

75th Meeting of the Standing Committee of the Executive Committee of the High Commissioner's Programme, Geneva, 18-20 June 2019

Agenda item 2: International Protection Statement by Volker Türk, Assistant High Commissioner for Refugees [Protection]

Mr. Chairperson, distinguished delegates, ladies and gentlemen,

Thank you for the opportunity to provide an overall introduction to the more specific protection and solutions items of this Standing Committee. Since this is my last opportunity to speak before you in my current function, I would like to share some broader reflections on protection that are borne out of my long-standing engagement with refugee, displacement and statelessness issues.

First: it is about the primacy of the individual and communities.

The compass in our work is bettering the life of the individual human being and of the communities they have formed and live in. This is what motivates us and helps us to navigate through troubled waters. This is especially the case when core humanitarian issues become politicised, as they do on occasion – for example, in the granting of asylum or envisaging refugee return. I have experienced this a lot over the years, and especially around return issues. Some see it as a logistics exercise; others as an indication that peace has returned [even when it has not]; and yet others don't want to engage in return at all because it could be perceived as supporting a particular government or deprive them of a bargaining tool in on-going negotiations.

In such foggy situations, we are of course best guided by the wishes of refugees themselves, who will ultimately decide what they consider to be most appropriate for them. As an organization, we seek to help them to enlarge their options and to create a wider space of freedom. It is our task to provide information and support to refugees when they wish to return, even when others will interpret our readiness to assist in line with their own agenda. At the same time, importantly, we need continuously to safeguard the protection space for those who do not wish to return.

The focus on the individual and the community is a trademark of our work. It's about listening to and engaging people of concern in all that we do – most explicitly set out in UNHCR's age, gender and diversity [AGD] policy. Through this engagement, people of concern are able to give voice to their plight and their needs, secure their rights, get the necessary support, and find a path towards a life of greater stability.

While statistics tell a story and are important, they are, at the same time, impersonal and often convey a sentiment of powerlessness. They will never replace engaging at the individual level and learning of the dreams and hopes of each person. It is also about respecting the specific needs, rights and aspirations of the individual in her or his predicament; understanding how multifaceted we are; refusing to limit the view to one characteristic or identity. Each story reminds us of the volatility of life; how from one day to the next, violence and conflict can massively disrupt an existence and a previously expected life path. Each of the stories we listen to brings home to us the very essence of human existence, the rich texture of life, and how interrelated everything is. They motivate us to make a difference in the lives of others.

In reality, long-term protection and solutions dividends can only be achieved in close partnership with the individuals and communities we serve; building on their capacities, knowledge, skills and experience, but also their hopes. In this regard, community-based protection approaches implemented by UNHCR and its partners have proven effective in promoting social cohesion amongst communities; advancing accountability to affected people; enhancing the identification of persons and communities at heightened risk; and engaging communities in addressing Sexual and Gender-Based Violence [SGBV], gender inequality, child protection and the exclusion of marginalized groups, including persons with disabilities.

For example in Chad, peaceful co-existence committees working together with traditional leaders have resulted in 85 per cent of the recorded incidents of conflict between displaced and host communities being successfully resolved. In Honduras, UNHCR is working to strengthen the capacity of parish committees to register housing, land and property abandoned by those forced to flee, and working with the Government to secure restitution. In Bangladesh, Rohingya Community Outreach Members or refugee volunteers have engaged in UNHCR's community-based protection programmes. As a result, they have reached hundreds of thousands of individuals by going door-to-door in refugee settlements to raise awareness on protection, hygiene, education, emergency preparedness for the monsoon and cyclone, and to accompany vulnerable refugees in need to access services; thereby carving out a role for themselves and being actors of their own protection.

Community engagement and communication are also central to addressing SGBV. In support of such efforts, and with thanks to funding over the past five years from the United States Government for the Safe from the Start project, UNHCR has deployed 16 SGBV experts to 25 operations where they prioritized SGBV prevention, risk mitigation and response at the onset of emergencies. From 2014 to 2018, these colleagues helped UNHCR operations more than double the coverage – from 25 to 58 per cent – and the efficiency – from 33 to 82 per cent – of SGBV programming. For example, 1.3 million additional persons of concern were reached through expanded SGBV-relevant medical referral systems; 1.2 million additional persons of concern gained access to mental health and psychosocial support; and 1.1 million persons of concern were reached through SGBV awareness campaigns to strengthen community-based protection mechanisms.

Above all, UNHCR remains committed to advancing implementation of its updated AGD policy, which is the result of decades of learning and consultations with communities. It also supports a more strategic response on *Accountability to Affected People* and commitments to women and girls, not least in support of the aforementioned SGBV response efforts.

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¹ See UNHCR, Safe from the Start 2014-2018, Reducing Risks: Sexual and Gender-based Violence in Emergencies, October 2018: www.unhcr.org/protection/operations/575a83dd5/reducing-risks-sexual-gender-based-violence-emergencies.html.

As these practical examples demonstrate, it is crucial that the fundamental people- and community-based orientation of our work remains embedded in our fabric and guides us through confusing and confused times.

Second: it is about the primacy of the law.

It doesn't come as a surprise that, historically, refugees and stateless people challenged a traditional rules-based system that was entirely focused on States and sovereignty. The great French jurist Georges Scelle paved the way for a fresh look at international law in the first half of the past century, recognizing the rights and responsibilities of the individual and demystifying the exclusive State-centred view of that time. A feminist perspective of international law that emerged later in the second half of the past century has had a similarly important impact on the reading and interpretation of law, including in the area covering people of concern to UNHCR – notably, women and girls.

Refugees, by definition, are people unable to avail of the protection of their country of origin. Hence, we saw the development of the concept of international protection and the emergence of an international legal framework that covers the particular status of refugees and stateless people. It includes their special needs, rights and specific situation, which is different from that of nationals. This legal tradition was already prevalent in the political offence exemption in extradition law; evolved through various ad hoc protection arrangements for different categories of refugees during the interwar period of the last century; and culminated – after the Second World War – in a rules-based international refugee protection regime, at the core of which is the 1951 Refugee Convention and its 1967 Protocol.

The basic tenets of international law relating to refugees, the displaced and the stateless are grounded in long-standing legal traditions that resonate with all faiths and emanate from fundamental principles of humanity. The customary international law norms of non-refoulement, the institution of asylum and an appropriate standard of treatment, including rescue of those in distress at sea, are hallmarks of civilisation – not to be easily thrown to the winds as some in political leadership positions have attempted to do. They constitute "elementary considerations of humanity".

International and regional refugee instruments serve as the primary source for ensuring coherence in the ways that States treat and respond to refugees and others in need of international protection in an increasingly fragmented world. In this context, I would highlight in particular the importance of the 1969 OAU/AU Refugee Convention, whose 50th anniversary we will commemorate in a couple of days from now. In Latin America, a specific regional instrument in the form of the Cartagena Declaration has always been intended to ensure proper coverage of all those in need of international protection by including people fleeing events seriously disturbing public order. I can only hope that this instrument will find a much-needed revitalisation in its actual application to different situations on that continent. Similarly, the reform of the EU's Common European Asylum System will need to take into account that the coincidence of geography is mitigated by concrete solidarity measures.

I mention these regional instruments also against the backdrop of on-going discussions around migrants in vulnerable situations. It will be absolutely crucial to avoid the temptation of moving the

contemporary scope of coverage of those in need of international protection to nebulous and illdefined migrant categories that do not have the legal foundations and backing of the former.

Let me also make particular mention of the role of the courts. An independent judiciary is essential to upholding the rule of law in times of crisis; providing the voice of reason in a sea of emotional public debate so often rooted in fear. It ensures both the interests of the State and respect for the fundamental rights of people fleeing persecution and conflict, which go hand-in-hand. It is in States' interests that laws are adhered to and upheld – including treaty obligations undertaken by them. The danger lies in unilateral actions pursued outside the framework of the law that disregard the interests of other States in addressing asylum and migration-related challenges, as well as the rights of individuals. In that process, they create gaps in protection and security, leading to inconsistencies in response.

Courts and decision-makers around the world have confirmed that the 1951 Convention and its 1967 Protocol are live instruments that continue to afford protection to millions of refugees. They form a "code of conduct" governing the management of refugee issues. It is regrettable, then, that at a time when we need this Convention most, there are still a few who question its relevance for today's refugee situations. Contrary to such criticisms, the 1951 Convention [as any international treaty] is both resilient and adaptable to our changing world, and decision-makers and courts around the world have relied upon it to decide on issues, such as questions of gender or child-specific forms of persecution; sexual orientation and gender identity; or the role of non-State actors in the context of gang violence. We have recently re-issued the *Handbook on Procedures and Criteria for Determining Refugee Status*² and the accompanying thirteen *Guidelines on International Protection*, which provide the authoritative legal positioning of the Office in relation to questions of international refugee law following a rigorous process of developing them.

These advances in the interpretation and implementation of international refugee law have been hard won through decades of reflection, analysis and practical application. They demonstrate the continued applicability of the 1951 Convention to contemporary situations – provided there is the political will to abide by the principles that it embodies and the humanitarian spirit in which it was conceived, while also developing additional procedural tools that ensure fair, efficient and quick decisions on who is and who is not in need of international protection.

In short, I believe that lawyers and the legal community more broadly have a critical role to play. It is therefore crucial that the rule of law dimension is properly understood, appreciated as a fundamental contribution to stability, and continuously strengthened; not least as a bulwark against contemporary threats to human rights and, in the words of Alexis de Tocqueville "the tyranny of the majority".

Third: our work is about the <u>primacy of protection and solutions</u>.

² See UNHCR, Handbook on procedures and criteria for determining refugee status and guidelines on international protection under the 1951 Convention and the 1967 Protocol relating to the status of refugees, re-issued Geneva, February 2019: www.unhcr.org/publications/legal/3d58e13b4/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html.

This encompasses an institution [UNHCR] that is able to intercede on behalf of the individual, giving concrete meaning to the aspirations of the Charter "we the peoples of ..."

Having served this institution and marvelled at its ability to get people out of detention; to stand up in court to defend them or to negotiate their entry to safety; amongst many, many other concrete protection activities, I have come to think of UNHCR as a hybrid – both as an inter-governmental and an inter-people organisation.

More generally, there has been a welcome focus of late on protection both within and outside of the United Nations. This has helped to highlight the various approaches to protection used by humanitarian, security, human rights, development and political actors. It is clear that the protection of people needs to be at the heart of humanitarian action – whether they are caught up in the turmoil of conflict and violence, entrapped in besieged areas or fleeing such circumstances, or when famine strikes, pandemics break out, or natural hazards wreak havoc.

As noted previously, a culture of protection must be oriented towards people and communities. It entails advocating for their rights, involving them in decisions that affect them, understanding the deeper reasons behind their plight, and seeking to redress them through concrete and hands-on operational engagement. Such a culture must also provide the overall strategic direction to humanitarian operations and inspire the design, coordination and delivery of services, as well as the interaction with the peacekeeping and development spheres.

Protection also means delivering concrete, quality protection services, such as prompt access to professional care for survivors of sexual violence or, for instance, legal aid to ensure access to justice, registration and individual documentation. In many conflict situations around the world, by way of example, civilians lose their personal documentation, preventing their access to public services or their ability to pass checkpoints. In order to remedy such a situation, one way of dealing with it is to deploy mobile civil registration teams for the issuance of replacement documents, as has been undertaken in a number of countries with our support.

Effective protection requires the identification of persons with specific needs, such as children and women at risk, and referring them to appropriate services. This can include reuniting them with their families or caregivers, or life-saving relocation or evacuation, as pursued in the Central African Republic and Libya for example. It means advocacy for, and intervening on behalf of people at risk of refoulement, trafficking, arbitrary detention or other harmful restrictions.

Importantly, protection means negotiating humanitarian access and ensuring that protection considerations inform every service or assistance we deliver. Building shelters too close to the border can, for instance, multiply the risk of infiltration of soldiers or forced recruitment, including of children. Failing to properly think through the layout of camps and settlements can put women and girls at risk of rape, abduction and other serious rights violations. Failure to adequately plan for WASH can lead to community tensions and violence.

At the same time, it is also important to recognize the limits of humanitarian action. All too often, it is the only visible demonstration of international solidarity in war-ravaged countries, yet it can neither replace State structures nor the political action necessary to end conflict and build peace. Humanitarian protection actors can reinforce community self-protection mechanisms, advocate for solutions and galvanize global support, but we cannot provide physical safety, even if our presence contributes to

it. Similarly, we cannot deliver humanitarian assistance while also conducting investigations into violations of human rights or humanitarian law, notably in active conflict situations. This invariably would compromise our access to communities in need and put humanitarian personnel at risk. By asking too much of humanitarian actors in such contexts we may blur responsibilities, compromise the humanitarian response and raise undue expectations. All of this confirms the need for a complementarity of roles and mandates as well as effective partnerships, including through the Humanitarian-Development-Peace nexus.

Against this background, it is crucial to constantly give meaning to the centrality of protection and solutions in humanitarian action and beyond; to capacitate this overall function appropriately; and to strengthen it wherever possible.

Fourth: it is about enhancing resilience and supporting social transformation.

Refugees and the forcibly displaced are in some ways a microcosm of our world. They reveal how we are increasingly interdependent – how the actions taken at home can resonate far beyond the borders of our communities and countries. They confront us with the stark realities and unimaginable choices that so many people face in zones of conflict or instability around the world. They help us to ask ourselves the difficult questions about where responsibilities lie for the making and unmaking of crises and the drivers of displacement, and how time and again we see what happens when segments of a population are marginalised, excluded, vilified and stigmatised – or simply ignored.

In my missions over the years, I have been fortunate to be able to spend quite a bit of time interacting with refugees, internally displaced people and stateless persons. Sitting down with Rohingya refugees in Bangladesh, for example, it struck me how much strength and resilience is embedded in this much-beleaguered population. I still remember how shocked I was when I met Rohingya in their villages in Myanmar in July 2015, finding them in an almost catatonic state. Or when I talked to those who had freshly arrived in 2017, feeling their deep trauma and hopelessness. However, on my most recent visit, I experienced a community that is bubbling with energy and activity, grateful to Bangladesh for hosting them but also wondering about their future.

During this last visit, I met with the first properly elected camp representatives comprised equally of women and of men – an experience they have never had in their lives. It reminded me of a group of Syrian refugee women I met on other occasions in Turkey and Lebanon, or of internally displaced women in Colombia. For the first time, they experienced woman-to-woman solidarity, awareness of their rights and a common healing space.

I have very encouraging memories of my many encounters in different countries with very enthusiastic young women and men who work as community outreach volunteers, especially on protection and gender-related issues. I remember how moved I was by the maturity and engagement of a group of children who were trained in mental health issues in Bangladesh and Lebanon. I've often sat down with groups of men, including young men and faith leaders, who work on SGBV awareness and response, becoming gender champions within their communities.

On a more general note, many refugees I talked to over the years mentioned their wish to have access to education, skills development and livelihoods. When on mission to Mauritania earlier this year, I

was, for example, impressed by a UNHCR-ILO project³ that provides vocational training to young refugee and host community women and men of different ethnic groups. It is visibly empowering the youth, notably young women, and contributing to their self-reliance. Further, it is an investment in the refugee population as future peace-builders, while embodying multifaceted dimensions such as gender equality, livelihoods and the early seeds of social transformation.

When discussing their future and whether they'd like to engage with the communities back home, even while in exile, young refugees in particular often reply they would like to reconnect, recalling some of the positive experiences of life in their home countries prior to their displacement. I am mentioning this experience since it is one I see in so many refugee communities around the world. I wish their positive energy could inspire a grassroots movement of peace, reconciliation and peaceful co-existence.

What all these conversations have underscored for me time and time again is that the social cohesion of communities outside their country of origin is sometimes stronger than the cohesion of communities who stayed. In one particular example, I learned that those communities who experienced social cohesion while in exile were free from violence back home, unlike other neighbourhoods that had not shared a similar plight. The work with refugee communities in host countries is therefore an important part of the peace-building process. It is wonderful to see how, through our operations, we are able to provide continued support to younger generations, to help them envision a future, and to hopefully help them become ambassadors for peace.

In short, refugees and affected host communities exemplify resilience under enormously difficult circumstances. The possibilities for social transformation with such populations are present and potentially huge. Equally for host communities, I am aware of a number of countries that have managed to turn a crisis into an opportunity, leading to the strengthening of national education, health, energy or child protection systems. Whatever we do to support refugees and host communities reflects a worthwhile investment in their own futures, as well as that of theirs and other countries, both in the immediate region and beyond.

Fifth: it is about the primacy of multilateralism.

There is simply no way around international cooperation, solidarity, and advancing individual and collective freedoms – ultimately, a world order generated and underpinned by the rule of law. This is obvious in the world of refugees. Refugee movements are transboundary by their very nature and, as a result, addressing them requires working together at the national, regional and global levels. They visualise the necessity for international cooperation and responsibility-sharing – making it an international whole-of-society matter.

It's an anomaly to conceptualise the world in separate, isolated entities or interest groups. At a deep spiritual level, and what is increasingly validated by hard science, is that the universe in its infinity and the atom at the micro level are a matter of light, space and shadow deeply interwoven, interconnected and interlinked, forming a holistic whole. Whatever the human mind tries to separate is ultimately an illusion, and when faced with the effects of climate change for example, an extremely dangerous one

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³ See UNHCR, Mauritania Operational Update, 15 March 2019: https://data2.unhcr.org/fr/documents/download/68583. See also, Memorandum of Understanding between the International Labour Organisation and the Office of the United Nations High Commissioner for Refugees, Geneva, 1 July 2016: https://data2.unhcr.org/fr/documents/documents/download/68583. See also, Memorandum of Understanding between the International Labour Organisation and the Office of the United Nations High Commissioner for Refugees, Geneva, 1 July 2016: www.ilo.org/wcmsp5/groups/public/---dgreports/---jur/documents/genericdocument/wcms 433878.pdf.

going to the very heart of the survival of humanity. Multilateralism is hard yet rewarding work, as we all know through our commitment to diplomacy and as we have seen concretely through the development of the Global Compact on Refugees. ⁴ Multilateralism is the antidote to populist nationalism that wreaked havoc in the 20th century. We must not allow narrow interests and unilateral actions to re-emerge as a mainstay of international relations. It would be a disservice to the significant strides made since the Second World War and to the interconnectedness of the myriad drivers of displacement that exist. To address them, we need to work closely together, in a spirit of solidarity.

Let's not forget that what may be localized today could very well become a regional or even global issue tomorrow. We have seen this, for instance, in the Lake Chad region and in the impact of the insurgency in North-Eastern Nigeria on neighbouring countries and elsewhere. We have also seen this in Myanmar's Northern Rakhine State, in the Sahel, Venezuela and Central America – the list goes on. Indeed, we saw this in 2015 when more than one million refugees, primarily from Syria, could no longer meet their basic needs and started crossing the Mediterranean Sea to reach Europe, often experiencing harm, trauma and loss along the way. While some countries have found ways to respond constructively to refugee situations, others have chosen restrictive and unilateral measures that have only shifted the "problem" onto other States. The fragmentation that has resulted has both exacerbated the precarious situations in which refugees are living and undermined trust and solidarity amongst States.

The lesson we should take away from this is to not ignore simmering crises. At our core, we must be truly humanitarian and respond even when the link to other parts of the world is not immediately obvious. It brings us back to the point that we are interdependent in a globalized world. Sharing the benefits of globalization also means sharing in the response to its challenges. It means finding ways to rectify the inequities, disparities and contradictions that pervade current realities.

Against all odds, multilateralism has actually been strengthened in the area of refugee work and for stateless people over the years. For the first time, the world has given concrete shape and form to responsibility-sharing through the Global Compact on Refugees. Its aim is to ensure more equity and predictability in the way the international community addresses large-scale movements of refugees as well as protracted refugee situations — especially those that are forgotten and chronically underfunded. It is premised on the understanding that refugee situations can only be adequately addressed through international cooperation. Such cooperation is also key to ensuring global stability, building public confidence in institutions, and strengthening protection for refugees. It is envisioned that as part of the Global Compact on Refugees, States would share responsibility for refugees in a number of areas. For example, in conflict prevention and resolution, linking humanitarian and development assistance, the development of safe and regular pathways, and engaging civil society and other actors in innovative initiatives to facilitate integration and build communities.

We see the results of this endeavour every day. For instance, development donors and providers of concessional finance have increased funding available for comprehensive refugee responses. We have also seen increased collaboration between humanitarian and development actors, notably the World Bank Group and other multilateral development banks, as well as a number of private sector initiatives that are benefiting both refugees and host communities through generating sustainable incomes. Similarly, the ILO, which celebrates the centenary of its foundation this year, has recently reinvigorated

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⁴ See Report of the United Nations High Commissioner for Refugees, Part II, *Global Compact on Refugees*, General Assembly Official Records, Seventy-third Session, Supplement No. 12: www.unhcr.org/gcr/GCR English.pdf.

its mandate in the humanitarian-development-peace nexus and fully equipped itself to contribute to more peaceful and resilient societies through the promotion of employment and decent work.⁵ Cities and municipalities are already engaging in whole-of-society approaches to find solutions for all residents, while refugees themselves are increasingly claiming their rightful seat at the table, helping shape relevant policies and practice in refugee responses at local, national and global levels. There has also been an overall shift to more inclusive policies across most Comprehensive Refugee Response Framework [CRRF]⁶ countries and elsewhere, facilitating improved opportunities for refugee self-reliance and participation.

One year after the affirmation of the Global Compact on Refugees, the first Global Refugee Forum on 17-18 December 2019 in Geneva provides a unique opportunity for the international community to come together and lay the foundations for its implementation over the longer term. As provided for by the Compact, the Forum will be co-convened by a few key States that are making major contributions to comprehensive responses to refugees. At the same time, a system of co-sponsorship has been established to facilitate the broader engagement of States and other stakeholders that wish to form a broad alliance of support around an area of focus both in the lead-up to and at the Forum.

At the Forum, States and other stakeholders may announce pledges and contributions, and exchange good practices in relation to the objectives of the Compact. The Forum provides a platform for States and others to come together and announce new measures that they will take to ease pressures on host countries, boost refugee self-reliance and search for solutions. This calls for vision and ambition, as well as sustained political commitment to improve the lives of refugees and their host communities.

In the area of statelessness, the 10-year campaign to end this anomaly⁷ has produced a number of tangible results: The revival of formerly moribund conventions; changes in laws and policies; and importantly, the resolution of statelessness issues for hundreds of thousands of people in many different regions in the world. For example, since the launch of the Campaign, there have been 20 accessions to the statelessness conventions, including eight States acceding to the 1954 Convention, and 12 to the 1961 Convention. Moreover, many States have introduced new statelessness determination procedures and/or facilitated naturalization procedures for persons identified as stateless.

As we approach the mid-point of the Campaign, the High-Level Segment on Statelessness to be held on the first day of this year's Executive Committee meeting affords the international community a chance to take stock of these important achievements. It will also provide States and others with the opportunity to make concrete commitments to take additional steps to accelerate the resolution of statelessness by 2024. The commitments made at the High-Level Segment will be critical to making that event an important contribution to the global effort to eradicate statelessness. These commitments will also feature in the outcome document of the Global Refugee Forum.

⁵ See International Labour Organization, *Brochure: Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205)* and *Introduction to the ILO's programme on Jobs for Peace and Resilience*: www.ilo.org/global/topics/employment-promotion/recovery-and-reconstruction/WCMS 631491/lang--en/index.htm.

⁶ United Nations General Assembly, Seventy-first session, Agenda items 13 and 117, Resolution adopted by the General Assembly on 19 September 2016, New York Declaration for Refugees and Migrants, Annex I, Comprehensive Refugee Response Framework [CRRF]: www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1.

⁷ See UNHCR, #IBELONG Campaign to End Statelessness: www.unhcr.org/ibelong/.

Positively, it seems to me that we have only really seen the nascent beginnings of multilateralism. I am convinced that the world of the future will embrace a governance model that is inclusive of all segments of society; that takes into account a responsibility to future generations; and is able to transcend narrow and short-term interests.

Let me conclude by saying what an incredible privilege and honour it has been for me personally to serve this cause for some thirty years. This has never been another job but an unfolding of a myriad of possibilities. From the depths of my entire being, I thank you all for your collaboration over the years and all that you have done to advance the noble cause of protecting and supporting refugees, the displaced and stateless people around the world.