

EXECUTIVE COMMITTEE OF THE
HIGH COMMISSIONER'S PROGRAMME
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NGO Protection Statement
Agenda Item 5(a)

Mister Chair, Ladies and Gentlemen,

This statement is delivered on behalf of a wide range of non-governmental organizations. It has been drafted in consultation with, and aims to reflect the diversity of views of, the NGO community.

General Reflections

Mister Chair, for the June 2015 Standing Committee meeting UNHCR chose the “rule of law¹” as the organizing theme for the Note on International Protection. The NGO community applauds this focus, which overlays principles, laws and concepts of justice on a landscape of incredibly complex emergencies.

(i) We believe that the rule of law should continue to guide this Executive Committee, and therefore urge the development of Conclusions via the four topics identified by UNHCR: 1) reception and alternatives to detention, 2) machine-readable travel documents, 3) engagement and empowerment of youth, and 4) self-reliance from a solutions perspective. Each Conclusion should prioritize international human rights and refugee law in the context of mixed migration.

(ii) We believe it applies to UNHCR's own operations and governance. We therefore support reforms, like the reform of UNHCR's mandate RSD operations, so long as they are implemented in a manner that prioritizes rule of law and human rights outcomes over political management of migration.

(iii) We believe it applies to humanitarian action, and we applaud the efforts of the Solutions Alliance in aligning humanitarian response with the ultimate accomplishment of human rights-based solutions for forced displacement.

(iv) We believe it requires states to move away from policies that restrict access to asylum, limit freedom of movement, or place refugees at risk of *refoulement*.

¹ As stated in the 2015 Note on International Protection: “In the United Nations, the rule of law concept refers to the principle of State governance in which all persons, institutions and entities, public and private, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. This includes measures to ensure equality before the law, fairness in the application of the law, the avoidance of arbitrariness, and procedural and legal transparency.” A/AC.96/1145

(v) We believe that regional initiatives to codify, define and reaffirm commitments to rule of law should be encouraged and supported. An excellent example is the December 2014 adoption of the Brazil Declaration and Plan of Action, which reaffirmed commitments of Latin American and Caribbean States to refugees and stateless persons.

Above all, we call on national governments to fulfill their protection role to refugees and stateless persons, and their role to prevent and solve cases of statelessness.

Mister Chair, we would like to dedicate the last few minutes to four country situations.

Syria

For the fifth year in a row we commend the tremendous efforts of the neighbouring countries hosting Syrian refugees. The crisis has now reached beyond neighboring countries, to Europe, highlighting the urgent need for meaningful global cooperation.

A global Comprehensive Plan of Action is needed as the natural next step to UNHCR's call for "international responsibility-sharing." Specifically, we need:

- 1) Reduced barriers to entry paired with temporary protection programs to absorb refugees fleeing Syria;
- 2) Regional and global cooperation to establish meaningful asylum and resettlement quotas that go beyond mere symbolic gestures;
- 3) Significantly expanded resettlement programs prioritizing the most vulnerable; and
- 4) A comprehensive, and systematic allowance for alternative pathways to mobility, including study and work visas as well as family reunification arrangements.

Refugee hosting countries and donors alike must ensure both humanitarian and development support, and access to documentation and residency, to protect the most vulnerable and facilitate access safe, lawful employment opportunities.

We commend Germany and Sweden for leading in the European Union (EU) response to the Syrian crisis. However, we express deep concern that some countries are closing borders, placing advertisements warning Syrians away from their doorsteps, and turning asylum seekers back at the border. These actions are morally unacceptable and in some cases violate binding international law. In many instances, governments would do well to emulate the humanitarian spirit of their populace.

Thousands of refugees have drowned or gone missing in the Mediterranean in 2015.² These deaths are the clear consequence of restrictive asylum and other immigration policies in a time when refugees need safety from the ongoing conflict in Syria.

Bay of Bengal and Andaman Boat Crisis

We are deeply disturbed by the initial failure of States to assist thousands of Rohingya refugees and Bangladeshi migrants abandoned at sea for several weeks by human traffickers in May 2015. We condemn the response by governments, which has included the sealing of borders, the interception and towing of boats of asylum seekers out to sea, the denial of aid and assistance to survivors, and the continued detention of asylum seekers. These policies and practices have put lives at risk, including a large number of children.

We are further saddened by the unnecessary loss of life, abuses, and deprivations experienced by Rohingya asylum seekers and others at the hands of transnational human trafficking syndicates. Mass graves along the Thailand-Malaysia border, uncovered in May and June 2015, exposed the protracted nature of these abuses. We urge governments to start implementing the recommendations put forward in the May 2015 Special Meeting on Irregular Migration in the Indian Ocean, including immediate provision of assistance and protection to refugees and migrants at sea.

We welcome a discussion on addressing the situation inside Myanmar at the upcoming 2015 High Commissioner's Dialogue on Root Causes.

Central America

NGOs are alarmed at the continued arrivals of unaccompanied children from Central America who are being forcibly displaced. Girls and boys are increasingly the deliberate targets of forced recruitment, gender based violence and other horrific abuses perpetrated by gangs and other non-state actors.

We express concern that the government of Mexico reportedly apprehended and deported more than 90,000 Central American migrants between October 2014 and April 2015 – more than the United States, and an 80% increase over the previous year.³ Rather than apprehend and deport asylum seekers, attention should be paid to developing a safe asylum space in Mexico.

We strongly condemn the use of arbitrary and prolonged immigration detention and urge the government of the United States to cease its use of family detention centers.

² Maria Carlino, United Nations, *Secretary General "horrified and heartbroken" over latest refugee deaths* (Aug 28, 2015). <http://www.unmultimedia.org/radio/english/2015/08/secretary-general-horrified-and-heartbroken-over-latest-refugee-deaths/#.VhH203uYPGs>

³ WOLA, *Mexico Has Doubled Deportations of Migrants, but Protections for Refugees Remain Weak*. (June 24, 2015). http://www.wola.org/news/mexico_has_doubled_deportations_of_migrants_but_protections_for_refugees_remain_weak

Finally, it is imperative that these children be provided with a “Best Interest Determination” and, when appropriate, assisted with family reunification.

Australia

We remain deeply disturbed by the deterioration of protection standards for asylum seekers in Australia. The deaths of two asylum seekers held at the Manus Island detention centre last year have demonstrated the risks of sending asylum seekers to countries that do not respect the fundamental rights of refugees. Despite this, Australia has continued with its plan to transfer refugees to Cambodia, a country with much less capacity to support refugees.

We urge Australia to abandon its current policies and work more constructively with its neighbors to lift standards of protection and provide durable solutions for refugees in Asia.

We do however wish to acknowledge Australia’s decision to accept a one off allocation of 12,000 permanent refugees from Syria on top of its usual humanitarian intake and encourage other countries to make additional resettlement commitments.

Kenya

2014 witnessed the relocation of several thousand urban refugees from Nairobi to camps. We call upon the Kenyan Government and UNHCR to apply UNHCR’s Urban Refugee and Alternatives to Camps policies, and to allow refugees freedom of movement and corresponding rights. We also urge donors to support work rights and livelihood programmes as they are vital for refugees in Kenya.

We welcome the 2014 commitment made by the governments of six countries to secure durable solutions for the hundreds of thousands of Somali refugees. We remind all parties that all refugee returns to Somalia must be voluntary, dignified and in full conformity with international law. We caution that the current return strategy (presented in Brussels on 21 October, 2015) must take into account the return environment and reception capabilities in South Somalia, given returns from Yemen and the continued presence of IDPs.

Statelessness

To conclude, we would like to express strong NGO support for UNHCR’s campaign to eradicate statelessness globally. We also note the increasing attention to statelessness by the UN Human Rights Council and Treaty Bodies, and urge member states to utilize the Universal Periodic Review process to further address statelessness. At the regional level, we would like to draw attention to the Brazil Declaration and the Abidjan Declaration as positive examples of regional initiatives that complement the Global Campaign to End Statelessness.

A longer version of this statement will be posted at www.icvanetwork.org.

Thank you, Mister Chair.