

GLOBAL CONSULTATIONS ON INTERNATIONAL PROTECTION

STRENGTHENING THE CAPACITY OF COUNTRIES OF FIRST ASYLUM IN THE REGION TO OFFER
ADEQUATE PROTECTION
REGIONAL MEETING IN CAIRO
3-5 JULY 2001

I. REGIONAL MEETING OF STATES (3-4 JULY 2001)

1. Overview

1. The Regional Meeting held in Cairo was jointly organized by the Arab Republic of Egypt and UNHCR. It was attended by representatives of the Governments of Algeria, Egypt, Iraq, Jordan, Kazakhstan, Kyrgyzstan, Kuwait, Mauritania, Morocco, Pakistan, Saudi Arabia, Tajikistan, Tunisia, Turkmenistan, Yemen. Palestine, the European Union, represented by the Government of Sweden, and the International Organization for Migration (IOM) were also present. The representatives of the Islamic Republic of Iran, Lebanon, the Libyan Arab Jamahiriya and Syria were unable to attend. Also in attendance as observers were representatives of the League of Arab States, the Organization of the Islamic Conference, Governments of Australia, Canada, France, Netherlands, Switzerland, the United States of America and UN agencies.

2. The deliberations focused on how to strengthen the capacity of States in the region to provide adequate protection to refugees and asylum-seekers. Only 11 out of the 24 States in the region are party to the 1951 Convention and/or its 1967 Protocol. The region hosts 35 per cent of the world's refugee population.

2. Key conclusions/recommendations

The following paragraphs set out the key conclusions and recommendations emerging from the Regional Meeting:

General

3. There was full recognition that, despite socio-economic constraints, the countries in the region have displayed a long tradition of hospitality towards refugees. While the principle of sovereignty was reaffirmed, it was recognized that the international legal framework needs to be respected, and in particular the fundamental principle of *non-refoulement*.

4. It was stressed that the granting of asylum or the recognition of refugee status should be seen as a purely humanitarian and non-political act. However, to achieve equitable responsibility and burden-sharing, it was emphasized that the national concerns of countries in the region should be given more attention by the international community, and that more financial and technical assistance should be provided commensurate with the burden assumed by the host countries.

5. The presence and work of UNHCR cannot be seen as a substitute for the responsibility of States to address the specific legal and administrative problems faced by asylum-seekers and refugees in the region.

Legal framework for the protection of refugees

6. It was stressed that regardless of whether they are signatories to the 1951 Convention or the 1967 Protocol, States are bound by fundamental principles of refugee protection. There was re-affirmation of the on-going relevance and value of the 1951 Convention relating to the Status of Refugees, its 1967 Protocol and the 1969 OAU Convention, as applicable.

7. The international legal framework needs to be translated into adequate protection structures at the national level, covering admission and reception of asylum-seekers, access to fair and efficient asylum procedures, as well as proper treatment of refugees, including an appropriate legal status.

Strengthening protection capacity in host countries (capacity-building)

8. It was acknowledged that building protection capacity is a process which ranges from the establishment of a legal framework and institutional structures, to actual implementation.

8.1. Assistance in the development of a national refugee protection framework

It was stressed that States need to work in collaboration with UNHCR to develop legal frameworks for the protection of refugees, including adoption of relevant national legislation and the establishment of fair asylum procedures. Where national refugee laws are inadequate or non-existent, the capacity-building objective may require States to enact or revise legislation with necessary technical assistance, as appropriate. Such legislation might also provide, as far as possible, for the recognition of social and economic rights.

8.2. Technical Assistance

It was noted that the development of targeted training programmes was a capacity-building activity which should be further pursued at both the subregional and national levels to provide Government officials (e.g. decision-makers, border officials, police, etc.) with the necessary skills and resources (both financial and material) required to ensure adequate protection to refugees, including proper treatment, referral and admission procedures. In developing training programmes, there should be a three-phase process: i) an assessment of basic priority training needs; ii) the forging of partnerships among actors involved in refugee protection; and iii) the development of training programmes and evaluation systems.

In addition, the need for the publication of relevant documents on refugee issues in Arabic and Russian was highlighted.

8.3. Institution-building

Where institution-building is required, this should include the creation or adaptation of structures/mechanisms which would enable refugees and asylum-seekers to benefit from protection and assistance activities, in a partnership framework with State "actors", intergovernmental agencies and NGOs. This may include the establishment of a refugee office and the provision of legal assistance.

8.4. Partnerships

The primacy of state responsibility in the protection of refugees was emphasized. Nonetheless, the need for a cooperative partnership with UNHCR, the international community and other actors was underlined.

It was recognized, in particular, that the participation and cooperation of all actors are necessary in the context of capacity-building. This would include States (host and donor), UNHCR and other intergovernmental organizations, regional organizations and institutions, NGOs, other members of civil society and refugees themselves. These actors should engage in a dialogue in

order to develop fair and efficient asylum systems in the region, in accordance with established international standards.

(a) With regard to regional institutions/organizations and other international organizations, UNHCR was encouraged to further develop its cooperation with the League of Arab States, the Organization of the Islamic Conference, the Organization for Security and Cooperation in Europe, and the European Union. In addition, such cooperation might usefully bring in relevant partners of civil society.

(b) As concerns non-governmental organizations (NGOs) and other members of the civil society, the importance of providing assistance was recognized. While some participants expressed reservations about creating legal frameworks for the functioning of NGOs, others acknowledged that there is a need for States to accord legal status to NGOs through the establishment of an adequate legal framework for their operation. Support for NGOs and others should include staff training and provision of resources to facilitate their work.

(c) It was noted that many refugees themselves bring significant skills and capacity with them from their country of origin. The international community should assist in developing the capacity of refugees to sustain themselves.

8.5 Regional synergies

While emphasizing the overarching obligations arising for all States from the international framework of protection, UNHCR was requested to convene, on a more regular basis, thematic subregional meetings on refugee protection issues of common concern. Such meetings should bring in other actors and should be aimed at developing cooperation and cross-border partnership. This would enable States to share refugee policies, refugee-related statistical information, relevant legal changes and developments, as well as practical experience in addressing technical issues.

One of the Working Groups identified a need to organize a sub-regional meeting on Afghan refugees with the participation of Central Asian States, Pakistan and the Islamic Republic of Iran, as well as the European Union. Participants from Central Asian States reiterated the need to continue to support the Regional Centre for Migration and Refugees (formerly BMMC) as a regional organization to promote exchange of information and views, and regional cooperation on refugee and migration-related issues.

Responsibility and burden-sharing

9. There was general agreement that comprehensive international and regional approaches towards alleviating the burden of host countries should be pursued by all actors concerned. Lack of harmonized approaches could create imbalances among host countries in the protection/assistance regime, which could encourage unnecessary onward movement and hamper the promotion of durable solutions.

10. It was also noted that the development of regional responses should be without prejudice to responsibilities of the broader international community. This is particularly pertinent, given the serious resource constraints and the difficulties of coping with protracted refugee situations in a number of host countries in the region.

11. It was acknowledged that the countries in the region provided significant in-kind assistance, which constitutes a considerable burden for States hosting large refugee communities. It was recommended that such in-kind contributions by host countries should be acknowledged explicitly, to the extent possible, in quantifiable terms.

12. In this connection it was also stressed that the international community within and outside the region should provide adequate and predictable financial assistance to countries hosting large numbers of refugees for prolonged periods of time.

Promotion of protection-based solutions

13. It was observed that international solidarity and burden- or responsibility-sharing include ensuring access to all three durable solutions, namely voluntary repatriation, resettlement and local integration. In this regard, the difficulties in providing local integration as a durable solution to all refugees in mass influx situations were highlighted, as many countries do not have the capacity to actively promote this durable solution.

14. The paramount importance of addressing root causes of refugee movements was also stressed, in particular regarding protracted refugee situations. Comprehensive approaches to solving these situations should be adopted through international and regional agreements. Such arrangements would need to be consistent with established international standards.

15. Given the complexities in the region, resettlement was highlighted, including the need for UNHCR and its resettlement partners to consider expanding resettlement programmes to a wider range of host countries in the region and to make this available to a larger number of refugees.

16. Keeping in mind the specific socio-economic and financial constraints of each host country, some participants stressed the importance of promoting, with the assistance of the international community, policies enabling refugees, particularly in urban environments, to attain a level of self-sufficiency, pending a durable solution. Such policies should endeavour to go beyond mere survival, in accordance with provisions of the 1951 Convention and other relevant international instruments.

Palestinian Refugees

17. Government participants reiterated the commitment of their governments to assist Palestinian refugees. They called upon UNHCR to continue its protection and assistance activities for Palestinian refugees outside UNRWA's area of operation.

Miscellaneous

18. It was recognized that the inter-relationship between asylum and migration issues should encourage States to build capacity in the development of complementary legal frameworks for refugee protection as well as migratory movements, both of which should be developed in a manner consistent with established international standards. Such frameworks would assist in the identification of those in need of international protection.

II. REGIONAL MEETING OF NGOs (5 JULY 2001)

1. Overview

19. A meeting of regional NGOs was held on 5 July, in which States were also invited to participate. This meeting covered the same topics as the meeting of States on 3-4 July. NGOs and other members of civil society from the following countries were in attendance at the meeting: Egypt; Jordan; Kazakhstan; Kyrgyzstan; Pakistan; Saudi Arabia; Syria; Tajikistan; Tunisia; United Kingdom. One refugee woman also attended the meeting.

20. The discussion was enriched by a range of different perspectives. As a starting point, NGOs agreed that it is essential to understand *why* people seek asylum, and that the focus for response is on *protection*. It was recalled that protection is the *raison d'être* of the Global Consultations. Although it was recognized that security considerations may be an issue, from an NGO perspective, a rights-based approach to protection should be seen as the driving force behind responses to the movement of people. In this context, it was recognized that there is a difference between *having* rights and *enjoying* rights, and that the implementation of rights was the challenge facing all actors in building the capacity to provide adequate protection to refugees.

2. Key conclusions/recommendations

The following paragraphs set out the key conclusions and recommendations emerging from the NGO meeting.

Collaboration

21. The NGOs noted that there is no single party, whether State, UNHCR, NGO, or other organization or entity, which can effectively take responsibility alone for refugee protection. Each party has a role to play, and protection must be the main focus. There is therefore a need to pool efforts in order to come up with solutions. In recognizing the role of key stakeholders, it was also pointed out that private enterprise has a role to play in the search for new solutions. In this regard, it was acknowledged that refugee protection is not simply a humanitarian issue, but that it also has a developmental dimension.

22. The importance of collaboration between international and national NGOs was also noted, recognizing in particular that advocacy can be strengthened in this way.

Capacity-building

23. While capacity-building was understood to be the central theme of the entire meeting, and each conclusion should be seen in its capacity-building context, it is worthy of separate attention.

24. The sustainability of protection depends on the building of human and institutional capacities which ensure that rights, essential to protection and to durable solutions, can be delivered. Many of these rights are social and economic rights, including the right to work, to education, and indeed to development. In this regard, it was recognized that refugees themselves have resources, and that, given appropriate opportunities and means, they can strengthen their own capacity to achieve sustainable protection. Notwithstanding this, it was noted, that in many instances it is impossible to distinguish between protection and assistance, and that the adequacy of assistance will often have a direct impact on the protection of refugees.

25. The development of social support networks, for example through the establishment of social centres, was identified as one way in which the capacity of refugee populations has been built up in some countries, and could be built in others. It was further noted that not all capacity-building initiatives are high-cost or resource-intensive. In the search for "low-cost and no-cost" strategies for building protection capacity, the granting of legal status and permission to work were identified as areas which should receive greater attention.

Training

26. Training, including the provision of protection-oriented technical assistance, was recognized as vital for strengthening the capacity of all actors concerned to contribute to the adequacy of protection. In this regard, the value of the training of national trainers was noted as a mechanism

for saving and achieving greater harmonization of rules and procedures.

27. In particular, training should be available for the following stakeholders:

- (a) Refugees
- (b) NGO workers, including volunteers
- (c) Lawyers
- (d) Government officials (including judiciary and border officials)

Burden- and Responsibility-Sharing

28. NGOs were concerned that more holistic approaches to burden- and responsibility-sharing should be applied to refugee issues, ensuring in particular that this should be balanced and protection-oriented. In particular, NGOs were concerned about the dangers of two extremes of refugee responses, first the creation of "safe havens" and second, at the other extreme, the "fortress mentality" that guides refugee responses in a number of States. NGOs, in seeking practical outcomes to their deliberations, called on States to rectify the disparities in budgetary allocations to different refugee situations, noting that failure to do so will hamper efforts to advance protection capacity in all States.

29. In making these calls, NGOs recognized the resource constraints for NGOs, the majority of host States and for UNHCR, which could have a negative impact on protection capacity.

Law

30. NGOs recognized that national and international law and procedures have a critical role to play in building the capacity of States to deliver adequate protection to refugees on their territory. With this in mind, a range of key areas for building capacity were identified:

- (a) NGOs called on all States who have not already done so, to accede to the 1951 Convention, and to those who have made reservations, to withdraw them;
- (b) Where already existing, there is a need to work towards filling legal vacuums through the development of national legislation in accordance with international standards. In this regard, the importance of an NGO role in legislative development was recognized;
- (c) States and UNHCR should work to ensure the availability of legal advice, which represents an essential component of strengthening the capacity of a State to deliver fair and effective asylum procedures;
- (d) The importance of legal assistance was recognized at a number of refugee protection phases: border procedures; refugee status determination; detention (monitoring, access and advice); and protection against *refoulement* (in its broad sense, i.e. including under instruments such as the Convention against Torture);
- (e) The law also plays a crucial role in ensuring the protection of refugees against crimes, particularly those arising out of their vulnerability from having been uprooted;
- (f) The importance of developing mechanisms for ensuring that refugees and asylum-seekers know their rights was emphasized, and an example cited of the establishment of a legal information centre for refugees;
- (g) The use of other international human rights instruments, especially in a region where there have been a limited number of accessions to the 1951 Convention, should be strengthened;
- (h) The development of national legislation providing for the legal status of NGOs (both national and international) is essential for strengthening the capacity of NGOs to make their contribution to the adequacy of refugee protection.

Awareness-raising

31. Awareness-raising about refugee protection amongst refugees themselves as well as in the wider community was recognized as the shared responsibility of States, UNHCR, NGOs and other members of civil society. In this regard, it was noted that the central theme should be one of tolerance and respect.

32. In particular, it was noted that there was an essential role for NGOs to play in the following areas:

- (a) Exchanging information between Governments and NGOs;¹
- (b) Facilitating information-sharing among refugees;
- (c) Working more effectively with the media to ensure timely, accurate and balanced communication of information.

Refugee women and children

33. In shaping the framework of refugee protection in the region, the importance of more widely ratified instruments such as the Convention on the Rights of the Child, which specifically provides for the protection of refugees, and the Convention on the Elimination of Discrimination against Women was highlighted.

34. Some particular protection needs of refugee women and children were highlighted, including vulnerability to violence; the right to education, protection against exploitative child labour; the importance of making provision for separate applications for refugee status to be made by refugee women and, where appropriate, refugee children; marriage rights, etc.

Solutions

35. The importance of looking for solutions in a constructive and collaborative way, while maintaining international protection standards and principles, was highlighted as a critical component in strengthening protection capacity.

36. In the context of voluntary repatriation, it was noted that NGOs in the country of origin can play an important role, despite constraints, in facilitating voluntary and sustainable return, where conditions are conducive to this.

Networks and information exchange

37. NGOs present at the meeting agreed that there were many advantages in sharing information among NGO colleagues in the region. In doing so, they recognized that there were lessons to be learned from the practice and experience of others in the region, as no protection issue is exclusive to a particular country. In light of this, NGOs agreed to commence an informal information exchange through email networks, in the hope that this would also serve to strengthen protection capacity. The usefulness of organizing subregional workshops for NGOs was also supported.

¹ For example, reference was made to a recent guide on refugee protection produced by the Arab Institute for Human Rights.