

63rd Meeting
1 – 5 October 2012

NGO Statement on the General Debate Agenda Item 4

Mr. Chair, Ladies and Gentlemen,

This Statement (available at: www.icva.ch/doc00005498.pdf) has been drafted in consultation with, and is delivered on behalf of, a wide range of NGOs and aims to reflect the diversity of views within the NGO community.

NGOs welcome this opportunity to present Executive Committee Member States with their views on current challenges in the protection and assistance of persons of concern to UNHCR. NGOs play a crucial role as partners to both UNHCR and States in serving those displaced populations. We ask for Member States' encouragement to ensure and continue this tripartite method of working to effectively, efficiently, and appropriately serve these people.

We contribute our observations and views to debates such as this one from our experiences and extensive operational involvement in displacement settings. In this context, we would like to invite Member States who may be less familiar with our operations and ways of working, to enter into an open dialogue with us. Where we see States and others not respecting their obligations towards displaced people, we will say so. In this Statement we draw attention to some themes that need our collective attention in order to improve our collective work. Our Statement in the upcoming protection debate identifies a number of specific situations in which the rights of refugees and other people of concern are not upheld. We understand that our observations and analyses may sometimes be different from those of States and UNHCR. However, we stand ready to discuss our views as we hope that such dialogue will contribute to the protection and assistance to displaced people.

- **Prevention of Statelessness and the protection of Stateless persons**

While every person has a right to nationality, it is estimated that more than 12 million people are not recognised as citizens of any country in the world. Without the protection of a government, they are stigmatised and often live in extreme poverty without access to education, health care, or legal processes that protect them from abuse and exploitation. Against this backdrop, the December 2011 Ministerial meeting to mark the occasion of the 50th anniversary of the 1961 *Statelessness Convention* represented an important breakthrough in global efforts to tackle Statelessness with 61 countries making Statelessness-related pledges and 33 pledging to accede or take steps to accede to either or both conventions. Nearly a year on, we applaud those States who have already implemented pledges.

However, a number of challenges remain. Of the 74 States that ratified the 1954 *Convention on the Status of Stateless Persons*, less than 10 have introduced a dedicated Statelessness determination procedure. Establishing an effective identification mechanism is a critical and necessary first step to ensure that Stateless persons receive the protection to which they are entitled.

Another challenge relates to the fact that in at least 30 countries worldwide, women do not have the same rights as men to confer nationality on their spouse or children, which can result in Statelessness. These States should now urgently commit to amending their nationality laws that discriminate against women and children, and to lift reservations placed on Article 9(2) of the *Convention on the Elimination of Discrimination Against Women* that undermine a woman's full enjoyment of the right to nationality.

The third challenge relates to birth registration. Birth registration is the first legal acknowledgement of a child's existence; without proof of identity a child is invisible to authorities. In many transit and destination countries for international migrants, children of migrant parents face difficulties in obtaining birth certificates. This restriction not only affects the right to a birth certificate, but also several other human rights intrinsically connected, such as the right to a name and to be recognised as a person before the law. In addition, this restriction also presents obstacles to the right to a **nationality** (either of the country where the child was born or of the country of his/her parents), which in turn can lead to Statelessness. It is therefore key that UNHCR, in partnership with States, ensure that all refugee, asylum-seeking, internally displaced and Stateless children who are not registered or who do not possess their birth certificates are ensured full access to protection and other essential services, and that efforts to register these children are in place.

- **Immigration Detention**

NGOs call on all States to ensure that the right to liberty is ensured for asylum-seekers and that immigration detention is only ever used as an absolute last resort. This call is made against the continued worldwide practice of detaining refugees and asylum-seekers, including children, the elderly, disabled, and other vulnerable groups, where detention is often prolonged, in poor conditions and often with no or limited access to asylum procedures or judicial review of their detention.

NGOs continue to raise concerns about on-going detention provisions in the recast EU Reception Directive, legislation in Israel and Canada towards the increased use of immigration detention for asylum-seekers and offshore processing legislation in Australia and its implications for the freedom of movement for those seeking asylum. A bill tabled in New Zealand to allow the mass immigration detention of undocumented arriving asylum-seekers alarmed NGOs. It was also noted that detention is increasingly used as a first resort in mixed migration contexts and so-called transit country corridors in Asia, the Americas, Africa, and the Middle East.

The immigration detention of children has been a focus for many civil society groups over the past year as part of the global Campaign to End the Immigration Detention of Children. It is essential that States ensure that no children or their caregivers are ever subject to immigration detention.

UNHCR's continued prioritisation on the existence of alternatives to immigration detention is welcomed. ExCom Member States should continue to explore and implement these alternatives. NGOs welcome the new UNHCR *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*. We call on States to implement these guidelines, ensuring the right to seek asylum, to liberty and security of person, and to freedom of movement for people seeking asylum.

- **Urban refugee policy**

Over the past decade, the number of refugees living in urban areas has increased significantly. The response to urban refugees has varied, and many States still do not acknowledge legal status outside of camps, which prevents access to refugee status, documentation, lawful employment, education,

and self-reliance. In States where urban refugees have recognised status in theory, there is often a lack of identification and documentation, which increases potential for exploitation and leaves the population susceptible to arrest, detention, and deportation back to persecution.

Marginalisation of urban refugees creates a population that is dependent on aid and the informal labour market. Countries without urban refugee laws should therefore consider legalisation of urban refugee populations. Those with urban refugee policies already, are encouraged to work closely with UNHCR and civil society to access and document the refugee population, providing access to the right to asylum, and the opportunity to rebuild their lives.

Lawful status and access to the labour market can lead refugees to contribute to society. NGOs therefore call on host governments to recognise refugees' right to work and to combat exclusion and harassment of refugees in the work place. Host governments are encouraged to view refugees as potential assets who can contribute to economic growth and stimulation and fill both skilled and unskilled labour shortages.

- **Access to Housing, Land, and Property**

Many internally displaced persons (IDPs) and refugees face precarious shelter conditions in camps, informal settlements, and urban slums where they are at great risk of forced evictions, renewed displacement, and the risk of increased economic exploitation. Destruction and occupation of IDP and refugee's land and houses lead to numerous property disputes, which represent a significant obstacle to durable solutions and reconciliation. UNHCR, therefore, needs to increase its involvement in addressing these issues in displacement situations through its programming and in its own internal capacity-building and learning programmes. In the context of durable solutions, UNHCR should reinforce its cooperation on housing, land, and property issues with development actors so as to ensure that IDP and refugee land issues do not fall off the agenda with the phasing out of humanitarian actors and that land restitution and other land policies do not discriminate against IDPs and take into account their specific circumstances.

- **Safe Access to Firewood/Household Energy (SAFE)**

An important consideration related to shelter and settlement of refugee and IDP populations is safe access to cooking fuel. Without this, refugees and IDPs – predominantly women and girls – are forced to travel to unsafe areas to collect firewood, or produce charcoal. NGOs welcome the inclusion of domestic energy as one of UNHCR's Global Strategic Priorities for 2012/2013. We endorse the view that clean types of cooking fuel should be treated as a life-saving necessity and predictably and consistently included as a standard part of the humanitarian emergency response (in the same way as food, water, and shelter). We also, therefore, welcome UNHCR's renewed efforts and commitment to scaling up its SAFE programming in order to ensure that safe access to cooking fuel is a standard part of all emergency response. We note, however, that these efforts require sufficient funding and staff capacity and we urge donors to support UNHCR in its endeavours to achieve these goals. We urge UNHCR to continue to work with inter-agency partners to ensure a holistic and integrated cross-sectoral approach to SAFE programming.

- **Attention to Particular Vulnerable groups**

It is important that UNHCR, Member States and NGOs continue to give proper attention to persons of concern that could be marginalised from mainstream assistance.

NGOs commend UNHCR's continued attention to **persons of concerns with disabilities** and promotion of their access and inclusion across all programmes and services. This attention is leading to real progress and change on the ground in the protection and opportunities available for persons

with disabilities. This change needs to be institutionalised across all UNHCR, NGO, and government operations and NGOs stand ready to assist UNHCR with these efforts

Older persons are among the most vulnerable of persons of concern and, like all other persons, have a right to equal assistance and protection. However, they often face discrimination and invisibility; this reinforces vulnerabilities and aggravates protection concerns. In particular, recent examples from crises in East and West Africa indicate that humanitarian assessment data are not disaggregated by sex and age, and that humanitarian programmes, including live-saving health and nutrition programmes, are often inaccessible and not adapted to older people's needs. It is, therefore, essential to implement UNHCR's own Age, Gender, and Diversity policy, leading to practices that enhance protection for older persons.

NGOs are also encouraged by the leadership UNHCR has shown over the past year to help ensure that effective protection is available to people who are forced to flee their home countries because of **persecution based on sexual orientation or gender identity**. This leadership has been accompanied by the beginning of training programmes that have helped field staff, NGOs, and government officials understand the character and needs of these vulnerable refugees.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) refugees are in need of improved intake procedures that enable them to self-identify without compromising their safety. They also require referrals that are responsive to their specific medical and familial resettlement needs. In addition, many LGBTI persons are among the refugees who have no viable options other than expedited resettlement or in-country processing, and these avenues should be made more readily available to them.

- **Sexual and Gender Based Violence**

Sexual and gender-based violence (SGBV) continues to be widespread in many refugee and IDP contexts, creating far-reaching human rights abuses that prevent survivors from leading normal, complete, and productive lives. Though women and girls suffer disproportionately from SGBV, men and boys are also affected. Despite attempts to address the causes of SGBV, it continues to plague refugee and IDP populations once they are displaced, as well as at the outset of conflict or flight.

Against this backdrop of continuing violence, UNHCR and partners have realised important work to try to protect those who suffer from SGBV, both in prevention and response. NGOs welcome the engagement that the UNHCR has shown in developing, supporting, and ensuring quality responses to issues of SGBV in all settings, as well as in tackling ongoing challenges such as impunity. The NGO community applauds the release of the strategy for tackling SGBV – the *Action Against SGBV: An Updated Strategy* (2011), as well as the High Commissioner's special projects (2012) aimed at reinforcing efforts to address the specific threats and vulnerabilities faced by refugee and displaced women and girls. It is clear that SGBV continues to be a top concern for UNHCR and those resources have been mobilised to achieve the most impact possible.

However, in the face of declining resources in support of UNHCR and its partners, NGOs call on all actors to remember that tackling gender inequality and preventing SGBV are essential, long term, and complex activities that require time, dedication, support, and continuous engagement in order for them to produce durable results. To that end, UNHCR should continue to reinforce multi-sectoral approaches and programmes by ensuring that funding to SGBV programming is adequate to meet all minimum standards for SGBV programming; that the timelines for SGBV programmes continue to be designed as multi-year interventions; and that survivor' needs and best interests continue to shape the direction of SGBV programs.

- **Climate Change and Displacement**

Climate change impacts are likely to increase the risk of displacement in the future as climate variability increases and climate-related hazards become more frequent and severe. Too little has been done to reduce disaster risks, particularly in vulnerable countries where millions of people struggle to cope with natural hazards. Environmental degradation and desertification make the population more vulnerable to “secondary” disasters such as storms, flash floods, and drought. A clear illustration of this was seen in 2011 in the Horn of Africa where violent conflict and lack of national disaster preparedness in Somalia caused a drought to trigger a famine.

A strong recommendation coming out of the Annual UNHCR-NGO Consultations earlier this year is the need for Member States to work with UNHCR in clarifying its operational role in the wake of natural disasters, including in the context of climate change, and support research – such as the Nansen Initiative – to increase the understanding of displacement risks and solutions related to climate change. It is imperative that Member States ensure that displacement-related concerns are fully integrated into disaster management, risk reduction, adaptation and development plans, and monitoring systems.

- **UNHCR’s Responsibility for internally displaced persons (IDPs)**

NGOs recognise that UNHCR is facing funding shortfalls and has to make hard decisions on resource allocation. We are very concerned about what appears to be a de-prioritisation by UNHCR of its work with IDPs, most likely with implicit or explicit donor support. We believe that resources should be allocated on the basis of vulnerability and need of displaced populations rather than the nature or profile of the affected population. There are circumstances in which IDPs face greater vulnerability and need than refugees, and thus resource allocations should be made accordingly.

Reduced resources are likely to have a very serious negative impact on protection of, and assistance to, IDPs in many regions. In Côte d’Ivoire, IDPs risk falling into a situation of protracted displacement if Member States reduce funding or do not ensure a responsible handover to another agency to cover their needs. In Mali, UNHCR is one of the only actors monitoring population movements and trends inside the country. If Member States further reduce the already low-levels of funding for IDP assistance, it will further compromise mapping of the protection and assistance needs of IDPs, and with it the humanitarian response. UNHCR also plays a critical role on IDP protection in Colombia, the largest IDP situation in the world. The agency's field presence throughout the country is one of its strengths, but the recent closure of two field offices has already weakened that capacity. Any further budget cuts would result in a loss for IDPs in the country.

Whilst protection of, and assistance to, IDPs is certainly not the responsibility of UNHCR alone, by virtue of UNHCR’s reach and operational capacity, it is often the only agency in a realistic position to respond to IDPs’ needs. We call on UNHCR and ExCom Member States to continue to seek resources on the basis of vulnerability and need of displaced populations rather than the nature or profile of the affected population

- **Refugees in the Muslim World**

NGOs welcome the Conference on “Refugees in the Muslim World” in May 2012 as an effort to highlight the protection needs of refugees, Stateless persons, and IDPs, especially in countries where the Organisation of Islamic Cooperation (OIC) is active, and to strengthen our cooperation in finding durable solutions for these populations. We encourage OIC Member States to build on their centuries-old traditions and laws to codify the protection of refugees, IDPs, and the stateless in their national laws in accordance with the relevant international legal instruments. NGOs commend those

States that have already acceded to the Refugee and Statelessness Conventions, or have pledged to do so. We encourage them to follow through with their pledges and others to follow their example.

- **Implementation and Follow-up of UNHCR Policies and Strategies**

Since 2011, UNHCR has produced several important new policies and strategies, including the updated strategy to address gender-based violence, the Child Protection Framework and the Education Strategy. Various elements of these policies and strategies are interrelated. It is encouraging to see that there is an integrated approach with regards to these policies in the countries in which implementation is being piloted. It is important that UNHCR collaborates with NGOs in a meaningful way in the development of implementation and rollout plans for these new strategies and provides NGOs and ExCom with regular, detailed communication on progress made, lessons learned, and resources available.

A specific request is made regarding the Regional Dialogues with Refugee Women: NGOs urge UNHCR to provide comprehensive reports, to be shared with ExCom, on progress made in each of the 10 core protection areas highlighted by the women who participated in the Dialogues. Such reporting would demonstrate to the refugee and displaced women who participated in the Dialogues that their views have been listened to and acted upon.

- **UNHCR-NGO Partnerships initiatives**

NGOs welcome the effort that UNHCR is undertaking this year to improve NGO UNHCR partnerships and there is a need to ensure States are aware of these efforts to strengthen this partnership. Two initiatives of particular note are:

The improvement of UNHCR's management processes related to implementing projects in partnership with NGOs, the "framework for implementation with partners" as its known, has progressed in several forums, including a session at the Annual UNHCR-NGO Consultations. NGOs commend UNHCR's efforts to improve these partnership arrangements. However, there are some concerns over aspects of the proposed Framework, especially regarding the feasibility of some proposals around the selection and retention of partners. It will be important that NGOs and UNHCR work closely to develop these concepts for mutual benefit, as well as ensure member States are kept informed of progress.

The second initiative, the High Commissioner's Structured Dialogue on NGO-UNHCR Partnerships, looks at partnership more broadly. This process focuses on means of improving UNHCR and NGO partnerships, including a broad reflection on partnership, themes of partnerships in urban refugee settings, capacity building for local civil society actors, and advocating together for the protection of persons of concern. Thematic papers were co-drafted by UNHCR and NGOs and used as background for a Reflection Workshop held in July 2012. The thinking that has come out of this process is being reviewed to formulate some clear objectives aimed at producing tangible outcomes for improving NGO-UNHCR partnerships.

While it is important that NGO and UNHCR partnerships are strengthened through these initiatives, it is only by also ensuring that working collectively as NGOs, States, and UNHCR that there will be a real impact in the way protection is provided to refugees and IDPs. It is important that Member States are kept aware of these initiatives and actively work towards a more coordinated approach to assistance.

Thank you, Mr. Chair.