

**Global Consultations:  
Protection of Refugees in Situations of Mass Influx  
(8–9 March 2001)**

***Chairman's Summary***

This first meeting of the Global Consultation's third track has given rise to a rich and constructive debate, demonstrating the keen interest in and support for these consultations. It has been particularly encouraging to note the broad geographical representation of delegations, and the active participation of the NGO community.

**1. Protection of refugees in mass influx situations: overall protection framework**

Interventions by delegations addressed key issues including:

- Recognition of the primacy and centrality of the 1951 Convention/1967 Protocol in the international refugee protection regime, including in situations of mass influx
- The importance of absolute respect for the right to seek and enjoy asylum and for the principle of *non-refoulement*
- The significance and applicability of complementary regional refugee instruments, particularly the 1969 OAU Refugee Convention and the 1984 Cartagena Declaration
- The importance of Executive Committee Conclusions relating to large-scale influx, especially Conclusion No. 22, as well as of human rights instruments and international humanitarian law
- The mixed character of mass displacement and the need to address its root causes by making progress on issues such as conflict prevention, poverty eradication, and human rights promotion
- Widespread support for more attention to be given to finding durable solutions to protracted situations
- The need to strengthen the role of UNHCR in mass influx situations, in cooperation with its partners, including through allowing operational presence, full and unhindered access, as well as a strong monitoring and intervention role

**Prima facie determination on a group basis**

- The value of *prima facie* recognition of refugee status on a group basis in mass influx situations, with particular focus on the experience in Africa, as highlighted by delegations from that continent
- The desirability of individual processing as soon as possible after arrival to identify persons not qualifying for international protection under the refugee instruments, and the need to provide technical support to host countries in this respect
- The need for the international community, including through UNHCR, to give this question sustained attention to enhance legal and operational capacity of host States, particularly in developing States facing large and protracted refugee situations
- The importance of providing assistance to host communities facing a mass influx
- The question of addressing protection needs within the country of origin
- Reaffirmation of voluntary repatriation as the preferred durable solution to mass influx and acknowledgement of the important responsibility-sharing role played by resettlement
- Recognition that there are *prima facie* refugees who need resettlement

- Affirmation that flexible criteria, including acceptance for humanitarian reasons, have been introduced by some States, within the context of individual screening of candidates
- Reaffirmation of the intermediary role of UNHCR in individual screening for resettlement, and the need for UNHCR to examine its submission process for *prima facie* cases

#### Temporary protection

- The exceptional and interim measure of temporary protection
- Broad acknowledgement that temporary protection was without prejudice to recognition of refugee status under the 1951 Convention
- The need for a clear time limit to temporary protection
- The need to define the term “temporary protection” more precisely to ensure a clearer, common understanding of the concept, including issues such as its duration, the criteria and modalities of transition to the next phase, and UNHCR’s role in assessing the viability of return
- Helpful information from the Council of Europe and European Union (EU) Member States, as well as a written contribution from the European Commission, on the concept of temporary protection in Europe and the harmonization process under way there which was recognized as complementary to the Global Consultations

#### Conclusions

The conclusions of the background paper were broadly endorsed and included the following suggestions for further consideration and follow-up:

- Examination and clarification of appropriate modalities for exclusion in *prima facie* situations
- Support for further examination, through the regular resettlement consultations, of the flexible application of resettlement criteria in *prima facie* situations, taking account of the requirement of many States to conduct individual resettlement screening
- Wide endorsement of a proposed study on protection responses to mass influx, a preliminary report on which should be ready for consideration at the 12 December 2001 meeting of States parties

Key aspects of this study should include:

- A practical, diagnostic and evaluative approach, examining “lessons learned” from mass influx situations in Africa, Asia and Latin America, as well as legal developments in Europe and elsewhere
- An assessment of the quality of protection provided under these mechanisms and of the applicability and flexibility of the Convention in mass influx situations

## **2. Civilian character of asylum: separating armed elements from refugees**

The important contribution and useful recommendations of the regional meeting on Maintaining the Civilian and Humanitarian Character of Asylum, Refugee Status, Camps and other Locations, held by UNHCR in Pretoria, South Africa, on 26–27 February 2001, were widely acknowledged. Interventions by delegations addressed key issues including:

- The importance of the identification, separation and internment of armed elements as part of a comprehensive strategy to address the security of refugee camps and settlements

- The serious repercussions of security problems for refugee protection, including in particular for refugee women and children, as well as for host communities
- The need for adequate security to enable the presence and work of UN and other humanitarian staff
- The fact that drawing a clear distinction between refugees, on the one hand, and those not qualifying for international protection under the refugee instruments, on the other, is clearly in the interests of States, as well as UNHCR

#### Roles and responsibilities

- Wide recognition that primary responsibility for ensuring the security of refugees and refugee camps or refugee-populated areas rests with the host State
- Acknowledgement that, in view of serious resource, operational and other constraints, international solidarity and support in the context of burden and responsibility sharing is essential
- The need that, in view of the political and military aspects of the problem, the High Commissioner and the Chair of the Executive Committee bring the issue of armed elements in refugee camps and related roles and responsibilities to the attention of the UN Secretary-General and to the Security Council respectively
- Discussion of the question of the designation, as proposed by the Pretoria meeting, of an agency with responsibility for responding to affected States on security matters, and further assessment of existing structures and agencies, including the Department of Peacekeeping Operations (DPKO)
- Encouragement for UNHCR to continue to strengthen its cooperation with the International Committee of the Red Cross (ICRC), the International Organization for Migration (IOM) and other relevant actors, so as to enhance inter-agency cooperation

#### Operational measures to enhance security

- Broad agreement that those carrying out military activities clearly fall outside the ambit of international refugee protection
- Recognition of the right of former combatants to seek asylum and of the need for the exclusion clauses to be applied in an individualized manner with due safeguards and taking into account international criminal law
- The responsibility of host States to ensure that refugee camps are located at a safe distance from the border, with adequate policing measures
- The need for clarification of what constitutes a safe distance from the border for camps
- The importance of early warning and preventive measures, as well as of combatting the proliferation of small arms and light weapons
- The need for special attention to be given to the issues of child soldiers, particularly in terms of early separation from armed elements, demobilization and rehabilitation
- The value of education, including secondary education, as a tool for rehabilitation and for the prevention of subversive and criminal activities by refugee youth

#### Conclusions

The recommendations of the background paper were broadly endorsed. Among the suggestions for further consideration and follow-up were:

- Development by UNHCR with the involvement of interested governments, other relevant organizations and non-governmental organizations (NGOs), of practical tools, including standards and procedures, for the separation of armed elements

from the refugee population, which take into account relevant international law principles

- Development by UNHCR of operational guidelines to assess individual claims for refugee status in the context of mass influx, where there is a likelihood of the applicability of exclusion clauses
- Assessment, standardisation and replication by UNHCR of the Tanzania “security package”
- Further investigation of police training, other immediate support and stand-by arrangements designed to address security concerns as early as possible and of the possible applicability of civilian police models used in Kosovo and East Timor
- Further consideration of the subject of child soldiers and related issues to take place under the fourth theme of track 3 of the Global Consultations on refugee women and children

### **3. Practical aspects of physical and legal protection with regard to registration**

The debate on practical aspects of physical and legal protection with regard to registration displayed the synergy between operational realities and protection requirements. Interventions by delegations addressed key issues including:

- Broad recognition of the primary responsibility of States with respect to registration, as a tool to ensure physical and legal protection, and of the need for host States to be kept properly involved and informed throughout
- Acknowledgement of the importance of registration as a tool of protection in all refugee situations, not only when there is a mass influx or only for the future but also for existing, inadequately registered populations
- Acknowledgement of registration as a tool to ensure refugees’ access to protection and assistance
- The need to keep registration up-to-date in view of shifting populations and circumstances, including refugee births and deaths, which might otherwise lead to statelessness
- The importance of easy access by refugees to registration officials and, in this connection, the need for a centrally-located place of registration
- The importance of a system that works on a worldwide level to address all aspects of the cycle of displacement, including durable solutions
- The value to refugee women and children of improved, individual registration which includes enhancing tracing, family reunification, and increased participation by women in camp life
- The crucial importance of information about the number and age of children in the refugee population, especially for programmes targeting adolescents at risk of sexual exploitation or military recruitment
- The special needs of survivors of torture and persons with mental health disabilities

#### Operational support and Project PROFILE

- Broad support for prioritization by UNHCR of registration in terms of resources and capacity-building
- The usefulness of possible synergies and cooperation with other actors
- The critical role of material, financial, technical and human resources for host countries
- Strong support for UNHCR’s initiative in undertaking Project PROFILE and for UNHCR to move forward to create a fast, efficient, not-too-technologically sophisticated system that would, amongst other things, help prevent fraud and multiple registration
- Offers of resources and expertise from a number of donor States

## Conclusions

The conclusions of the background paper were supported, including in particular the suggestion that an Executive Committee conclusion on agreed standards for registration be elaborated, in acknowledgement of the importance of conducting registration and using information in a principled manner. The proposed Executive Committee Conclusion should include standards on the following:

- The important question of confidentiality
- Safeguards for access, information sharing and cooperation, which would require that refugees be informed about the uses to which information will be put and be given assurances of the confidentiality of their responses
- Standards concerning gender and age-sensitive approaches

The call was also made for UNHCR to work with States to ensure compatibility of States' systems, amongst other things, with confidentiality requirements. The importance of finding a balance between sharing data and not putting persons at risk was stressed.

### **4. Mechanisms of international cooperation to share responsibilities and burdens in mass influx situations**

There was a broad-ranging and constructive discussion on this cross-cutting theme. It was recognized as a difficult but vital subject, on which it was necessary to move beyond sympathy and rhetoric to practical measures. Among the key elements of the discussion were:

- Wide support for the position that burden or responsibility sharing is not just a financial question but a humanitarian concept and a "practical necessity", which should remain a priority issue for the Executive Committee
- Reaffirmation that access to asylum and the meeting by States of their protection obligations is not dependent on the existence of responsibility or burden-sharing measures first being in place
- Wide acknowledgement of the weight of the multi-faceted burden borne by developing States which host large numbers of refugees, often for many years
- Exposition by delegates from developing States of the massive impact these refugees have on their society, infrastructure, economy and environment
- The need for greater acknowledgement of the contribution towards refugee protection made by States hosting large refugee populations, which is vital but less easily quantifiable than the cash contributions made by other States

### Global and comprehensive approaches

- The importance of global and comprehensive approaches to situations of mass influx
- Acknowledgement that this can be enhanced through regional cooperation
- The value of positive examples of burden/responsibility sharing such as the Comprehensive Plan of Action (CPA) for Indochinese refugees and the work of the EU High Level Working Group (HLWG) on asylum and migration
- The importance of involving a broad range of States and actors including the country of origin, although these would vary depending on the particular influx
- The need for improved cooperation and coordination among the various international agencies

### Measures to enhance burden and responsibility sharing

- The importance of preventive strategies, including those which promote respect for human rights, good governance, the eradication of poverty, mediation of potential or ongoing conflicts, and measures to address broader migration pressures
- The need for enhanced preparedness, including measures to strengthen security in refugee camps and stand-by arrangements with stronger regional-level involvement
- The essential importance of predictable, flexible and adequate funding of the UNHCR budget for the equitable and effective provision of international protection to refugees and of assistance to host States
- The merit of further discussion on a possible permanent refugee emergency fund, drawing on the experience of the EU European Refugee Fund
- The importance of linking relief to broader development, including through assistance for infrastructural development, education programmes to prepare for return, measures to strengthen local administrative machinery, to enhance law and order, and strengthen local health systems
- Discussion of the humanitarian evacuation and transfer of refugees in the 1999 Kosovo crisis as a rarely available option
- Reiteration of the need to address root causes of flight and promotion of voluntary repatriation as the preferred solution
- Recognition of resettlement as an important tool of burden and responsibility sharing, the relatively small numbers of resettlement places available and the recent, welcome diversification of the number of resettlement countries
- Concern that development of a resettlement pool, as recently proposed in the EU context, should not prejudice the right to seek asylum there

### Conclusions

The proposals made in the background paper were broadly endorsed. Among suggestions made for further consideration were:

- Promotion of further accessions and withdrawal of reservations to the 1951 Convention and its 1967 Protocol, and the effective implementation of these instruments
- A checklist of possible responses to develop a comprehensive strategy should be further elaborated to ensure more prompt, coordinated, predictable, multilateral and comprehensive responses;
- Examination of prearranged quotas for the emergency evacuation of refugees, amongst other tools, within the context of a comprehensive approach
- Further investigation of the role of resettlement, as an important tool of burden or responsibility-sharing, as well as the relationship of resettlement with other durable solutions, namely voluntary repatriation and local settlement, and with humanitarian evacuation
- Assessment of appropriate mechanisms and procedures to activate responses to ensure swift reaction in a mass influx

### Next steps

The active and constructive participation of so many delegations in the first meeting of Track 3 of the Global Consultations and the specific proposals that have emerged on a number of the subjects discussed, augur well for the continuation and potential positive impact of this process.

It is important to build on this momentum through an active process of dialogue and communication between all actors, focussed on concerted, outcome-oriented action to improve the protection of refugees in situations of mass influx.

The continued and active engagement of delegations and other actors in this collaborative and worthwhile endeavour is strongly encouraged.