

# Protection

## UNHCR's Protection Mandate

UNHCR was created to provide international protection for refugees and to find durable solutions to their plight. In certain circumstances, UNHCR is also expected to protect and assist other groups of people in a refugee-like situation including internally displaced persons (IDPs), asylum-seekers and returnees (those refugees who have returned to their own countries). The 1951 Convention relating to the Status of Refugees and its 1967 Protocol are the legal milestones which, to this day, set the standards for the treatment of refugees. The Convention and its Protocol serve as the most comprehensive instruments at the international level for the safeguard of the fundamental rights of refugees and the regulation of their status in the countries of asylum. The Office continues to promote accession to these refugee instruments and strives to strengthen the international protection regime through intervention both at the national and international levels. UNHCR endeavours to see that governments adhere not only to the letter, but also to the spirit of international refugee law. An additional mandate for UNHCR is the prevention and reduction of statelessness as well as protection of stateless persons.

Refugee protection is first and foremost about meeting the needs of vulnerable and threatened individuals. Protection activity revolves around ensuring that refugees and others in need of international protection are recognised and granted asylum, and that their basic human rights are respected in accordance with international standards. To do this, UNHCR works both in refugees' countries of origin and in countries of asylum. Works in border areas, camps, airports and detention centres allow staff to monitor and address the protection problems that refugees frequently encounter during their escape, subsequent asylum and for a limited period of time after their return home. A crucial protection activity is to ensure that

asylum-seekers are given access to status determination procedures, not refused entry at borders and, along with refugees, are protected from forced return to a situation of danger. Usually, UNHCR helps States to establish adequate refugee status determination procedures as well as, in some cases, directly undertaking individual status determination. In complex displacement emergencies – typically involving many humanitarian actors, increasing numbers of NGOs and even the military – UNHCR plays a pivotal co-ordinating role. This often involves securing the rights to life (which includes basic assistance with food, shelter and health care), safety and liberty, through political approaches to governments, mobilisation of other actors in the national and international arena, or through physical intervention, such as transfer of refugees to safer locations, or resettlement to another country.

UNHCR's mandate is to continue to protect refugees until a viable and lasting solution to their predicament has been found. The preferred solution is generally voluntary repatriation in safety and dignity. When repatriation takes place, UNHCR endeavours to ensure respect for basic rights during the process of return, and works with the State concerned, individual returnees and entire communities for some time



DRC: Refugees from the Central African Republic in Zongo receiving basic materiel assistance. UNHCR.

after the repatriation, monitoring the treatment and promoting the reintegration of returnees. In some cases, however, return under satisfactory conditions remains elusive, and so another long-term solution must be found, such as local integration in the country of asylum or resettlement to a third country. These are increasingly important at a time when States face considerable challenges as they try and reconcile their obligations under the Convention with problems raised by the mixed nature of migratory movements, misuse of the asylum system, increasing costs and the struggle to manifest international solidarity to resolve refugee situations.

## Protection in 2002

The 1951 Convention and its Protocol remain the most comprehensive legal instruments at the international level, in a world in which human displacement occurs in different contexts, such as recurring cycles of violence, systematic human rights violations, the changing nature of armed conflict, serious

paid to UNHCR field offices, to help them improve their management of and accountability for protection functions, including resettlement. Certain tools have been developed to be used systematically, including a set of Protection Indicators, which should allow the field to better monitor its own protection performance. Continuing focus will be placed on the more particular protection needs of refugee women and children (best practice will be identified for emulation). As a protection tool, and a durable solution, resettlement remains a key element within UNHCR's overall protection strategy. The Office is maintaining its efforts to diversify the number of resettlement countries and to strengthen programmes for more systematic and elaborate use of resettlement in order to find durable solutions for refugees.

The protection function of the Office has been further emphasised through the recent prioritisation exercise entitled Actions 1-2-3, which defines the Office's core activities as having a clearly established link to the international protection of refugees or the pursuit of durable solutions. UNHCR is also continuing to look at ways to revitalise the 1951 Convention and its Protocol, in particular, through the Global Consultations on International Protection.

### The Global Consultations on International Protection

In addition to continuing efforts to promote accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness, the Global Consultations on International Protection were launched in 2001. The Consultations aim not only to set the 1951 Convention in context, but also to promote a better understanding of its strengths, limitations and potential. The

process has been designed along three tracks: the Ministerial Meeting of States Parties to the 1951 Convention; a series of Expert Roundtables; and a process of policy formulation in the context of the Executive Committee (ExCom) framework. The end result of the Consultations, scheduled to continue until mid-2002, will be an Agenda for Protection, which will be a guide to future action by UNHCR, and serve as an inspiration for States, NGOs and other protection partners in setting certain objectives and accomplishing them.

A Preparatory Session for the Ministerial Meeting of States Parties (first track) agreed to hold the Ministerial Meeting on 12 and 13 December 2001. The Preparatory Session also



Resettled refugees in Europe. *UNHCR.*

apprehension about uncontrolled migration and the trafficking and smuggling of people. The Convention and its Protocol are not bill, of general rights and they do not set out rights and responsibilities without their proper limits. At the same time, the 1951 Convention is no panacea for all the problems of displacement. It was never conceived as an instrument for permanent settlement only, much less for migration control. In this contemporary context, the Office will explore the issues related to proper and flexible application of the Convention and its Protocol, consistent with their purpose and intent.

Strengthening protection capacity throughout the Office is a concern to UNHCR. Of late, particular attention has been

approved the text of the Draft Declaration for adoption by the Ministerial Meeting.

By the end of 2001, four Expert Roundtables (second track) will have been held, covering the issues of cessation and exclusion; the principle of *non-refoulement* and UNHCR's supervisory responsibility; membership of a particular social group; gender-related persecution; internal protection/relocation/flight alternative and illegal entry; and family unity. In 2002, the background papers and conclusions of the Roundtables will be published as a contribution to the 50th anniversary of the 1951 Convention. They will assist UNHCR in updating and refining its own guidelines on these matters, and will serve as a basis to complement UNHCR's Handbook on Procedures and Criteria for Determining Refugee Status.

## PROTRACTED REFUGEE SITUATIONS

A recent assessment of UNHCR's annual programmed activities revealed that a substantial number provide for care and maintenance of refugee groups who have been in exile for a long time with no durable solution in sight. Most refugees in such situations live in camps where idleness, despair, and, in a few cases, even violence prevail. There are also a number of instances of urban refugees in towns and cities where their protection and assistance needs may not be adequately met. The Office has identified the need to improve responses in such instances, and is in the process of formulating a comprehensive and coherent strategy to address protracted refugee situations. In this regard, in mid-December 2001, UNHCR will convene informal consultations on new approaches and partnerships for ensuring protection and developing solutions in Africa.

Developing solutions for these situations in Africa is a particularly daunting challenge in view of the fact that the root causes of refugee movements continue unabated. Furthermore, in certain situations, refugees may be perceived by both governments and local populations as a security threat as well as an economic, social and environmental burden, which makes some refugee issues politically sensitive. UNHCR faces dilemmas of its own in formulating strategies, whereby equally important objectives may often turn out to be mutually incompatible. In certain situations, the goal of ensuring safety and security may be inconsistent with the promotion of self-reliance, in that relocation from border areas where refugees have spontaneously settled often makes them more dependant on UNHCR's assistance, and possible targets of hostility on the part of the local community.

Within the ExCom framework throughout 2001 (third track), discussions took place on the themes of protection of refugees in mass influx situations and protection of refugees in the context of individual asylum systems, which included reception of asylum-seekers, complementary forms of protection and strengthening protection capacities in host countries. One ExCom conclusion was adopted and several others will follow in 2002, based on the outcome of the process. A number of practical and operational measures that will be cast into concrete follow-up in the areas under discussion have also been identified. There are two further themes to be discussed in 2002, namely the search for protection-based solutions and the protection of refugee women and children. Regional meetings will be organised in 2002 in preparation for the Geneva-based consultations. The efforts to reflect refugees' voices in the process will also be included.

### Guidelines for Internally Displaced Persons (IDPs)

As a result of Action 1, it was determined that the Office may undertake non-core activities, when they have a beneficial impact on core activities, and if they draw sufficiently on UNHCR's expertise. Examples of non-core UNHCR activities include those in favour of IDPs. In September 2001, The High Commissioner launched the Operational Guidelines for the Implementation of UNHCR's Policy on IDPs. The Guidelines are meant to assist field staff in the proper discharge of UNHCR's protection activities on behalf of IDPs, and reaffirm the March 2000 Policy Document Internally Displaced Persons: The Role of the United Nations High Commissioner for Refugees.

The criteria for UNHCR's involvement in IDP situations has been laid out in detail, stressing that each decision by the High Commissioner to become involved must be preceded by an internal assessment using the criteria outlined, because UNHCR does not have a global mandate for IDPs. It also clarifies the procedures to be followed both internally and externally, such as the request or authorisation by the Office of the UN Secretary-General and consent or acquiescence of the national authorities, as well as the taking into account policy and operational considerations. The objectives and nature of UNHCR's involvement are thoroughly developed, focusing on the protection of the internally displaced and promotion of solutions to their plight. The nature of UNHCR's involvement might include such measures as playing a leadership role, carrying out direct protection activities and undertaking capacity-building of relevant actors. The scope of involvement in providing basic assistance and services for IDPs will have to be determined on a case-by-case basis. In view of the Office's limited mandate and resources, UNHCR's solution-oriented activities have to be co-ordinated closely with other actors in the human rights and development fields. Annexes to the Guidelines contain the legal foundation for

UNHCR's involvement in IDP situations, an operational checklist for the implementation of policy at field level and a list of important relevant documents which are complementary to the Guidelines.

The Guidelines also emphasise the importance of mobilising additional resources and of an effective division of labour with possible other actors. Through the Guidelines, a collaborative and solutions-oriented approach within the United Nations system and with other important actors, in particular with the inter-agency IDP unit within OCHA, is designed to improve responses to IDP situations. In the course of 2002, UNHCR will undertake a revision of all IDP situations in which it is involved, with the purpose of ensuring compliance with the recent policy developments both within UNHCR and in the broader UN framework. UNHCR will also organise a series of workshops to analyse best practices in IDP protection and solutions.

### Work on Statelessness

An assessment of the Office's role and activities in this field was completed in 2001. The principle findings confirmed that significant progress has been made in recent years in identifying situations of statelessness and advocating appropriate solutions. UNHCR has identified relevant issues including problems affecting minorities, women and children need. Renewed commitment to the 1954 and 1961 Statelessness Conventions, as an effective legal framework for the avoidance and reduction of statelessness is an important element. Staff awareness and internal capacity-building measures have been substantially enhanced. However, consistent organisational direction is needed, and sufficient resources must be allocated to combat statelessness. A comprehensive review of both the problems of statelessness and the Office's role is currently underway and this will contribute towards development of a plan of action for the coming year.

## Protection Costs

Protection depends upon the presence of protection staff in locations where refugees or asylum-seekers may be at risk. The cost of protection is therefore largely the cost of deploying protection personnel, along with the logistical, programme and administrative support they require. Costs for protection can be identified in this Appeal in the following places:

- Under the budget items **Protection, Monitoring and Co-ordination and Legal Assistance** in country-specific chapters;
- In the chapter on **Global Programmes** (Headquarters' Support for Resettlement Activities, Promotion of Refugee Law and Advocacy, Resettlement Projects and Protection Related Projects/Voluntary Repatriation);
- In the Chapter on **Headquarters** (Department of International Protection).

## STAFF SECURITY

In carrying out protection work, UNHCR and partner agency staff increasingly find their physical safety under threat. In recent years, forced population displacement has often occurred in situations of armed conflict or violent civil disorder, exposing UNHCR and other humanitarian staff to hostility and security risks. Following the brutal killing of four staff members in West Timor and Guinea in September 2000, UNHCR undertook a thorough review of its staff security policy and specific recommendations were endorsed. In 2002, UNHCR will focus on the following measures:

- Enhance security awareness for staff before and during their deployment to hazardous duty stations. A highly participatory training programme will be developed, using a CD-Rom that will concentrate on security awareness and self-protection.
- Appoint additional Field Safety Advisors (FSA): at a time when UNHCR is reducing its staff, a measure of the importance the Office attaches to security is the creation of six new FSA posts (to reinforce the existing network of 24 FSAs). The 30 FSAs will form a pool of staff that will cover field operations on a mission basis and support field managers on all issues related to staff security. This will enable UNHCR to react to changing operational needs. Additional local security assistants will also be hired. The Office is also carrying out staff security audits of high-risk operations.
- Improve co-ordination with other actors in humanitarian operations, both within and outside the UN system: the Office of the United Nations Security Co-ordinator (UNSECOORD) has issued Minimum Operational Security Standards (MOSS) and UNHCR is taking action to implement these standards at the field level. Furthermore, the Office will provide security kits for FSAs in conformity with MOSS. UNHCR also co-operates closely with the Inter-Agency Standing Committee (IASC) to implement its recommendations for UN-NGO co-ordination on security issues at country level. As requested by the IASC, UNHCR will co-ordinate the review of training on staff and refugee safety including the setting up of a framework to improve interagency co-ordination.
- Develop capacity for risk analysis of the situations which require particular attention to safety of staff and refugees.

Increased and reliable funding will be needed to achieve these objectives. Costs on ongoing activities are reflected in the Programme Support budget for each country (see UNHCR's operations) as well as in the budget for the Emergency and Security Service at Headquarters.