relationships have been reported with members of the local population, fellow refugees and in some cases, humanitarian staff. Tackling the issue is fraught with difficulties, not least because it is too often a taboo subject, and such abuse often goes unreported. As far as humanitarian and peacekeeping staff are concerned, the UN and its partners have issued very strict guidelines and codes of conduct and introduced zero-tolerance policies, as well as measures to prevent, monitor and severely penalize any such incident.

The relationship between protection risks, material assistance and the delivery of services is perhaps most evident in UNHCR's work to protect women and girls. A holistic response to address the protection risks related to the socio-economic and legal environment in which women and girls live and the individual protection risk

factors they face is required to ensure that sexual and gender based violence, which includes survival sex, is addressed in a more meaningful manner.

The analysis undertaken with women and girls who are directly affected, but also with men and boys in the community, persistently links the problem of survival sex to the following causes:

- Inadequate food supplies lead to the community "tolerating" survival sex in order to increase meagre incomes and provide food and basic needs.
- Unavailability of sanitary materials places women and girls in embarrassing situations and deprives them of their dignity. They are forced to find desperate solutions to provide for this most basic need.
- Lack of distribution of clothing and insufficient non-food items such as blankets, compounded by no access to income, work permits and restrictions on freedom of movement.
- Lack of basic education opportunities – for girls in particular – makes them easy prey for older men who apparently offer a means to resolve the problem.
- Many girls have reported numerous protection risks in an education environment which is hostile and violent, rather than safe and secure and, therefore, increases the risk of survival sex and exploitation.

Survival sex and sexual exploitation lead to a number of subsequent protection problems from which few manage to recover without a considerable amount of support and assistance. These problems include rejection by the family and community; unwanted pregnancies, particularly among teenagers; early termination of school; health, shelter and economic problems common to child-headed and single-headed households. Exposure to HIV/AIDS and other sexually transmitted diseases is seriously increased and there are also severe health risks to girls due to early pregnancy, obstructed labour and maternal death. Those engaging in survival sex are also more easily exposed to human trafficking.

The challenge of reducing exposure of people of concern to survival sex requires greater emphasis on the role of the community from a rights- and community-based perspective, a shift in focus in operations from the delivery of assistance to livelihoods and solutions, as well as improved protection risk analysis and strengthened protection systems. A number of practical steps have been taken by UNHCR to strengthen the protection of displaced women, promote gender equality, and protect the rights of children, such as reinforcing the capacity of the local judiciary, arranging for mobile courts, bringing in female security and police officers, bringing camp justice systems into compliance with human rights standards and supporting women as leaders of refugee committees. These activities are complemented by the development of manuals on self-reliance using a community-based approach, a women-at-risk assessment tool, targeted action to support children's participation,





A safe education environment is crucial to prevent sexual and gender-based violence. UNHCR / N. Ng

an analysis of safe school environments, a review of child protection systems and the implementation of the age, gender and diversity mainstreaming strategy, to mention a few. Men and boys are also survivors of sexual and gender based violence and their role in addressing this problem, as well as gender inequalities, is gradually being recognized by some field operations which have taken the first steps towards working with men on the issues. The most recent developments have been the 2006 Executive Committee's *Conclusion on Women and Girls at Risk*, the new *Handbook on the Protection of Women and Girls* and the provision of guidance on drafting standard operating procedures on the prevention and response to sexual and gender-based violence. All field operations are to have standard operating procedures in place by December 2007. UNHCR will undertake an independent global review of UNHCR's progress in the prevention of and response to sexual and gender-based violence to enable comparative analysis by regions, the sharing of challenges, good practices and define areas for improvement.

Details on UNHCR's plans for the protection of women, children and older refugees can be found in the *Policy priorities* chapter.

Strengthening the capacity of States, and relying on and bolstering the resources of both displaced and affected host communities, are imperatives for sustainable and quality protection. This approach is all the more appropriate in an era of limited resources coinciding with an increase in the number of persons of concern to UNHCR. The changes in approach to the provision of protection elaborated above will take time to consolidate, but promise to make the organization more flexible and responsive both to those it serves and to its partners. From designing protection systems within broader migration movements to eliminating the causes of survival sex, the challenges are complex and diverse. Only by forging strong partnerships, providing States with the tools to offer protection, and empowering refugees and others of concern to be part of the solutions, will UNHCR achieve the results it is aiming for.