

**Statement by Manuel Jordao**  
**UNHCR Representative**  
**Bar Council Seminar on Immigration**  
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Ladies and gentlemen,

***Introduction***

Let me start by thanking the Bar Council for having given UNHCR this opportunity to be with you today. It's a very good moment I believe to be talking about asylum and indeed immigration more generally given we're dead-set in the middle of summer (even if it doesn't look like it) and the legislative push on the Immigration, Residence and Protection Bill has halted, or slowed down at least. This single piece of legislation will be crucial for both asylum and immigration in the next 5-10 years. Ultimately when passed I am hopeful it will become an Act that serves Ireland's needs fairly and serves those who will be primary focus of it, asylum-seekers, refugees and other migrants, each of whom will come to Ireland for distinct and different reasons.

So thank you to the Bar Council for having me. I will keep my talk closely to issues we see as relevant to the asylum system in Ireland today, but I will start by putting it more broadly in the context of work our agency undertakes in other parts of the world.

***The scale of the problem***

After a five-year decline in the number of refugees between 2001 and 2005, for the second straight year the number of refugees and conflict-generated internally displaced people has grown worldwide. UNHCR's Global Trends, which I am quoting from, says the figure grew to a total of 37.4 million in 2007, including some 11.4 million refugees outside their homelands and 26 million people forcibly displaced within their own countries.

Unfortunately, the signs are that we are likely to see even more people forced to flee in the future.

Among refugees, Afghans (around 3 million, mainly in Pakistan and Iran) and Iraqis (around 2 million, mainly in Syria and Jordan) accounted for nearly half of all refugees under UNHCR's care worldwide in 2007, followed by Colombians, Sudanese and Somalis. It says much of the increase in refugees in 2007 was a result of the volatile situation in Iraq. The top refugee-hosting countries in 2007 included Pakistan, Syria, Iran, Jordan and Germany.

Among the internally displaced, the report cites up to 3 million people in Colombia; 2.4 million in Iraq; 1.3 million in the Democratic Republic of the Congo; 1.2 million in Uganda; and 1 million in Somalia. In all, it covers 13.7 million IDPs in 23 countries.

Another noteworthy figure from the report is that some 647,200 individual applications for asylum or refugee status were submitted to governments and UNHCR offices in 154 countries last year - a

5 percent increase and the first rise in four years. This increase can primarily be attributed to the large number of Iraqis seeking asylum in Europe, some 52,000.

Somalis made 46,100 applications, Eritreans 36,000, followed by Colombians; nationals of the Russian Federation; Ethiopians and Zimbabweans. The top destination countries for individual asylum-seekers were the United States, South Africa, Sweden, France, the United Kingdom, Canada and Greece.

This report also reiterated UNHCR's concerns over widely varying recognition rates among asylum countries. It also noted that most refugees are still hosted in their own regions of origin, not in the industrialized world, which is an important fact to remember when we look at justifications made for restrictive asylum policies and practices in the industrialized nations of the world.

### ***New shifts in root causes of conflict and displacement***

In a statement marking World Refugee Day, the UN High Commissioner for Refugees spoke recently of the new patterns of forced movement that have emerged, including forms of displacement that were not envisaged by the 1951 UN Refugee Convention. But that is not to say of course that the Convention is not still relevant.

The High Commissioner was speaking about conflict which today can be motivated by politics, but at a deeper level, it can also be about economic mismanagement, bad governance and a host of other factors, including climate-induced environmental degradation leading to competition for water and other resources.

During the last few months, media reports on the current downturn in the world economy continue to stress its huge impact on rising food and fuel prices, which in turn have an immediate and dramatic effect on the poor, including refugees and the displaced.

Indeed, extreme price increases are generating instability and conflict in many places, with the potential of triggering more displacement. Extreme poverty is itself a trigger of conflict. Neat classifications of who is a refugee deserving protection and who is not are becoming increasingly difficult.

This makes it all the more urgent that the international community finds ways to address the increasingly complex root causes of displacement in a coordinated and comprehensive manner.

All the while of course, ensuring access to an effective asylum process and the fair treatment of asylum-seekers and refugees remains crucial.

### ***Fortress Europe making protection work more difficult***

In many respects we cannot overlook the development of asylum directives in the European Union when we speak or want to speak about securing a fair asylum process in Ireland. Europe's asylum

directives have so far only achieved agreement on minimum standards for dealing with asylum matters, and while in principle national asylum systems can maintain higher standards, in reality many facets of national asylum system turn restrictive.

In the EU context the last few years have been subsumed by efforts to control the growing phenomena and in some cases trade in illegal migration. One significant failing of the legitimate effort by States to maintain the security and integrity of their systems is often their inability to make a proper distinction between people who choose to move and those who are forced to flee.

All too often, refugees seeking safety are being turned away at borders in direct contravention of the 1951 Refugee Convention. While governments have a right to control their borders, such controls should be sensitive to protection concerns and the rights of refugees.

The future of the asylum institution in Europe will be important for how other regions will act also. European states were among the main originators of the international protection regime. In some ways, their failures towards protection could risk disenfranchising people of the right to seek and enjoy asylum.

While the process of European consolidation in this area to date has been disappointing, we must remain optimistic. The programme laid out for legal measures in this area is already seeking to go further than harmonization, to common rules. However, as the Irish know better than anyone else, the EU is currently facing a big institutional hurdle posed by the Irish referendum on the Treaty of Lisbon.

Among others, this Treaty (if it ever comes into being) would provide the legal foundation for the EU to take the process of harmonization of EU asylum policy beyond its “*first phase*” and eventually agree to continue working towards the goal of establishing a *Common European Asylum System*.

Even then, should the process of harmonization be taken beyond the “minimum standards” defined in 1999 by the Treaty of Amsterdam, UNHCR is sure to remain concerned with the danger of ending up having lower common standards as a result of further harmonization as well as with the need to secure a balance between the measures proposed by France and future EU Presidencies to build up the so-called *internal* and *external* dimensions of EU asylum policy.

As regards the former, the challenge is to secure access to the territory and the procedure as well as the quality of asylum. With respect to the latter, the problem will be to ensure that EU Member States will respect their international obligations vis-à-vis all victims of persecution and agree on working schemes that will promote the principle of burden sharing and protection capacity. Should the EU succeed in putting in place a balanced package of protection measures, then Europe will not become the fortress that these days is turning our protection an ever more difficult task.

As we have moved into a new century, there is no doubt that Europe is at a cross-roads. Will Europe turn its back on those who are forced to move, or will it strengthen its long tradition of safeguarding the rights of the oppressed and the uprooted?

The answer has been mixed. I, myself, just hope that Europeans will not forget that asylum is not just about numbers, it is about the society we want to live in, our belief in human rights and humanitarian values.

### *Towards a new asylum system in Ireland*

Of course, the above mentioned EU dilemmas also apply to Ireland and the current process for the revision of the national asylum system.

Ireland acceded to the 1951 Refugee Convention and its 1967 Protocol in 1956 and 1968 respectively and has cooperated extensively with UNHCR especially since the mid-1990s when Ireland experienced an increase in asylum applications. The outcome has been the adoption of the 1996 Refugee Act, which largely complied with the 1951 Refugee Convention in relation to the refugee definition, respect for non-refoulement and detention, and the establishment of the asylum institution in Ireland which include, among others, a fair and efficient asylum procedure and adequate reception structures.

This cooperation has been further strengthened during the ongoing process of public discussion of the new asylum legislation in which UNHCR has been actively involved since July 2006. As I have stated in our still recent communication to the Irish Parliament's Joint Committee on Justice, Equality, Defence and Women's Rights (April 2008), UNHCR considers that the proposed introduction of new asylum legislation must first and foremost further strengthen the positive features of the Irish asylum process as laid down in the amended 1996 Refugee Act.

Secondly, UNHCR is also of the view that the Bill under consideration is a unique opportunity to address key aspects of the asylum system that have been calling for a number of much awaited improvements, in particular in relation to introducing subsidiary protection in a single protection procedure; strengthening the protection of separated children, victims of trafficking and torture; promoting the right to family reunification.

Our comments and recommendations made on the contents of the new Bill are well known as they were made public in March 2008.

Following May this year, UNHCR has continued to discuss with the new Minister of Justice possible drafting alternatives to a number of provisions in the draft legislation. As of to date, we are still hoping that the authorities will take into consideration those recommendations made by the Office that center on three key articles of the 1951 Convention, namely, **Article 1**, which defines who refugees are, both in inclusive and exclusive terms; **Article 33**, which outlines the principle of non-refoulement, prohibiting the sending of any person back to a country where they would be persecuted; and, **Article 31** concerning the special exceptions for refugees in relation to waiving penalties for unlawfully entering or staying in the country, due to their special circumstances.

Of course, we attach a particular importance to the recommendations made on the **refugee definition** and do hope that the Bill will end up being in line with it in particular in relation to how it defines **persecution**, actors of protection and exclusion.

We have similar expectations as regards our comments in relation to **non-refoulement**, in particular the need to ensure that all asylum claims will be assessed on their own merits.

Last but not least, we will continue to call for the authorities' interest in advancing improvements already made in the Bill on the issue of **child protection** and do hope that adequate procedures will be put in place to promote the unity and integration of refugee families.

From UNHCR's standing point, we see the Bill as an important stage of Ireland's asylum development. It will bring together more than 10 years of governmental and societal experience of working intensively with refugee issues and we hope that the system that emerges will fully meet the expected international standards. Much will then depend on the way the new legislation will be implemented. For both tasks, UNHCR remains at the entire disposal of our governmental and non-governmental counterparts, and of course, being where I am today, I want to single out also the judiciary and the legal profession. It is my hope that we can strengthen our already strong ties with the Bar Council, the Law Society and the courts.

Thank you again for listening.