

**NGO Protection Statement**  
**Agenda item 5(a)**

Thank you Chair.

This statement is delivered on behalf of a wide range of non-governmental organizations. It has been drafted in consultation with, and aims to reflect the diversity of views of, the NGO community.

**General Reflections**

Today we find ourselves one year on from the New York Declaration – a declaration that represented an important political commitment from States to more holistically address refugee needs, and to share the responsibility for refugee protection. In the past year, we have made progress in consolidating good practice, and beginning to develop innovative new ways of working to effectively respond to forced displacement throughout the world. A number of the large hosting States have shown new willingness to step forward, to rethink national policies in order to create conditions for refugee resilience and self-reliance, and to prioritize the protection of forcibly displaced people within their national agendas. New laws have been put into place in Ethiopia and Djibouti, and Honduras is developing legislation to improve protection of IDPs. Additionally, new actors – including development actors and the private sector – have increasingly recognized their role in supporting the protection of displaced people, resulting in innovative funding mechanisms and programming to achieve protection outcomes.

While the New York Declaration has provided an important impetus for improvements in the protection regime, critical gaps remain. In large parts of the world, refugees continue to be subject to policies and practices that restrict their movement and impede their access to social services and livelihood opportunities. While the diverse and important roles that women and girls play in displacement contexts are increasingly recognized, they continue to face unique and disproportionate violence (including sexual and gender-based violence), harassment, and obstacles to realizing their human rights. Refugees suffering from trauma due to torture do not have access to the rehabilitation support to which they are entitled. ‘Xenophobic’ narratives continue to be used to justify policies that exclude and limit the enjoyment of rights and freedoms by refugees in host States.

In the past year, innovative financing arrangements have been introduced and new strategic partnerships have been forged in order to tackle the complicated landscape of refugee protection. However, many of these new arrangements have missed the opportunity to address

structural issues, cultural, or security related concerns that refugees face, which prevent them from enjoying rights as enshrined in various laws, accessing livelihood opportunities, and obtaining education. Ultimately, these noticeable gaps have limited the impact of many of the newly introduced mechanisms on the protection of refugees and displaced people. Equally, excluding refugees from taking part in solutions strategies and planning has weakened the efforts to find complete and durable responses for refugees in host countries.

Despite important progress that has been made this year, forced displacement continues to be one of the greatest challenges for both individual countries and the international community. As we mark the 50<sup>th</sup> anniversary of the 1967 Optional Protocol to the Refugee Convention, we highlight the global perspective enshrined in the protocol, which implied the need for global responsibility for refugee protection. To respond to this need, we urge States to commit to taking bold action to ensure the full protection of all people forcibly displaced across the globe – leaving no one behind.

Given the scope of forced displacement today, we would draw the Committee's attention to a number of key protection concerns, which we believe require immediate attention:

### **Responsibility-Sharing:**

It is notable, that despite various efforts made over the past year, and in previous years, an operational framework for true responsibility-sharing for refugee protection remains elusive. States must use the opportunity that has been presented to conclude a Global Compact on Refugees, in order to effectively fill this gap in the refugee protection regime. We urge States to proactively engage to define a mechanism that offers protection and solutions to refugees in a manner that is both predictable and equitable. Such a mechanism must ensure respect for refugees' right to seek asylum and reduce barriers to access to asylum; increase annual resettlement places to – at the very least – meet the annual resettlement needs identified by UNHCR; expand additional pathways for refugees to access third countries such as family reunification, private sponsorships, and work, student and humanitarian visas; ensure local inclusion of refugees and access to basic services, including quality education as soon as possible for children and young people, vocational training and decent work opportunities; and provide predictable and adequate humanitarian assistance as well as development funding to support displaced people and communities hosting them.

### **Protection of Civilians**

Violations of international humanitarian law, such as indiscriminate attacks on schools, hospitals, arbitrary detentions, sexual and gender-based violence and exploitation, and the use of disproportionate weapons to target civilians, including the use of explosive weapons with wide area effect in populated areas, have devastating and long-term consequences for civilians, frequently forcing them to flee their homes in search of safety. In the past year, we have seen shocking instances of civilians being targeted by belligerent parties in the conduct of hostilities,

including in Myanmar, Nigeria, Iraq, South Sudan, and Yemen. We have further seen military strategies place civilians under siege, prevent humanitarian access for lifesaving assistance, and actively block civilians from moving to safety.

We urge States to take every possible step to uphold their obligations under international humanitarian law, refugee law, and human rights law, reinforced by binding Security Council resolutions on the protection of civilians and to avoid the risk of harm, violence or abuse of civilians affected by conflict. We also urge non-State armed actors to uphold their obligations under international humanitarian law. We must ensure that those who are displaced have access to protection at all times, without discrimination, and with attention to differing and intersectional needs and vulnerabilities. Moreover, positive efforts must be made to identify and reach out to those who are often most vulnerable, including for instance, unaccompanied and separated children, women and girls, and child- and women- headed households. Efforts should be made to prevent all instances of violence against civilians in forced displacement contexts, as well as to respond to the needs of survivors of such violence with appropriate psycho-social care, appropriate healthcare services, and legal support.

Access to fundamental rights cannot be withheld from vulnerable populations, but it is not enough to simply refrain from violating the human rights of forcibly displaced persons. The rights of refugees, IDPs and stateless people must be protected and promoted through concerted actions. Access to humanitarian agencies cannot be denied without violating longstanding and fundamental principles of humanitarian law. In this respect, UNHCR and States must enhance their legal and policy frameworks to ensure that protection remains at the core of our collective response to forced displacement.

### **Protection of Women and Girls**

Women and girls continue to be the main victims of many violations, disproportionately experiencing sexual and gender-based violence, and are vulnerable to sexual abuse in detention centers, refugees and IDP camps.

Children, and particularly girls, are exceptionally vulnerable to rights violations due to the confluence of both age and gender power dynamics. Pre-crisis gender norms, entrenched gender-related stereotypes, and gendered power dynamics are often reflected and amplified in forced displacement contexts, regardless of whether in camp settings or in host communities, and results in distinctive perils for girls. In contexts where gender inequality and vulnerabilities stemming from childhood mean that girls already hold little to no political, social or economic power, humanitarian contexts result in exacerbated needs coinciding simultaneously at a time when protective familial and societal structures are strained or broken. Adolescent girls, in particular, by virtue of their age and gender face specific vulnerabilities and human rights violations while displaced that must be addressed with tailored and responsive age and gender sensitive interventions.

One of the most crucial facets of adolescent girls' experiences in forced displacement contexts is their protection needs and how these protection needs impact their access to essential assistance and to basic human rights such as food, water, and education. As risks of violence, particularly sexual violence rise, adolescent girls face extreme mobility restraints that serve as obstacles to accessing needed services, including healthcare. Girls may be married as children as parents judge that such a marriage will serve to best protect their daughter and her or familial honour. As economic concerns are forefront and food insecurity rises, adolescent girls are at extreme risk of exploitation and abuse, often perpetrated by those actors girls should be able to trust, including peacekeepers and humanitarian workers. Survival sex is a common negative coping mechanism, yet continues to be disregarded as simply a byproduct of the context, rather than the abuse and rights violation that it is.

## **IDPs**

We would like to draw further attention to the protection needs of those individuals, families, and communities displaced within their own country. IDPs have been noticeably placed on the sidelines of many of the recent initiatives to address forced displacement – most notably the efforts to establish Global Compacts for both refugees and migrants. Displacement due to conflict and violence is occurring on a scale not seen since World War II. As reported by the Internal Displacement Monitoring Centre, in 2016 a total of 31.1 million new internal displacements were recorded in 125 countries and territories.<sup>1</sup> This number works roughly out to the equivalent of one person forced to flee internally every second, and constitutes an increase of 3.3 million from the previous year.

As we come into the year that will mark the 20<sup>th</sup> anniversary of the Guiding Principles on Internal Displacement, we must take IDPs off the sidelines and commit to addressing their protection needs as a global community. UNHCR has committed to working “more systematically across the entire spectrum of displacement ... including through a more predictable and decisive engagement with internally displaced people.”<sup>2</sup> States and regional bodies must commit to adopting strategies and policies with clear targets and taking into account special needs and vulnerabilities for finding durable solutions for the millions of internally displaced people throughout the world. Commitments to addressing internal displacement made through the World Humanitarian Summit, the 2030 Agenda for Sustainable Development, the New Urban Agenda, the Paris Climate Agreement, and the Sendai Framework for Disaster Risk Reduction must be immediately taken up. Drivers of displacement must be considered, and States must address structural barriers to IDP protection.

## **Statelessness**

NGOs reiterate their support to the UNHCR led #Ibelong campaign to end statelessness by 2024, and urge States to do likewise – thereby scaling up an effective shared commitment to

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<sup>1</sup> See: <http://www.internal-displacement.org/global-report/grid2017/>

<sup>2</sup> See: <http://www.unhcr.org/news/latest/2016/10/57f252169/un-chiefs-call-greater-solidarity-forcibly-displaced.html>

solve statelessness through strong legal, political and diplomatic engagement. The planned High Level Event to be organised by UNHCR in 2019 will provide States with an opportunity to promote achievements and/or pledge new action on statelessness. Such opportunities also exist within the context of the Comprehensive Refugee Response Framework, and addressing statelessness clearly falls within the scope of the Global Refugee Compact process and Programme of Action. The New York Declaration explicitly recognizes that statelessness can be a root cause of forced displacement and that forced displacement- often protracted in nature, in turn, can lead to statelessness.

One important underlying action required is to increase accessions to the two UN Statelessness Conventions. Equally the proper identification of persons as stateless is a critical step towards ensuring that they receive the protection to which they are entitled, fundamental human rights guaranteed under international law, and which requires accelerated efforts by all States to establish statelessness determination procedures and facilitated naturalization for persons recognized as stateless. Equally, in order to prevent new cases of statelessness from arising, every country's nationality laws should contain effective safeguards, in line with the Convention on the Rights of the Child, to ensure that no child is born stateless, including provision of nationality to those born on the territory who would otherwise be stateless. This objective also requires the removal of any gender, racial, ethnic or religious discrimination from nationality laws as well as achieving universal birth registration for all children born on a State's territory. In this regard, States are also encouraged to prioritize addressing statelessness through their efforts to achieve the Sustainable Development Goals, in particular, Goal 16.9.

Strengthening statistical information on statelessness is essential to better understand the scope of the problem and address it. NGOs express concern that UNHCR's 2016 Global Trends Statistics, no longer reflect any statistical data for two countries that have among the largest stateless populations in the world - the Dominican Republic and Zimbabwe. Consequently, approximately half a million stateless persons who were counted in the 2015 Statistics have been removed from the statistical overview, despite their statelessness not being resolved. NGOs are deeply concerned about the resultant protection, visibility and durable solutions implications. NGOs acknowledge that attempts may be underway to more accurately map the stateless populations in these countries, but recommend that in the interim (as has been done in other country contexts), the statistical information from 2015, or at the very least, an asterisk indicating the existence of a large but unquantified population, is included in the UNHCR data.

Forcibly displaced populations must have access to birth registration processes and services, as part of civil registration systems, and such services must be available free of charge, gender and age sensitive, and available to meet the registration needs of those displaced. Birth registration and associated documentation is essential as both a protection tool, particularly for girls, and for preventing statelessness. Girls and boys unable to provide documentation proving legal identity and/or nationality must still be able to access essential services, and be afforded the same protection and rights as all children within that State or Territory.

Statelessness can particularly be a cause of forced displacement and irregular migration where it is linked to lack of enjoyment of basic human rights and poor development outcomes. NGOs are deeply concerned about the indiscriminate violence against stateless Rohingya in Myanmar which has been described by the OHCHR as ethnic cleansing.<sup>3</sup> Unprecedented protection challenges emerge as a result of the mass scale forced migration of stateless Rohingya to Bangladesh. The issue of statelessness as a key element in this crisis cannot be ignored. NGOs reiterate the UN Secretary General's statement requiring the Myanmar government to grant nationality to the Rohingya, to end all violence and to guarantee their fundamental human rights.

Moreover, statelessness can have a detrimental impact not only on affected individuals but also on the wider communities and societies in which they live. It is crucial to ensure the resolution of protracted situations of statelessness through the grant of nationality by the country where persons have the strongest ties.

### **Advancing the Rights of Displaced Persons with Disabilities**

As the Executive Committee meets today, there are an estimated 9.8 million displaced persons with disabilities. Some progress has been made in recognizing and addressing the barriers many persons with disabilities face in accessing protection and services and having their rights respected, as this Committee noted in its own 2010 Conclusion on disabilities.<sup>4</sup> However, progress remains too slow and uneven. We urge States and all humanitarian actors to strengthen and expand their efforts to protect and serve persons with disabilities, and to do so in full partnership with refugees and with civil society organizations of persons with disabilities, including women-led organizations. A continued commitment to implementation of UNHCR's age, gender and diversity approach across operations is also essential to success.

### **Support to torture victims in the context of forced displacement**

NGOs observe that most countries do not have adequate mechanisms to identify torture victims within forcibly displaced populations. Thus these individuals are frequently not offered prompt rehabilitation services, to which they are entitled to under international human rights law. This has severe negative consequences for the physical and mental health situation of the victims and may deny them an effective determination of their protection claims. States must ensure that they have mechanisms in place to identify torture victims. Such identification should be followed by prompt access to rehabilitation services, implementation of safeguards against re-traumatization and application of protection determination procedures that take into account their mental health situation.

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<sup>3</sup> See: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22148>

<sup>4</sup> See: <http://www.unhcr.org/excom/exconc/4cbeb1a99/conclusion-refugees-disabilities-other-persons-disabilities-protected-assisted.html>

## **Return and the Respect for the Principle of Non-Refoulement**

NGOs have noted an increased emphasis being placed on return, in recent discussions of durable solutions. Furthermore, in a number of contexts, refugees have reported facing increased pressure to return to their countries of origin. As a community, we support return as an important durable solution when it is voluntary, safe, dignified, sustainable. While we recognize that political and economic realities often push both host and origin States to advocate for the return of refugees, we urge for greater attention being paid to creating the conditions necessary for refugees to be fully informed and be able to meaningfully participate in making decisions that affect their lives. We also emphasize that non-*refoulement* is the core principle of international refugee protection and a non-derogable norm of customary international law, which must be respected at all times.

Particular attention should be paid to ensuring that children, women, LGBTQI individuals, and other religious or ethnic groups vulnerable to human rights abuses upon return to their countries of origin fully understand the potential risks to return and their rights under international refugee law. In addition, women and children must be allowed to act as individuals in their own right in such decisions, not simply be included in determinations made regarding male heads of household.

A number of concerning practices have been seen this year with regards to refugee return. In some cases, States have forcibly returned asylum seekers to their country of origin without providing them access to a refugee status determination process. Australia's so-called "enhanced screening process" for people intercepted at sea has resulted in people being returned to Vietnam and Sri Lanka with no effective scrutiny of their protection claims. A number of those forcibly returned have subsequently fled again and been given refugee status elsewhere. In Kenya, refugees have reported coercive tactics being employed to 'encourage' return of Somali refugees. In Lebanon and Turkey, returns to Syria are being promoted without proper safeguards in place. Finally, in Pakistan and Iran, a toxic combination of barriers to legal stay for refugees in the host countries, and a highly incentivized return program have resulted in thousands of returns to Afghanistan – where the safety and sustainability of return remains in question.

UNHCR has a crucial role to play in defining the way that State commitments to voluntary, safe, and sustainable returns can be translated into specific, actionable measures on the ground. Furthermore, it must be remembered that voluntary return is one of three durable solutions that must be made available to displaced people. All efforts to ensure that returns are truly voluntary and meet international standards will be undermined by any situation on the ground that leaves refugees with no other options or exposes them to pressure to return.

Thank you, Chair.