

**Annual Consultations with Non-Governmental Organizations  
29 – 30 June 2010, International Conference Center Geneva  
1 July 2010, Palais des Nations, Geneva**

Thematic Session on Xenophobia  
30 June 2010; 11:15 – 13:00

***Background Note***

Convened by UNHCR (Division of International Protection) and Human Rights First

**Session Title**

Working Together: Strategies for Protection from Xenophobia, Racism, Intolerance and Bias-Motivated Violence

**Session Description**

Human Rights First and UNHCR will convene this session to discuss strategies for improving protection for refugees, returnees, asylum-seekers, stateless and displaced persons who are affected by xenophobia, racism, intolerance, and bias-motivated violence. The panel will focus on collaborative action and partnership among States, civil society, the United Nations, and other international and regional organizations, which complements the overarching theme of the 2010 Annual Consultations.

Protection from xenophobic, racist and other bias-motivated violence (“hate crime”) and discrimination is at the heart of protection of refugees, asylum-seekers, stateless and displaced persons. Media, nongovernmental groups and state agencies around the world report that xenophobia and xenophobic violence are rising. In a recent statement on the renewal of his mandate, the High Commissioner cited “growing intolerance and xenophobia” as one of the main challenges that lie ahead.

Hate crime and discrimination impacts on asylum-seekers and refugees in the various stages of their displacement: (i) as a reason for their flight, (ii) during flight, (iii) pending the outcome of individual asylum applications in industrialized countries, (iv) in protracted displacement situations, and (v) in the search for durable solutions.

Specifically, hate crime, when left unchecked, impinges upon freedom of movement and results in progressive marginalization and exclusion. A fear of violence may hinder refugees and asylum-seekers from accessing available services as they may avoid venturing to locations where basic services are offered. Hate crime undermines the concept of a safe haven by exposing refugees and asylum-seekers to new waves of persecution and related violence.

Discrimination on the basis of race, colour, descent, national or ethnic origin, religion, sexual orientation or gender identity, sometimes in combination with discrimination on other grounds, is also a recurring reason for the denial of a range of rights to refugees and asylum seekers. Discrimination can result in the deprivation of nationality and is therefore a cause of statelessness. Statelessness itself often leads to discrimination and

where stateless populations belong to racial, ethnic or other minorities; their lack of nationality may reinforce existing patterns of discrimination.

International human rights law obliges States to respond to the intolerance and xenophobia that is at the root of discrimination and hate crime. Additionally, States have undertaken related political commitments in regional intergovernmental organizations, such as the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and the European Union.

However, despite strong treaty obligations and political commitments, there are significant gaps in various areas – including leadership, law enforcement, collaboration with civil society and others areas – necessary to ensure protection. Actions from all stakeholders are needed to combat xenophobia, racism, intolerance and hate crime in many parts of the world. At present, systems to monitor and report on violent hate crimes and other forms of discrimination – a fundamental aspect of a stronger government response – tend to be poorly, if at all, developed in most countries. Even where such systems are better developed, underreporting of hate crimes and discrimination remain a significant problem, especially among migrants, refugees and asylum-seekers.

Both Human Rights First and UNHCR have recently published documents, which list steps to address racism and other forms of intolerance. Human Rights First's *Ten-Point Plan* outlines specific steps governments can take to prevent and combat hate crimes. These steps include acknowledging and condemning hate crimes whenever they occur, strengthening law enforcement and prosecuting offenders, monitoring and reporting on hate crimes, and conducting community outreach. Civil society groups also play a vital role in combating hate crimes which target displaced populations, including through implementing assistance programs, conducting additional research and recommendations, facilitating civil society networks, and contributing to awareness-raising campaigns. Both strong government and unyielding civil society responses are vital elements of a competent strategy to combat hate crimes.

In December 2009, UNHCR issued a strategy note entitled “Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance Through a Strategic Approach.” UNHCR’s strategy note outlines seven elements of a strategic approach to combating racial discrimination, xenophobia, and intolerance that requires action by various stakeholders. These elements include: (i) monitoring signs of racial discrimination, xenophobia and related intolerance, and tracking and reporting hate crimes; (ii) analyzing the underlying reasons, (iii) assessing the manifestations of these phenomena and their impact on protection; (iv) understanding legal obligations to protect all individuals from racial discrimination and multiple forms of discrimination; (v) engaging a network of diverse organizations and actors that implement complementary activities targeting different groups in society; (vi) including affected communities in the strategic approach; and (vii) providing individual support to victims.

The severe impact on xenophobia, racism, intolerance and bias-motivated violence on one, more or all parts of the displacement cycle makes it a key protection concern. Such fundamental violations are occurring in both countries of asylum and origin.

This session will provide an opportunity for different stakeholders, including civil society groups, to discuss elements of comprehensive responses and share best practices and

effective strategies in addressing xenophobia, racism and hate crimes that affect refugees, asylum-seekers, stateless and displaced persons. Relevant human rights standards will be highlighted, models for collaboration discussed, strategies to engage States will be considered, and presenters and participants will share tools to strengthen advocacy and assistance efforts – such as *Preventing and Responding to Hate Crimes*, a resource guide for non-governmental organizations produced by the OSCE's ODIHR.

The panel will address the role of NGOs, ODIHR, the Office of the UN High Commissioner for Human Rights, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, UNHCR and other international and regional organizations in addressing these challenges. The conveners hope that the session and its discussion will help to facilitate additional collaborations and advocacy, as well as to share information that will assist civil society groups and others as they advocate for and work with displaced populations who are affected by the phenomenon of xenophobia, racism, racial discrimination, intolerance and hate crimes.

Key questions for the discussion include:

- What are the principal protection gaps in this area and what steps should be taken to address those gaps?
- How can States best respond to the protection needs of persons of concern who are the victims of hate crime, discrimination and other forms of intolerance? How can civil society, UNHCR, inter-governmental organizations and others work with States on addressing these needs?
- Are there particularly effective NGO strategies or models for addressing these problems?
- What steps can UNHCR take to advance protection of affected refugees, asylum seekers, displaced persons and others of concern? What steps can be taken by other stakeholders?

Following the panel, possible next steps include:

- Further development of tools by UNHCR for use at the field-level to assist in addressing these concerns;
- Increased action by civil society, UNHCR, States and other stakeholders to work together to address these challenges, including at the national level; and
- Proposing an Executive Committee (ExCom) Conclusion urging States to take steps to address these challenges.

We look forward to your participation!

## Reference documents:

- UN High Commissioner for Refugees, *Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance through a Strategic Approach*, December 2009, available at: <http://www.unhcr.org/refworld/docid/4b30931d2.html>
- Human Rights First, 2008 Hate Crime Survey: Racism And Xenophobia, available at: <http://www.humanrightsfirst.org/discrimination/reports.aspx?s=racism-and-xenophobia&p=index>
- Human Rights First, Ten Point Plan for Combating Hate Crimes, available at <http://www.humanrightsfirst.org/discrimination/pages.aspx?id=163>
- Office for Democratic Institutions and Human Rights, Preventing and Responding to Hate Crimes, available at: [http://www.osce.org/odihr/item\\_11\\_40781.html](http://www.osce.org/odihr/item_11_40781.html)
- UN Committee on the Elimination of Racial Discrimination (CERD), *CERD General Recommendation XXX on Discrimination Against Non Citizens*, 1 October 2002, available at: <http://www.unhcr.org/refworld/docid/45139e084.html>
- United Nations, *Durban Declaration and Plan of Action, Adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Violence*, 8 September 2001, available at: <http://www.unhcr.org/refworld/docid/3db573314.html>
- UN Office of the High Commissioner for Human Rights, *Outcome document of the Durban Review Conference*, 24 April 2009, available at: <http://www.unhcr.org/refworld/docid/49f584682.html>
- UN General Assembly, *Report of the Regional Conference for Latin America and the Caribbean Preparatory to the Durban Review Conference, Brasilia, 17-19 June 2008*, 29 September 2008, A/CONF.211/PC.3/3, available at: <http://www.unhcr.org/refworld/docid/4a54bc320.html>
- Office for Democratic Institutions and Human Rights, Publications related to tolerance and non-discrimination, <http://www.osce.org/odihr/publications.html?lsi=true&limit=10&grp=360>
- The Office of the High Commissioner for Human Rights, <http://www.ohchr.org>
- The African Commission on Human and People's Rights, <http://www.achpr.org/>
- The Inter-American Commission on Human Rights, <http://www.cidh.oas.org/DefaultE.htm>
- The Fundamental Rights Agency of the European Union, [http://fra.europa.eu/fraWebsite/home/home\\_en.htm](http://fra.europa.eu/fraWebsite/home/home_en.htm)
- The European Commission Against Racism and Intolerance, Council of Europe, [http://www.coe.int/t/dghl/monitoring/ecri/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/default_en.asp)

- Consortium for Refugees and Migrants in South Africa (CoRMSA) and Forced Migration Studies Programme, May 2008 Violence Against Foreign Nationals in South Africa: Understanding Causes and Evaluating Responses, April 2010, <http://www.cormsa.org.za/wp-content/uploads/2009/05/may-2008-violence-against-foreign-nationals-in-south-africa.pdf>