

# Providing international protection

UNHCR's *raison d'être* is to uphold the fundamental rights of refugees and others of concern and, wherever necessary, to ensure that those rights are protected and respected. However, the organization faces major hurdles in this task, working as it does in insecure environments that pose challenges in terms of humanitarian access and the provision of assistance. UNHCR's global strategic objectives provide a framework to help it respond to these challenges.

UNHCR's first strategic objective is to ensure international standards of protection for all people of concern. A key priority is ensuring that those of concern are able to access asylum, and that the principle of *non-refoulement* is respected. It also involves preventing and responding to violence, abuse and exploitation—including sexual and gender-based violence—against the displaced and others of concern; strengthening the protection of refugees within broader

migration movements; and maintaining the civilian character of refugee camps.

The Office's second strategic objective is to develop an international protection regime. To do so, it promotes compliance with the 1951 Refugee Convention and helps States fulfil their commitments to adhere to international protection standards. UNHCR advocates a full and inclusive application by State asylum regimes of the 1951 Convention's definition of a refugee. It seeks improvements in asylum legislation, policy and practice while working to strengthen host countries' capacity to provide asylum and protection.

Also high on UNHCR's agenda is the protection of stateless people and addressing the needs of internally displaced persons (IDPs). Separate chapters cover these issues.



Refugees from Darfur, Sudan, seek protection in eastern Chad.

## Ensuring protection for all refugees and others of concern to UNHCR

### Securing access to asylum and protection against *refoulement*

Central to the realization of the right to seek asylum is the principle of *non-refoulement*. While this principle continues to be respected on the whole—including by States not party to the 1951 Convention—violations occur. Asylum-seekers and even refugees are deported as irregular migrants as part of government migration control measures. Asylum-seekers are removed to third countries without substantive examination of their claims or safeguards for their rights. Many readmission agreements on the return of migrants do not contain exceptions for asylum-seekers and refugees, thus raising the risk of *refoulement*. Security concerns are cited as grounds for deportation, including of unaccompanied refugee children.

UNHCR responds to these challenges by intervening on behalf of asylum-seekers and refugees threatened with deportation. It also trains border police and immigration officials on their *non-refoulement* obligations, and on how to identify those with international protection needs. Joint border and airport monitoring will continue to be undertaken with government authorities and NGO partners to help prevent *refoulement* and ensure access to territory for people of concern.

### Protecting the displaced against violence, abuse, intimidation and exploitation

The prevention of, and response to, sexual and gender-based violence is one of UNHCR's five commitments to refugee women and one of its five global priorities for refugee children. UNHCR promotes the use of standard operating procedures in field operations. Currently, 83 per cent of UNHCR's camp locations and 65 per cent of its urban operations use these to address sexual and gender-based violence. Furthermore, in June 2008 the Inter-Agency Standing Committee Sub-Working Group on Gender adapted UNHCR's template for preventing and responding to sexual and gender-based violence in IDP settings.

UNHCR has expanded HIV prevention programmes to include groups at risk, including female sex workers and clients, and to address alcohol and substance use and related HIV-risk behaviour and violence.

The lack of systematic procedures for documenting and analyzing data on sexual and gender-based violence poses another critical challenge. UNHCR is working with UNFPA and other partners on a standardized system to register, analyse and share data on such violence. In 2008, the tool was tested in Kenya and northern Uganda. Recognizing that available data reveal only a fraction of the total number of incidents of sexual and gender-based violence, UNHCR is looking into conducting surveys to gauge the magnitude of the problem among refugee populations.



UNHCR staff in Malaysia use a biometric registration system to register refugees.

UNHCR/M. Albert

In 2009, UNHCR will also expand projects to train staff, partners and people of concern and integrating men and boys into activities to prevent and respond to sexual and gender-based violence.

In 2009, the Office will focus on:

- Developing and implementing, in close coordination with partner organizations, a multi-year prevention and response strategy on sexual and gender-based violence. This will build on the recommendations of the global independent evaluation of UNHCR's efforts in this area.
- Finalizing and deploying a tool to analyse and share data to support a broader information-management system on sexual and gender-based violence.
- Developing appropriate population-based survey methods to systematically collect data on such violence.
- Involving men and boys of concern to UNHCR in the promotion of gender equality and efforts to address sexual violence through training and dissemination of resources.
- Building capacity of field operations to help them prevent and respond to sexual and gender-based violence, including through the establishment of standard response procedures.
- Supporting an inter-agency approach to preventing and addressing sexual and gender-based violence in IDP operations, including participation in the UN initiative Action against Sexual Violence in Conflict.

## Refugee protection and international migration

As patterns of human mobility grow ever more complex, refugee and migration movements intersect in different ways. For instance, refugees may travel irregularly, using the same routes and modes of transport as migrants. Conversely, the asylum channel may be used by people who are not in need of international protection but wish to secure the right to remain temporarily in a host country. As the international community sharpens its focus on the challenges of global migration, it is imperative to devise a legal and procedural framework that balances migration management and the protection of refugees.

UNHCR is not a migration organization. However, in view of the growing links between refugee protection and international migration across the world, the Office considers it necessary and appropriate to participate in the migration debate.

UNHCR joined the International Organization for Migration (IOM) to found the Global Migration Group. This Geneva-based group brings together international agencies whose mandates are relevant to the migration issue and serves as a forum for the exchange of information and the setting forth of common positions on migration-related subjects. UNHCR is contributing to

The Protection Surge Capacity Project is designed to reinforce protection response capacity in UNHCR field operations. Under the scheme, experienced protection officers are rapidly deployed on missions lasting up to 11 months. Areas of intervention include border monitoring, registration, statelessness, sexual and gender-based violence, detention monitoring, voluntary repatriation, and reintegration in refugee and IDP contexts. In addition to the general protection roster, two sub-rosters are maintained for gender and registration. The rosters are regularly updated to ensure the diversity of the members' languages, nationalities, skills/knowledge and experience.

preparations for the second Global Forum meeting, which will be convened by the Government of the Philippines. The meeting will pay particular attention to the human rights of migrants, and in that context UNHCR will draw attention to the phenomenon of mixed migratory movements and the need to ensure that migration control measures do not prejudice the right to seek asylum.

At the operational level, UNHCR has developed a 10-Point Plan of Action which includes protection tools that could be built into broad migration strategies. These take into account international protection needs while creating solutions tailored to the different categories of people in mixed migration movements.

For instance, the plan proposes the establishment of protection-sensitive entry systems. These aim to provide training and tools that help border officials to recognize people in need of protection among mixed arrivals. UNHCR has also proposed the introduction of a profiling mechanism as a tool to identify needs among different categories and groups on the move and develop solutions for them.

The proposals in the 10-Point Plan acknowledge that developments in migration policy may offer opportunities for refugees. For instance, in some situations, refugees could profit from migrant worker programmes or temporary work permits. They may even benefit from legal onward movement from the host State to a third country through regular migration channels.

In discussions with States and regional organizations, UNHCR is exploring the use of legal migration to provide refugees with effective protection in those countries that have not signed the Refugee Convention. The Office is also drawing attention to refugees' potential to contribute to their countries of asylum by bringing new skills, filling labour gaps and helping bridge cultural divides.



Iraqi refugee children talk to UNHCR staff at school in Damascus, Syria.

UNHCR/J. Weierd

UNHCR has begun to implement the 10-Point Plan in the Mediterranean/Atlantic region and Eastern Europe as well as in the Gulf of Aden, where hundreds of people die each year while attempting to cross the Gulf from Somalia to Yemen. The movement across the Gulf of Aden is mixed, as it includes economic migrants as well as individuals fleeing conflict, persecution or serious human-rights violations. UNHCR is seeking to expand its scope to other regions which face similar problems.

To follow up the High Commissioner's Dialogue on Protection Challenges, which was held in December 2007, UNHCR began implementing a two-year project—which includes four regional stakeholder conferences—to develop protection-sensitive migration strategies based on the 10-Point Plan. The first of these conferences took place in Sana'a, Yemen, in May 2008 and brought together more than 180 participants.

The next conference will focus on the mixed migration situation in West Africa, and will be organized jointly with IOM and ECOWAS in Dakar in November 2008. Two more conferences are planned for 2009, focusing on the mixed migration situations in South-East Asia and Central America. To assist States and other stakeholders with the implementation of the 10-Point Plan, UNHCR envisages the organization of four expert roundtables on different issues and the compilation of a best practice handbook.

With much international migration taking place by sea, UNHCR is increasingly involved in the disembarkation of mixed migration groups and the search for solutions for those rescued at sea or found as stowaways, and who are in need of international protection. The Office cooperates closely with the International Maritime Organization in the protection of refugees at sea and has produced a joint leaflet providing guidance for rescue at sea.

A high-level meeting on rescue at sea will be held in 2009. UNHCR is also participating in the drafting of European Union guidelines on interception and rescue at sea. Finally, UNHCR has initiated a discussion among key agencies on gaps in the protection of people who move in an irregular manner and who do not qualify for refugee status.

UNHCR has also stepped up its work related to the prevention of trafficking. A study now underway examines the difficulties victims of trafficking face in having their international protection needs identified and addressed. Two additional studies will examine the application of the 1951 Refugee Convention/1967 Protocol refugee definition to asylum claims from victims of trafficking, and the protection of people of concern to UNHCR from becoming victims of trafficking. These will serve as background papers for a roundtable UNHCR will convene in 2009.

IOM and UNHCR are also organizing a joint workshop, to improve inter-agency cooperation and mutual referrals

for victims of trafficking. An internal evaluation of UNHCR's anti-trafficking work is almost complete.

## Maintaining the civilian character of refugee and IDP settlements

The civilian and humanitarian character of asylum is essential for the safety and security of refugees, and constitutes an important international protection standard. Refugees and IDPs in camps are vulnerable to a range of security problems arising from the breakdown of social order, separation or loss of family members, lack of community support, and the impunity that perpetrators of crimes and violence often enjoy.

Camp populations can also fall prey to physical violence, sexual abuse, political manipulation and the diversion of humanitarian aid. The presence of combatants exacerbates refugees' exposure to the dangers of cross-border attacks and forced military recruitment. The militarization of camps also inhibits the search for durable solutions, such as voluntary repatriation and local integration. At its worst, such militarization could jeopardize national and regional stability.

UNHCR will continue to promote the use of the operational guidelines on how to deal with situations where combatants have infiltrated refugee camps or settlements, or are at risk of doing so.

## Affirming and developing the international protection regime

### Promoting compliance with the 1951 Refugee Convention and States' commitment to adhere to international protection standards

The 1951 Convention relating to the Status of Refugees, its 1967 Protocol and international humanitarian and human rights law continue to provide a solid foundation for the international protection of refugees and others of concern. Problems remain, however, regarding restrictive interpretations of the refugee definition in many countries, as well as a broader use of exclusion provisions.

UNHCR will work to persuade governments to assume their responsibilities to undertake status determination; help them establish functioning national asylum procedures; and advocate for the adoption of legislation consistent with international standards. Training initiatives aimed at border guards, immigration officials, police, adjudicators and judges will increase their understanding of their obligations under international refugee and human rights law.

Such initiatives will also help them to be more aware of issues pertaining to cross-cultural communication, gender sensitivity and determination of the best interests of the child.

The Office will make legal interventions in national and regional courts to support the progressive development of international refugee law, and strengthen its efforts to promote better access to justice, welfare, livelihood programmes and education for all people of concern.

### Improving the quality of asylum legislation, policy and practice

To counter increasingly restrictive asylum laws and practices, UNHCR will identify areas where it can contribute to the development of progressive refugee statutes and ensure the consistent application of international protection standards. As part of this effort, UNHCR will develop and draft legal positions, formulate guidelines and provide in-house legal and policy support to country operations and States.

In 2009, a new version of the *Handbook on Voluntary Repatriation* will be released, as will additional guidelines in the *Guidelines on International Protection* series. These complement UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status*. Furthermore, the Executive Committee's unique membership—which includes countries of origin and asylum, as well as donor States—will buttress its authority in setting the relevant standards on international protection, through its Conclusions.

### Refugee status determination

UNHCR currently carries out refugee status determination (RSD) under its mandate in some 70 countries. With nearly 80,000 applications received in 2007, UNHCR's share of global RSD applications stood at 12 per cent. The RSD Unit in Geneva oversees the Office's mandate RSD activities and coordinates initiatives to enhance and harmonize standards in field offices.

About 90 per cent of UNHCR's RSD work (in terms of applications received) is concentrated in 15 countries. In 2009, these offices will continue to be the primary beneficiaries and focus of efforts to enhance the quality and efficiency of mandate RSD operations. However, support will also continue to be provided to smaller RSD operations which lack the resources or capacity to respond to operational problems or emergencies.

UNHCR field offices regularly face refugee emergencies or sudden increases in asylum applications. The Office deploys RSD consultants and United Nations Volunteers

(UNVs) through the RSD Project to provide the expertise and additional staff required by field offices.

In 2009, in the context of the 10-Point Plan of Action, UNHCR will also support field offices facing resource constraints when tackling significant mixed migratory movements.

UNHCR operations in the Gulf of Aden (Somalia and Yemen), in North Africa (e.g. Algeria and the Libyan Arab Jamahiriya), in the Middle-East (e.g. Egypt and the Syrian Arab Republic) and in Asia (e.g. India) are particularly affected by increases in asylum applications and by mixed migration flows, and will be given priority in 2009 for RSD support. The Office will strive to develop more accurate projections for case processing and staffing requirements, assist field offices in using appropriate case management strategies, and participate in the development of regionally coordinated procedural responses.

The Office will provide comprehensive RSD training to UNHCR field staff through the RSD Learning Programme, which is mandatory for all staff carrying out or supervising RSD in UNHCR operations. Five regional sessions will be held in 2009 for a total of 125 staff, with emphasis on participation from the top 15 mandate RSD operations. Building capacity in the field to conduct the training will be a priority in 2009. Timely training will help to address the high turnover of staff in RSD operations.

## Enhancing host-country capacity to provide asylum and protection

Disseminating reliable and relevant protection information is a critical component of UNHCR's efforts to support States in matters related to refugee status determination (RSD) and displacement. In 2009, UNHCR will provide tools to aid decision-making as well as information and country guidance to staff, governments, judicial bodies, NGOs and legal practitioners engaged in RSD and other protection functions. UNHCR places a high priority on relevant, reliable, objective and accessible information related to legal frameworks, country of origin information and procedural guidance and advice. UNHCR staff will also continue to be trained to assess evidence in the context of RSD.

UNHCR's *Refworld*, available at [www.refworld.org](http://www.refworld.org), will continue to serve as the principal repository of protection information for decision makers in asylum procedures worldwide. The system will be improved with search enhancements and information sharing agreements.

UNHCR will continue research on countries of origin and asylum and formulate country position papers. It will contribute in appropriate fora, such as the Country of Origin Information Working Group of the

InterGovernmental Consultations on Migration, Asylum and Refugees, the European Network for Asylum Practitioners of the European Commission, and the Advisory Panel on Country Information in the United Kingdom. It will also continue to help develop and standardize criteria related to the collection, accuracy, credibility and exchange of protection-related information.

## Refugee registration and IDP profiling

UNHCR continues to place great importance on improving registration, data collection, analysis and documentation at all stages of an operation. In 2009, the main activities in this regard will include:

- Support for field operations in registration and documentation;
- an upgrade of the registration database system, *proGres*, to improve data security and better manage food distribution;
- formulation of a policy on data protection and the use of biometrics;
- provision of guidance and tools on registration standards, methodology and effective use of registration data;
- the supply of equipment for the issuance of secure photographic identity cards; and
- the maintenance of an emergency stockpile of registration items to cover the needs of 500,000 persons of concern.

Timely and reliable profiling of IDPs is an important means of improving operations. Within the framework of inter-agency collaboration and as part of its cluster lead responsibilities, UNHCR will support IDP profiling exercises and organize an inter-agency workshop for this purpose.

## Age, gender and diversity mainstreaming

The initial implementation of the age, gender and diversity mainstreaming (AGDM) approach to protection and programme planning has been completed, and UNHCR is working to strengthen its use throughout the organization. In this regard, in 2009 UNHCR will:

- Reinforce support to field operations;
- Strengthen community-based programmes which build on the skills and capacities of refugees and others of concern and promote their active participation in realizing their rights;
- Promote community outreach and establish individual case management systems in operations to protect those most at risk;
- Encourage a common approach among UN agencies, governments and NGOs on age, gender and diversity analysis, besides supporting concerted and targeted

- action to protect groups that are discriminated against; and
- Ensure greater senior management accountability for UNHCR's responsibilities under its mandate to promote gender equality and the rights of older people, women, children, people with disabilities and other groups with specific needs.

To achieve these goals, UNHCR has developed a three-year action plan. The plan focuses on accountability, attitudes and leadership; coordination and partnership; targeted action for empowerment; the integration of age, gender and diversity considerations into policies, procedures and systems; organizational capacity-building; and resources. This AGDM Action Plan will be further elaborated in 2009.



An older refugee from the Democratic Republic of the Congo and his grandson have found shelter in Musasa camp, Burundi.

UNHCR will evaluate the implementation of the age, gender and diversity mainstreaming strategy in 2009 to measure its impact. In particular, it will look at the effect of the introduction of participatory assessments on the protection of the populations of concern, especially of women, children and those with specific needs. The evaluation will benefit from the direct participation of people of concern, who will be encouraged to give their views on the delivery of protection and assistance, UNHCR's relations with partners, and staff attitudes. The evaluation will also serve to highlight and document good practices.

Pilot testing of the age, gender and diversity accountability framework destined for senior managers was completed in 2007. Based on the results, the framework was modified and launched in all major country operations. A separate framework for operations engaged in advocacy work is to be launched in late 2008. The accountability framework sets minimum standards for organizational and operational environments conducive to achieving equitable outcomes for all people of concern.

## Case study: Participatory assessments in Central Europe

In Central Europe, the participatory assessments methodology has been adapted to local needs. In each country, UNHCR has created teams composed of UNHCR staff, government officials and NGOs. Team members are trained in the methodology, and assessment locations and groups are identified. The teams visit asylum-seekers and refugees to listen to their concerns and assess the conditions in which they live.

Those visited are selected according to gender, age and cultural background, as well as legal status. In the Central European context, it is often individuals' legal status that determines the kinds of problems and challenges they face. The interviews are recorded and evaluated jointly by team members.

Participatory assessments took place in 2007 in Bulgaria, Hungary, Poland, Romania, Slovakia and Slovenia. The assessment methodology not only

provided information on the situation of asylum-seekers and refugees; it also, with its systematic choice of people from diverse backgrounds, allowed UNHCR to analyse trends and to more effectively address the needs of the beneficiaries.

The assessments have become an indispensable tool for planning and adapting asylum-related programmes and policies to the needs of beneficiaries. While the focus is necessarily on the problems and gaps that need corrective action, the assessments have also found that some problems have been solved, such as:

- security in and around reception centres in Bulgaria improved;
- all refugee and asylum-seeker children in Poland have access to education;
- problems with overcrowded residences in Slovenia have been resolved.