

Providing International Protection

Protection Policy and Legal Advice

The Department of International Protection's (DIP) main objectives with respect to Protection Policy and Legal Advice (PPLA) were to (i) achieve consistent, predictable and credible protection policies and responses by ensuring that UNHCR remains a reliable partner and leading authority on legal matters in the area of forced displacement, and by providing governments, international organizations and legal communities with guidance on protection issues and policies; (ii) strengthen protection to all persons of concern to UNHCR by developing international law and standards in the area of forced displacement, and by influencing the implementation of protection policies and standards.

DIP frequently provided clarification on legal and practical issues, and this led to sound protection policy decisions. Policy and position papers, as well as research papers, were produced and disseminated to field offices, thereby enabling colleagues to advocate refugee/human rights standards and principles and to intervene, in cases of need.

In 2003, DIP provided input for the Executive Committee and drafted legal and protection policy papers on a wide range of issues. It guided negotiations amongst member States on four protection-related conclusions which were adopted by the Executive Committee, thus contributing to the development of international refugee protection standards. Three sets of UNHCR *Guidelines on International Protection: exclusion, internal flight alternative and cessation of refugee status* were finalized. PPLA also followed legal developments throughout the world, with a particular focus on developed asylum systems and the EU harmonization process, monitoring state practices, providing legal advice and developing policy position papers. As reflected in the Note on International Protection 2003, these activities resulted in tangible improvements in many countries through positive legislative changes and

favourable judicial decisions. DIP also liaised closely with the human rights treaty monitoring bodies and the various human rights programmes of the United Nations and regional organizations, thus ensuring that refugee protection considerations are reflected in human rights reporting.

Through its research projects, DIP commissioned a series of papers, guidelines and templates on refugee protection. These provided UNHCR with a sound research base on which to develop legal positions, formulate UNHCR guidelines and provide support to the Bureaux and the field in the form of legal and protection policy advice. The research included: *The Interface between Extradition and Asylum*; *Guidelines on Religious Persecution*; *Political Rights of Refugees*; *Draft Guidelines on Age-Sensitive Interpretation of the 1951 Convention*; *Draft Guidelines on the Application of Exclusion Provisions in Mass Influx Situations*; *Alternatives to Detention*; *Draft Handbook on Local Integration*; *Administration of Justice in Refugee Camps, Template to Guide Operations in the Property Area*. DIP also supported a project on Separated Children.

DIP updated the 2002 Protection Manual and distributed 300 copies to protection, field and other relevant staff. In addition, PPLA published and disseminated relevant literature on refugee law and return-related areas (e.g. *Refugee Survey Quarterly Special Issue on Protection Policy in the Making: Third Track of the Global Consultations on International Protection*; and under the *Second Track Refugee Protection in International Law*).

Follow-up activities relating to the *Agenda for Protection* included funding for conference costs, translation of documents and the participation of government officials from developing countries at the first meeting of the High Commissioner's Forum on 27 June 2003, and funding of the *Regional Conference on Current Issues of Border Cooperation, Asylum Management and Responsibility Sharing* (Prague, 7-8 April 2003), co-sponsored with the Ministry of Interior of the Czech Republic. DIP issued second editions of the pocket-sized

Agenda for Protection in English, French, and Spanish, and the first version of the Russian edition. UNHCR purchased the rights to the Second Track publication, *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*. Three consultants were hired to work on: the UNHCR *Manual on Refugee Protection and the European Human Rights Convention*, a research paper entitled *Ensuring International Protection and Enhancing International Cooperation in Mass Influx Situations* and a global survey, requested in the *Agenda for Protection*, of steps taken by States to avoid and reduce statelessness.

Statelessness: In 2003, UNHCR focused increased attention on the problem of statelessness. As part of the *Agenda for Protection* programme of action, UNHCR completed the first global survey of efforts by States to prevent and reduce cases of statelessness. A set of recommendations for follow-up activities was provided to the Executive Committee in October of 2003, and the Office will actively pursue these in 2004, in close consultation with concerned States and organizations. In cooperation with the European Union Commission, UNHCR also undertook an assessment of mechanisms within EU member States to implement the 1954 Convention on the Reduction of Statelessness. This study will assist in efforts to harmonize approaches in the European Union Member States and will serve as an important tool for States seeking to ensure full implementation of the instrument. The Office continued to expand activities aimed at promoting accession to the 1954 and 1961 Statelessness Conventions and to push for broader efforts to address problems of statelessness globally.

Internally Displaced Persons (IDPs): In 2003, UNHCR was an active contributor to broader efforts by the UN system to find more effective and predictable ways to respond to the needs and rights of IDPs. These collaborative efforts were pursued by the principals of the Inter-Agency Standing Committee (IASC), by its Working Group and Senior Inter-Agency Network and through close contacts with the IDP Unit, to which UNHCR has seconded a staff member. A number of proposals for closer collaboration are under consideration. In operational terms, UNHCR was involved in a number of specific situations where it provided protection and support to IDPs in Sri Lanka, Colombia, Iraq, Afghanistan, Sierra Leone, Liberia, the Russian Federation and several Balkan States.

Implementation of the *Agenda for Protection* (AfP)

In the past year, UNHCR has worked to integrate the goals of the AfP into all its operations across the board. The AfP underpinned Country Operations Plans (COPs), routine reporting in 2003, and the Annual Protection Reports (APRs). Within a relatively short period of time, the AfP has become an important vehicle for UNHCR's protection strategies and interventions at global, regional and country levels. Several key themes rapidly emerged as field offices began implementation. These included: improving registration and documentation of refugees; protecting refugees in mixed migratory movements; building protection capacity, particularly in connection with refugee status determination, resettlement, and security; strengthening legal and community-based frameworks for the protection of refugee women and children; developing country plans of action to address sexual and gender-based violence; and redoubling the search for durable solutions.

The AfP has been fully integrated into all of UNHCR's protection learning programmes, including the field-based protection management and accountability workshops run by the Department of International Protection (DIP). Areas needing further multilateral attention have become the focus of the Convention Plus process, which brings together States, IGO and NGO partners in order to arrive at special agreements on enhanced burden-sharing, greater opportunities for durable solutions and strengthened international protection of refugees. The first meeting of the High Commissioner's Forum on Convention Plus touched on emerging global themes and challenges in international protection, as well as specific protection situations called for in the AfP.

In order to advance the AfP, ExCom adopted three important Conclusions in 2003. One of these gave, for the first time, a definition of a person found not to be in need of international protection and underlined a State's obligation to receive its own returning nationals. The Conclusion on protection safeguards in interception measured the obligations of States to respect international refugee and human rights law when they engage in interception and to be guided by certain fundamental protection considerations. The Conclusion on sexual abuse and exploitation stemmed from allegations of sexual



CIS - Ingushetia: Throughout the year, UNHCR remained actively engaged in the situation of Chechen IDPs, some of whom lived in tented camps in Sunzhenski District. *UNHCR/T. Makeeva*

exploitation of refugees and made a number of recommendations to States and humanitarian workers on how to tackle this issue.

The following are some examples of progress achieved under each of the AfP's six inter-related goals.

Goal 1: Strengthening implementation of the 1951 Convention and 1967 Protocol

- UNHCR issued *Procedural standards for refugee status determination under its Mandate* in November 2003 (AfP, Goal 1, objective 2, action 7) in response to the AfP's call for improvement in the quality and consistency of the Office's refugee status determination processes.
- Pursuant to both ExCom Conclusion No. 91 (LII) on registration of refugees and asylum-seekers and the AfP (Goal 1, objective 11), UNHCR issued a provisional edition of the revised *Handbook on Registration*, which reflects new standards established in that Conclusion and highlights the importance of registration as a tool of physical and legal protection. Special measures to enhance the protection of refugee women and

children are emphasized, both during registration and subsequently, through improved ways of using registration data.

- UNHCR completed the preliminary version of a survey of steps taken by States to reduce statelessness (AfP – Goal 1, objective 12, action 6). The Office also continued to issue a series of standard-setting documents called for in the AfP. Complementary guidelines to the *Handbook on Procedures and Criteria for Determining Refugee Status* (AfP – Goal 1, objective 6, point 2) were completed on exclusion of refugees, cessation of refugee status, and the internal flight/relocation alternative (a so-called principle which runs counter to fundamental refugee protection principles).
- A book containing all of the background papers and summary conclusions of the second track of the Global Consultations on International Protection was published in 2003 (Goal 1, objective 6, action 1), along with a special edition of the *Refugee Survey Quarterly* focusing on the third track, containing all background papers, reports of the regional meetings, as well as the refugee and NGO perspectives.

Goal 2: Protecting refugees within broader migration movements

- The High Commissioner was instrumental in creating a new consultative group in Geneva, the *Geneva Migration Group*, which brings together the Heads of UNHCR, ILO, OHCHR, UNCTAD, UNODC and IOM to exchange information and promote more coherent policy on migration-related activities. UNHCR is also an active contributor to the work of the *Global Commission on International Migration*, founded in December 2003, which has begun to analyze gaps in current approaches to migration and to examine inter-linkages with other issues.
- UNHCR has taken a number of practical initiatives to protect refugees within broader migratory movements. Examples include the opening of field offices in border regions in Mexico and Venezuela and the involvement of local churches in monitoring the treatment of asylum-seekers at the border. UNHCR offices are also cooperating with inter-agency counterparts and governments to highlight asylum and protection considerations when programmes to tackle trafficking and smuggling are being developed. In addition to ground-breaking work in Albania, initiatives are under way in Armenia, Slovenia, Thailand and Ukraine.

Goal 3: Sharing responsibilities more equitably and building capacity to receive and protect refugees

- Recognizing the need for greater involvement of UNHCR's partners in the Office's protection work, UNHCR issued a new edition of *Partnership: An Operations Management Handbook for UNHCR's Partners* in February 2003.
- UNHCR intensified its partnership with the Inter-Parliamentary Union (IPU) over the course of the year. The IPU/UNHCR Handbook for parliamentarians entitled "*Refugee Protection: A Guide to International Refugee Law*" was available in 24 languages by the end of the year and formally launched in a number of parliaments around the world.
- Improved burden- and responsibility-sharing in addressing refugee problems, and in searching for durable solutions, lie at the heart of the High Commissioner's *Convention Plus* initiative, which springs from both the AfP and the UNHCR 2004 process. The High Commissioner created a

dedicated unit within Headquarters to give impetus to the initiative. During the year, a *Convention Plus* Core Group on the Strategic Use of Resettlement got under way and the groundwork was laid for the creation of core groups on other strands of the initiative.

- In an innovative arrangement, Canada seconded two Royal Canadian Mounted Police to UNHCR. They were deployed to refugee camps in Guinea to train and build the capacity of the Guinean Mixed Brigade entrusted with the security of refugees.

Goal 4: Addressing security-related concerns more effectively

- Work began on an operational protection reference guide for UNHCR and NGOs which focuses on refugee camp situations. Conceived as a practical guide on protection in camp settings, it will also fulfill key goals in the AfP, notably "addressing security-related concerns more effectively" and "meeting the protection needs of refugee women and children" (Goal 6).
- The AfP calls for a staff accountability framework and for measures to ensure that gender- and age-sensitive activities are implemented. Strategies to counter sexual and gender-based violence (SGBV) have become increasingly an integral part of all refugee programmes. Following the adoption of a UNHCR Code of Conduct in 2002, the UN Secretary-General issued a bulletin in October 2003 on *Special Measures for Protection from Sexual Exploitation and Sexual Abuse*. This bulletin is legally binding on all staff and emphasizes the duty of managers to counter the risk of sexual exploitation and abuse.
- The revised *Guidelines for Prevention and Response to Sexual and Gender-based Violence in Refugee Settings*, issued in May 2003, have been distributed to field offices and partners. Regional and country-specific training workshops and technical support missions to guide implementation of SGBV prevention activities were carried out in Africa, Asia and Europe.
- UNHCR continued efforts to build partnerships to maintain the civilian character of asylum, notably with DPKO. Further to the ExCom Conclusion on the civilian and humanitarian character of asylum, a comparative review of country situations was launched. It highlights areas where identification, separation and internment of armed elements has taken place, in order to contribute

to the development of appropriate policies and the identification of best practices based on lessons learned: (AfP Objective 1, action 1).

Goal 5: Redoubling the search for durable solutions

The year saw significant progress in enhancing and expanding the use of resettlement as a form of protection which serves as a durable solution and allows for sharing of international responsibilities. Building on the preparatory work of the Working Group on Resettlement, UNHCR developed a methodology for the identification and profiling of refugee groups to be considered for resettlement. This practical tool will enhance the use of resettlement in protracted and other refugee situations in 2004. In 2003, UNHCR formally established two Regional Resettlement Hubs in Accra, Ghana and Nairobi, Kenya, with a view to improving the quality of resettlement in the regions they cover.

UNHCR continued to implement the *Framework for Durable Solutions for Refugees and Persons of Concern*, which aims to achieve, through "Development Assistance for Refugees" (DAR), "Repatriation, Reintegration, Rehabilitation and Reconstruction" (4Rs) and "Development through Local Integration" (DLI), a redoubling of the search for durable solutions, while also furthering the AfP's goals on sharing burdens and responsibilities more equitably and building capacity to receive and protect refugees.

Goal 6: Meeting the protection needs of refugee women and children

In 2003 UNHCR made great progress in following up on the recommendations of three evaluations of UNHCR's work in terms of the protection of refugee women and children and community services. This progress included: i) increased refugee participation in programme design and planning; ii) increased institutional ownership and improved implementation of policies in field offices by encouraging efficient cooperation among staff working within the protection, community services and programme areas; and iii) increased dissemination of policies relating to refugee women and children through the design and implementation of training activities at country and regional levels.

The AfP recognizes that education is an important tool of protection (AfP, Goal 6, objective 2, action 9). UNHCR completed a major analysis of education indicators for 66 refugee camp locations in 22 asylum countries for the school year 2002/2003. This survey will identify shortcomings in the education of refugee children, enable evidence-based planning of education activities and provide a baseline against which subsequent school years can be measured.