

Providing international protection

The Department of International Protection's (DIP) main objectives for 2004 with respect to Protection Policy and Legal Advice were to (i) achieve the progressive development of international law and standards in the area of forced displacement; (ii) equip UNHCR staff, governments, relevant intergovernmental and non-governmental organizations, law practitioners, scholars, and other concerned groups and individuals to address international protection issues in a principled and practical manner; and (iii) use human rights law and standards, as well as human rights mechanisms, effectively to enhance refugee protection.

DIP provided protection-related input for the Executive Committee (ExCom) and drafted legal and protection policy papers on a number of issues in the form of conference room papers and the *Note on International Protection*. Three protection-related conclusions were successfully negotiated and adopted by ExCom: the *General Conclusion on International Protection* and conclusions on *International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations (Agenda for Protection (AfP), Goal 1)* and on *Legal Safety Issues in the Context of Voluntary Repatriation of Refugees (AfP, Goal 5)*. DIP also contributed to the drafting of the United Nations General Assembly "omnibus" resolution that implicitly endorsed the ExCom Conclusions.

The Department developed and issued guidelines on religion-based persecution, as part of the series *Guidelines on International Protection*, complementing the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status. Additionally, DIP issued internal *Guidelines on Cancellation of Refugee Status*, along with a Note on the subject.

An expert "roundtable" discussion on maintaining the civilian and humanitarian character of asylum as spelt out in ExCom Conclusion No. 94 was convened as part of the ExCom process under the AfP (Goal 4). The meeting focused on criteria and procedures to separate combatants from the civilian refugee population as well as on criteria for regarding a

combatant as an asylum-seeker. The relevant background documents were published for wider circulation and work on developing operational guidelines for the separation of combatants proceeded.

UNHCR also co-hosted an expert meeting with UN-Habitat on *Housing, Land and Property Rights in Post-Conflict Societies* to discuss a strategy for integrating these issues into United Nations policy and operational frameworks.

DIP assisted the bureaux to draft position papers for national institutions and tribunals in charge of refugee status determination issues and, working closely with appointed pro bono counsel, to develop legal arguments in amicus briefs in two precedent-setting cases in the House of Lords in the United Kingdom.

DIP commented on EU draft Directives as well as the Hague Programme of Action and contributed to the drafting of the "three-prong" proposal, which helped to the design of the Hague Programme in the EU.

The Department commissioned the preparation of a Handbook on Integration Rights and on Strengthening Protection Capacities in Host Country to provide general guidance to UNHCR staff.

DIP liaised with the human rights treaty monitoring bodies and various human rights programmes of the United Nations and regional organizations. Input was provided to the Committee on the Elimination of Racial Discrimination and to the Committee on the Rights of the Child, the latter with a comprehensive document titled *Annotated Guide on Elements for a General Comment on the Treatment of Unaccompanied Children and Separated Children Outside their Country of Origin*.

The November 2004 conference held in Mexico to commemorate 20 years of the 1984 Cartagena Declaration adopted the Declaration and Plan of Action which contain important State commitments on matters recommended in the AfP. DIP contributed to the funding of events commemorating the

Cartagena Declaration as well as those relating to the Regional Parliamentary Conference on Refugees in Africa held in Cotonou, Benin.

DIP provided comments on a number of draft national asylum laws – to support field offices in their advocacy ensuring that the highest level of procedural standards were met in national asylum legislation.

Statelessness

In 2004, UNHCR provided technical assistance to various States which enacted or revised citizenship laws. These laws aim to reduce the global problem of statelessness by enabling stateless persons to acquire nationality, and ensure that situations of statelessness are avoided in the future. UNHCR also continued to promote the ratification of the 1954 and 1961 Statelessness Conventions and welcomed the accession of Uruguay, Lesotho and Liberia in 2004.

Building on the findings of the first global survey of efforts by States to prevent and reduce statelessness, UNHCR organized a panel discussion on statelessness at its 2004 Executive Committee focusing on solutions to situations of statelessness. Such solutions in 2004 included the granting of nationality to more than 190,000 households by Sri Lanka as a result of citizenship campaigns organized with the support of UNHCR.

Implementation of the *Agenda for Protection (AfP)*

In the past year, UNHCR invested considerable effort in the process of more closely aligning programmes with the AfP, principally in the Field, but also at Headquarters. Cooperation with parliaments was highlighted in the *Agenda* as a key area for development. At the same time, UNHCR's continued promotion of protection partnerships with NGOs now involves far more than a piecemeal approach to advocacy and the delivery of protection-related assistance programmes. In this regard, DIP is increasingly working with NGOs to develop protection tools and operational policies.

The Department disseminated the *Agenda* in Arabic, English, French, German, Russian and Spanish.

UNHCR offices in the field have been encouraged to produce it in other languages. In 2004, Bosnian and Turkish versions were produced.

DIP is engaged in an entirely field-oriented project, sponsored by the European Commission and some EU member States, to promote more favourable protection for refugees in host States through an analysis of gaps in service delivery, followed by assistance to these States for appropriate capacity building. The Capacity Building Manual called for in the *Agenda* is in its final draft.

The Convention Plus initiative remains an important vehicle for the implementation of the AfP through strengthening international cooperation and burden/responsibility sharing to make durable solutions both more timely and more sustainable. These plans entail more strategic use of resettlement and of development assistance. Several of these plans will propose a protection-oriented framework to address irregular secondary movements of refugees and asylum-seekers.

In addition to the guidelines on religious-based persecution and cancellation of refugee status noted above, a number of other guidelines and field advice were developed pursuant to the AfP.

To strengthen implementation and ensure the harmonized interpretation of the 1951 Convention relating to the Status of Refugees (Goal 1) in the EU, two separate sets of Commentaries were completed: one in relation to the draft Qualification Directive, and the other in relation to the draft Procedures Directive.

Work continued on the mass influx study, to further the discussions on framing more effective and predictable responses to mass influx situations.

DIP is finalizing the *Best Interests Determination Guidelines*, pursuant to the call in the *Agenda* for the dissemination of material on the rights of refugee children in international law, with special reference to the *Convention of the Rights of the Child*. These Guidelines will assist staff and partners when called upon to make a "best interest" decision for a child.

Also in preparation are guidelines on family unity in the refugee protection context, on age-related persecution, on the "political opinion" ground for



Venezuela: Colombian refugees – UNHCR staff visited a Colombian refugee family who were having problems with the authorities because they did not have ID cards. The family makes its living by recycling iron. *UNHCR/B. Heger*

refugee status, on the eligibility of victims of trafficking for refugee status as well as on management of armed elements in camps.

UNHCR participated in global conferences and meetings organized by international agencies including the United Nations Office on Drugs and Crime (UNODC) as well as regional organizations such as the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe on issues relating to trafficking, human smuggling, terrorism, international legal cooperation, extradition, and international crimes. DIP also took part in various forums on migration such as the International Organization for Migration (IOM), the Geneva Migration Group (GMG), the Inter-Governmental Consultations (IGC) on Asylum, Refugees and Migration

Policies in Europe, North America and Australia, the Global Commission on International Migration (GCIM), and the Berne Initiative. Work is continuing on the guidelines relating to the eligibility of victims of trafficking for refugee status, as well as the guidelines on protection safeguards to interception (in conformity with Goal 2 of the AfP).

Goal 5 of the AfP focuses on making durable solutions more timely and accessible. UNHCR continued to develop a Framework for Durable Solutions for Refugees and Persons of Concern. A central element of this framework is the use of development assistance to shore up durable solutions.