

# Providing international protection

UNHCR's role is to promote the protection and fundamental rights of refugees and others of concern and, where necessary, provide assistance in ensuring those rights are respected. However, with much of its work taking place in insecure environments, the Office faces major hurdles in gaining humanitarian access, monitoring conditions and providing protection, including assistance. In this context, UNHCR's global strategic objectives, outlined below and listed in greater detail elsewhere in this Appeal, provide a framework to help it respond to these challenges.

In fulfilling its first strategic objective of protecting all refugees and others of concern, UNHCR's priority is to secure access to asylum and guard against *refoulement*. Protection also means preventing violence, abuse and exploitation – including sexual and gender-based violence – against the displaced; strengthening the protection of refugees within broader migration movements; and maintaining the civilian character of refugee camps.

UNHCR's second strategic objective is to affirm and develop an international protection regime. The Office promotes compliance with the 1951 Refugee Convention and States' commitments to adhere to international protection standards. UNHCR advocates for a full and inclusive application by State asylum regimes of the 1951 Convention's definition of a refugee. The Office seeks improvements in asylum legislation, policy and practice; and bids to strengthen host countries' capacity to provide asylum and protection.

Also high on UNHCR's agenda is the protection of stateless and internally displaced people. Two separate chapters cover these issues.

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

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

Respect for the principle of *non-refoulement* is critical to the implementation of the 1951 Refugee Convention. While most States have reaffirmed their commitment to

the convention, in a number of situations, asylum-seekers and recognized refugees have been refused entry into safe territory or have been *refouled*.

These violations have occurred for various reasons, including concerns that those seeking entry could be members of armed groups, or were otherwise a threat to national security. Sometimes, State authorities fail to distinguish between asylum-seekers and immigrants living illegally; or they refuse to allow asylum-seekers from particular countries to enter or access asylum procedures. In some States, national-security legislation permits the expulsion or extradition of asylum-seekers or refugees suspected of supporting terrorist activities to their countries of origin. Such actions may be inconsistent with international law.

UNHCR and its partners will continue to intervene with State and other authorities in matters related to the protection of refugees and asylum-seekers. The Office will promote procedures to identify armed elements among civilians fleeing conflict so that the latter are not refused admission. It will work with border guards, police and immigration officials to help them understand their responsibilities towards asylum-seekers and improve their ability to identify those in need of international protection. Where necessary, UNHCR will support the deployment of interpreters at borders and disseminate asylum information in relevant languages.

The Office will monitor the forced return of refugees and asylum-seekers to third countries considered "safe", a practice which raises the danger of *refoulement*. Through advocacy and dialogue, UNHCR will recommend reforms where necessary.

### Protecting against violence, abuse, intimidation and exploitation, including sexual and gender-based violence

The prevention of, and response to sexual and gender-based violence is one of UNHCR's five commitments to refugee women and one of the five global priorities for refugee children. Since 2006 UNHCR has promoted the implementation of its standard operating procedures to deal with sexual and gender-based violence in all its operations. In this task it cooperates with government officials, other UN agencies and non-governmental organizations (NGOs). It remains a challenge to ensure that all operations use the



UNHCR

Ensuring asylum-seekers' rights and dignity and countering intolerance is a key element of international protection.

procedures to guide and strengthen their work, but implementation has improved steadily. Indeed, the number of operations using the procedures rose from 40 in 2005 to 55 by the end of 2006.

Another critical challenge that was addressed in 2007 was the lack of systematic procedures for documenting, and analysing data on sexual and gender-based violence. UNHCR's standards and indicators report format helps country operations to make a quantitative analysis of gaps in their response to sexual violence. Other UN agencies and NGOs are also making efforts to manage information on sexual and gender-based violence. However, the system of data collection and analysis has not been standardized to provide reliable, comprehensive and comparable information. As a result, weaknesses in the response to sexual and gender-based violence persist.

To address this challenge, UNHCR is working with the International Rescue Committee, and with the support of UNFPA, UNOCHA and other Inter-Agency Standing Committee (IASC) members, to develop a tool to analyse and share data.

In 2007, UNHCR initiated a global independent evaluation of measures to prevent and respond to sexual violence in its areas of operations. The findings of this evaluation are expected in 2008.

Against this background, in 2008 the office will focus on:

- Continuing and completing the global independent evaluation. The findings of the evaluation will provide UNHCR with the foundation for a three-year strategy on preventing and responding to sexual and gender-based violence. The strategy will be developed in close coordination with partner organizations and country operations.
- Finalizing and deploying a tool to analyse and share data to support a broader information-management system on sexual and gender-based violence.
- Involving men and boys of concern to UNHCR in the promotion of gender equality and efforts to address sexual violence.
- Using the IASC standard operating procedures in IDP settings, incorporating the work of the IASC on gender in humanitarian settings and participating in the multi-agency initiative, UN Action against Sexual Violence in Conflict, to improve the response to sexual and gender-based violence.
- Protecting women and girls as they search for firewood and providing them with alternative forms of domestic fuel in coordination with the IASC Task Force on Safe Access to Firewood and Alternative Energy in Humanitarian Settings.

UNHCR strengthens its work in these areas by building strong partnerships with other UN agencies and NGOs, raising professional standards in community services and closely screening programmes before their implementation. All partners can avail themselves of the Office's technical support and advice. Furthermore, UNHCR's decision to decentralize human and financial resources away from headquarters will allow new regional support positions to be established in the field and will ensure that budgetary support is more easily available for operations.

## 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 other migrants. Conversely, the asylum channel may be used by people who are not in need of international protection, in order to secure the right to remain temporarily in a host country. As the international community sharpens its focus on the challenges thrown up by global migration, it is important to devise a legal and procedural framework that can combine migration management and the protection of refugees.

UNHCR does not consider itself to be 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. To the extent that this debate has a bearing on its mandate to protect and find durable solutions for refugees and others of concern, UNHCR will advocate for the rights of the displaced.

Since UNHCR's Agenda for Protection identified the protection of refugees within broader migration movements as a priority, the Office has taken action on a number of fronts. At the inter-agency level, UNHCR and the International Organization for Migration (IOM) have founded the Global Migration Group. This Geneva-based forum brings together those international agencies whose mandates are relevant to the migration issue. The group serves as a forum for the exchange of information and aims to set forth common positions on migration and related subjects.

In 2007, UNHCR supported the organization of the civil society segment of the Global Forum on Migration and Development, held in Brussels in July. The forum followed the United Nations General Assembly's September 2006 High-Level Dialogue on Migration and Development. While the Global Forum focuses on labour migration and its link to development, UNHCR will highlight the challenges States face in hosting large numbers of refugees or receiving big returnee movements. The Office will propose ways to ensure that migration-control measures do not prejudice the right to seek and enjoy asylum. It will also



UNHCR/A. Di Lorenzo

Lampedusa, Italy. To address mixed migratory flows, UNHCR introduced a 10-Point Plan of Action to guide States and ensure the protection of refugees.

work with the incoming chair of the Global Forum (the Philippines) to support the State-led Global Forum process, both individually and as a member of the Global Migration Group.

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

For instance, the plan proposes the establishment of “protection-sensitive entry systems”. The aim is to provide training and tools that help border officials screen and respond to people travelling irregularly who may be in need of international protection. UNHCR has also proposed the introduction of a profiling mechanism to help identify those in need of international protection among other arrivals in a country.

The proposals in the 10-Point Plan also 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 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.

UNHCR has begun to implement the 10-Point Plan in the Mediterranean/Atlantic region (North Africa, Southern Europe) and Eastern Europe (*please refer to the Europe and North Africa chapters*) while seeking to expand its scope to other regions. One possible area for expansion could be the Gulf of Aden, where hundreds of people die annually while attempting to cross the Gulf from Bosasso (Puntland/Somalia) to Yemen. The movement across the Gulf of Aden is “mixed”, as it includes economic migrants as well as individuals fleeing conflict, persecution and/or serious human-rights violations.

In December 2007, the High Commissioner will convene his first “Dialogue on Protection Challenges”, which will propel discussions on a range of protection related issues, as well as key initiatives in the 10-Point Plan. To complement the forum, UNHCR will also host roundtable discussions on the Plan with experts from governments, international organizations, academia and civil society.

The results of these meetings will assist in the development of the 10-Point Plan Handbook, to be issued in 2008. The Handbook will provide detailed guidance on the 10-Points, as well as examples of best practice. These will be complemented by updated policy advice on topics such as secondary movements of asylum-seekers and refugees. The Office plans to develop a training package and to hold workshops in affected regions. The workshops will bring together government officials and other stakeholders to design regional strategies for the implementation of the 10-Point Plan.

With much international migration taking place by sea, UNHCR is increasingly involved with 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 (IMO) in the protection of refugees at sea and has produced a joint UNHCR-IMO leaflet providing guidance for rescue at sea. In late 2008, the Office will convene an inter-agency meeting on protection challenges arising in the context of maritime migration. UNHCR will also participate in the drafting of European Union guidelines on interception and rescue at sea.

## 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. The 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 may also inhibit the search for durable solutions such as voluntary repatriation and local integration. At its worst, militarization could jeopardize national and regional stability.

The response to attacks on the civilian character of asylum often remains inadequate. Governments may be reluctant or unable to assume their responsibilities in this regard. UNHCR will continue to promote the use of the operational guidelines included in the document entitled *Maintaining the Civilian and Humanitarian Character of Asylum*, prepared and issued in September 2006 at the request of its Executive Committee (ExCom). This provides practical guidance on how to deal with situations where combatants have infiltrated refugee camps or settlements, or are threatening to do

so. Measures set out in the guidelines include the identification, separation and detention of combatants.

## Affirming and developing an international protection regime

### Promoting compliance with the 1951 Refugee Convention and commitments by States 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 international protection. Positive developments in this regard include the recent acknowledgement by European States that persecution by non-state agents is a valid reason to seek asylum. This has also led to the recognition of asylum claims involving gender-based persecution.

Concerns remain, however, regarding restrictive interpretations of the refugee definition in many countries, as well as a broader use of exclusion provisions. UNHCR will work with governments to build institutional capacity in asylum matters and secure the adoption of legislation consistent with international standards. The Office's efforts to strengthen the Refugee Convention will include efforts to promote better access to justice, welfare, livelihood programmes and education.

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

To counter increasingly restrictive asylum legislation and practice, UNHCR will identify areas where it can contribute to the development of progressive refugee law



UNHCR/A. Webster

Somalia. A UNHCR income generation project has supported the creation of a market in an IDP settlement in Hargeisa, where women sell fresh and manufactured products.

and ensure the consistent application of international protection standards. In this regard, ExCom's unique membership – countries of origin and asylum, as well as

### Addressing the needs of decision makers

Refworld ([www.refworld.org](http://www.refworld.org)) is the leading source of information necessary for decisions on refugee status. It contains a vast collection of reports on situations in countries of origin, international and national legal frameworks and policies, documents and maps. The information has been carefully selected and compiled in collaboration with governments, non-governmental organizations, academic institutions, judicial bodies and UNHCR's global network of field offices.

Refworld includes multiple and advanced possibilities for browsing by region and/or country, by publisher/source, by topic/keyword and by document type. In addition, it has a powerful full-text search engine. Refworld also highlights special features on relevant and timely topics, such as refugee status determination, statelessness, migration and related issues, gender equality and women, internally displaced persons, resettlement, voluntary repatriation and children. It contains more than 88,000 documents relevant to countries of origin and asylum and other issues, and is updated daily.

## The Strengthening Protection Capacity Project in Zambia

In 2007 UNHCR introduced the Strengthening Protection Capacity Project in Zambia (SPCP-Z) with financial support from the Government of Denmark and the full partnership of the Government of Zambia. The key objectives of the SPCP-Z are to address gaps in refugee protection and expand opportunities for durable solutions for all refugees.

Phase 1, initiated in 2007, includes an analysis of protection gaps and joint consultations with refugees, the Government of Zambia, NGOs and international partners to set priorities and agree upon a multi-year plan of action. This phase includes projects to register and profile some 120,000 refugees. Key government stakeholders will be trained in protection, and projects to enhance legal services for asylum-seekers and

refugees, raise public awareness of refugee issues and address sexual and gender-based violence will be undertaken.

Phase 2, in 2008, will include working with Zambia to ensure the enactment of a new refugee law that meets international standards. Administrative capacity will be strengthened to help implement the new law and ensure that other legislation is consistent with the new statute. Also slated for Phase 2 are projects to improve reception, registration and documentation; ensure safe environments for refugee women and children; and improve access to essential services and justice. The search for solutions will be supported by voluntary repatriation or resettlement, where appropriate, and the expansion of possibilities for self-reliance.

donor States – will buttress its authority in setting the relevant standards.

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

Information sharing is a vital part of UNHCR's efforts to support States in matters related to displacement. In 2008–2009 UNHCR will provide information and procedural guidance to governments, judicial bodies, NGOs, and legal practitioners engaged in refugee status determination (RSD) and other protection activities. The Office will emphasize the need for accurate, reliable, objective and accessible protection information. Field staff will be further trained to apply international standards in the assessment and use of evidence.

To aid these efforts, UNHCR has designed a state-of-the-art platform for its protection information system, *Refworld*, available at [www.refworld.org](http://www.refworld.org). The system will be improved with personalization features, regular information alerts and information-sharing agreements with external providers.

UNHCR will reinforce its information activities by aiding and conducting training programmes in refugee law. It will continue to team up with the International Institute for Humanitarian Law of San Remo (IIHL) to organize courses on international refugee law and human rights for government officials, refugee adjudicators and NGOs. The Office will also support refugee law courses in San José, Costa Rica and in the European cities of Strasbourg and the Hague.

The Strengthening Protection Capacity Project (SPCP) will continue to help States and communities build the

capacity to protect refugees and others of concern and to find solutions for them. The principal country activities in 2008–2009 will be in Armenia, Azerbaijan, Georgia and Zambia, as well as ongoing initiatives in Kenya, the United Republic of Tanzania (Tanzania) and Thailand. Other countries for which projects have been developed but which are awaiting financial support are Bolivia, Burundi, Costa Rica, Ecuador, Egypt and Yemen.

The SPCP will also provide tools and best-practice information. This will include the UNHCR publication on enhancing protection for refugees, *Protection Gaps: Framework of Analysis*, translated into Arabic, French, Russian and Spanish. It will also support field tests of the inter-agency IDP framework, *Protection for Conflict-Induced IDPs: Assessment for Action*. Additionally, the SPCP will support the development and publication of a framework for action by UNHCR's Statelessness Unit.

To make protection more systematic, the SPCP will work with other divisions and units in the Office to improve operational planning. This should ensure multi-sectoral, participatory and comprehensive approaches to reduce gaps; improve protection reporting; expand funding for projects to remedy persistent protection gaps; and help international and non-governmental partners to participate in UNHCR initiatives.

### Age, gender and diversity mainstreaming

To strengthen the provision of international protection, particularly for women, children, older people, those with disabilities and other diverse groups, UNHCR has adopted a strategy to mainstream age, gender and

diversity considerations into all operations. The overall goals are gender equality and enjoyment of rights by all people of concern. To fulfil this aim, UNHCR will:

- Implement a system-wide, multifunctional team approach, using participatory assessments to identify protection risks and gaps with partners, staff and people of concern to UNHCR.
- In operations, reinforce community-based programmes which build on the skills and capacities of refugees and others of concern and promote their active participation in the protection of their rights.
- Promote community outreach and establish individual case-management systems in operations to protect those most at risk of trauma and violations of their rights.
- Promote a common approach among UN agencies and government and non-government partners to age, gender and diversity analysis; support targeted action to protect groups that are discriminated against.
- Increase senior management accountability for UNHCR's responsibilities under its mandate law to promote gender equality and the rights of women,

children, older people, those with disabilities and other groups suffering from discrimination.

To achieve these goals, in 2007 UNHCR joined with different stakeholders to develop a three-year action plan. The plan focused 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.

The action plan will be strengthened in 2008 by an independent evaluation of the implementation since 2004 of UNHCR's age, gender and diversity mainstreaming strategy in selected country operations and at headquarters. This will allow UNHCR to measure the impact of the strategy, in particular the introduction of participatory assessment, and on the protection, especially of women and children and those with specific needs. The evaluation will benefit from the direct participation of people of concern, who will be able to express 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 practice.



Kakuma refugee camp, Kenya. In an enclosed area, women and children are protected from violence, sexual or physical abuse, forced marriage or domestic violence.

## The Accountability Framework

In 2007, the pilot testing of the age, gender and diversity accountability framework was completed. Based on the results, the framework was modified and then launched in all country operations, with the exception of advocacy operations. A separate framework will be developed for advocacy operations. The accountability framework lays down minimum standards of practice to create an organizational and operational environment that is conducive to achieving equitable outcomes and gender equality for all people of concern, regardless of sex, age and background.

More specifically, the framework will support staff, especially managers, in meeting their commitments by outlining clear responsibilities for the mainstreaming of age, gender and diversity concerns into all of UNHCR's work. The framework will provide clear guidelines for staff at different levels, encourage transparency and facilitate organizational learning. Analysis of the results will help identify global and regional trends and areas requiring more financial and technical support.

The accountability framework will also support multi-functional teams in UNHCR offices working to promote understanding of age, gender and diversity issues. Their role is to support training programmes for partners and staff, develop links with country-level experts and follow up on participatory assessments to ensure action is taken and feedback provided to people of concern.

In 2008, selected multi-functional teams will participate in a coaching project designed to improve skills in age, gender and diversity analysis, facilitating dialogue and managing expectations. Staff and partners will be helped to implement coherent community-outreach

strategies. They will also be provided with effective systems for managing individual cases, using existing tools such as the *proGres* registration database.

The operations in Jordan and the Syrian Arab Republic will provide valuable experience in the urban context, as will the work of the office in Nairobi. The lessons learned will improve guidance to the field in 2007 and 2008.

To strengthen its work in the above areas, UNHCR will focus on inter-agency partnerships and deployment schemes with NGOs. It will raise the professional standards of community services and screen all projects prior to functional clearance, besides providing technical support and advice as required. Furthermore, it will decentralize both human and financial resources to the field. As a result, the section at headquarters will diminish in size, in order to enable senior regional posts to be created in Asia and the Americas and provide more support to the Middle East and North Africa programmes. Budgeting functions will also be decentralized to the field to ensure that support is more easily available to operations.

Given the complexity of delivering and monitoring international protection in an environment of large-scale population movements, UNHCR will focus on its core mandate of protection. To ensure that its interventions yield effective results, it will strengthen collaboration with governmental, non-governmental and other partners. These partnerships, which will include host communities, are all the more important given the particular challenges presented by massive internal displacements and mixed flows of asylum-seekers and economic migrants. UNHCR will seek to widen its understanding of current population movements, for only then will it be able to deliver the best results.