



Statement by
UNHCR Assistant High Commissioner for Protection,
Ms. Erika Feller
at the General Segment of the 7th session of the United Nations
Human Rights Council

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Mr. President,

The office of the United Nations High Commissioner for Refugees appreciates this opportunity to address the Human Rights Council. Your work is in many ways complementary to our own. There are some 33 million persons currently of concern to UNHCR. Most lack effective protection of their rights through the normally accountable national structures. Your efforts to ensure respect for the universal applicability of human rights norms to everyone, including non-citizens, enlarges protection options for, and reinforces protection obligations owed to, the millions of asylum seekers, refugees, stateless persons and internally displaced persons under our mandate.

2008 marks the 60th anniversary of the Universal Declaration of Human Rights. This sets out some of the seminal rights to which those of concern to UNHCR are entitled. Important among these are: the right to seek and enjoy asylum from persecution; the right to leave and return to one's country; and the right to a nationality. We work daily with the results of failure by States to respect these, among other, rights.

The right to asylum is increasingly difficult for individuals to realise, due not least to tightened border security measures, trans-national crime and illegal migration. Security concerns are increasingly driving the operation of asylum systems. Shadowy border practices, turn-arounds, *refoulement* and practices like arbitrary detention, including of children, make finding asylum on acceptable terms something of a lottery. The Council can contribute to reversing this trend by reaffirming the right to seek asylum, as a corollary to the international customary and convention law prohibition of *refoulement* of refugees, and by requiring States to honour it in letter and in spirit.

Similarly, with the right to return, the reality is that many displaced persons are unable to return to their homes due to a swathe of legal and practical obstacles. They may for instance not be able to re-acquire land, houses and property, or their legal personality may not be recognized if children born in exile are denied birth certificates. The Council would make an important contribution to underpinning the success of returns by stressing at every appropriate occasion, including in the UPR

exercise, that States should create conditions conducive for people to exercise their right to return, and match this with resources. Otherwise it is a hollow right.

The Council can also contribute to more effective implementation of the broad range of international and regional standards, honoured as much in the breach as in the practice, associated with the right to nationality. The way the Independent Expert on minority issues and the Special Rapporteur on contemporary forms of racism have recently looked at various facets of this right, including how it is being denied or deprived on grounds of race or religion, are good examples of how the Council can scrutinize such concerns. UNHCR also looks forward to contributing to the consultations on the Resolution on arbitrary denial or deprivation of nationality, being put forward at this session.

If I have mentioned only several rights, it is not to underplay the direct relevance of others to the protection of persons of concern to UNHCR. The links are clear and direct with the right not to be tortured, the right to freedom of movement or the right to family unity, to name some others. Refugee protection is first and foremost about creating conditions of stay and solutions for the forcibly displaced which guarantee that their rights are respected, protected and fulfilled. We ask the Council not to forget the displaced and stateless in its UPR exercise, in resort to its Special Procedures or indeed during its regular deliberations.

Thank you.