

NOTE ON INTERNATIONAL PROTECTION

I INTRODUCTION

1. In his March 2005 report "In larger freedom: towards development, security and human rights for all"¹ the United Nations Secretary-General urged the world to "embrace the responsibility to protect, and when necessary...act on it". This call was endorsed in the September 2005 World Summit, the largest ever gathering of world leaders. It serves as a reminder that the responsibility to protect is first and foremost an individual State responsibility and that where the State fails, there is a collective responsibility to act.

2. Over fifty years ago, when States agreed on the 1951 Convention relating to the Status of Refugees (the 1951 Convention), it was on the basis that "refugees", as defined, were in need of international protection due to a State's failure to protect them. Along with the protection framework for "refugees" was another one for stateless persons, in the form of the 1954 Convention relating to the Status of Stateless Persons.

3. However, categories of persons in need of protection may be as diverse as the causes creating them. Human rights violations, generalized violence, armed conflict, intolerance and marginalization have led to population displacements of major proportions. With displacement come gaps in protection, and along with those gaps, the need to protect.

4. The protection of internally displaced persons (IDPs) has, over the past years, received the increased attention of the international community. While UNHCR has committed itself to be the cluster lead for IDPs during conflict-generated emergencies in the areas of: protection, emergency shelter and camp coordination/camp management within the inter-agency collaborative approach, complex issues remain to be overcome, not least the absence of an agreed legal framework guaranteeing access, and greater States' commitment to responsibility sharing.

5. UNHCR is also increasingly concerned to ensure that persons in need of international protection receive such protection in irregular mixed population movements. While refugees must clearly be distinguished from others, there may also be persons with international protection needs who are outside the refugee protection framework, requiring finer distinctions to be made to provide protection in ways complementary to the 1951 Convention. Ensuring that all protection needs are met is the collective responsibility of States.

6. The Agenda for Protection (the Agenda)² was formulated to provide a plan of action for meeting international protection needs. The Agenda has provided guidance over recent years on how six critical areas of protection should be addressed. This year's Note on International Protection, as in previous years, uses the framework of the Agenda to present some of the challenges in these areas and actions taken to address them during the year to May 2006.

¹ UN doc. A/59/2005, 21 March 2005, para. 135.

² UN doc. A/AC.96/965/Add.1, 26 June 2002.

II OVERVIEW OF DEVELOPMENTS

7. Provisional figures indicate that the number of refugees globally fell to 8.3 million at the end of 2005. Where information on sex and age is available, this indicated that 49 per cent of refugees were female, and 48 per cent were children below 18 years. At the same time, the number of IDPs of concern to UNHCR rose to 6.6 million. In addition, UNHCR assisted some 1.6 million returnee refugees and IDPs.

8. In Africa, progress toward peace and democracy in many countries enabled large numbers of refugees and IDPs to return home. However, there were also a number of new outflows primarily from Rwanda, Sudan, the Democratic Republic of the Congo, Eritrea and the Central African Republic. Hosting large numbers of refugees continued to pose serious challenges to countries with few resources of their own, and building capacity through partnerships and burden sharing was a crucial element of delivering protection. Reintegration of returnees in post-conflict situations required investment to rebuild administrative and legal structures and consolidate assistance programmes into the countries' longer term development plans so that returns could be sustained. In this context, UNHCR sought to reinforce the framework of its collaboration with other concerned United Nations agencies to maximize relevant competencies.

9. In industrialized countries, asylum applications fell sharply for the fourth year in a row in 2005, dropping fifty per cent since the peak in 2001, and ten per cent since 2004. In the 25 countries of the European Union (EU), as well as in Europe as a whole, the number of asylum-seekers in 2005 was at its lowest point since 1988. Nevertheless, despite falling numbers, some industrialized countries continued to adopt increasingly restrictive policies. In some countries, legislative amendments were introduced to expand the scope of the exclusion clauses beyond the provisions of the 1951 Convention, while in others stringent standard of proof requirements were introduced. In one country, purely as a deterrent measure, offshore asylum processing was expanded to target a broader category of persons.

10. Large-scale irregular migration in the Mediterranean region captured headlines, bringing into focus complex issues relating to the migration/asylum nexus. UNHCR provided support to authorities in countries of "destination" to expeditiously identify asylum-seekers and process claims while ensuring adherence to essential procedural standards. At the same time, in countries of "transit" in North Africa, UNHCR reinforced its presence and sought to engage the authorities on the protection dimensions of the problem.

11. In Central Asia, regional extradition arrangements threatened the protection of a group of Uzbeks who fled to the Kyrgyz Republic. In an exemplary display of international burden and responsibility sharing, Romania provided a safe haven, enabling the processing of these cases on its territory, while resettlement countries rapidly made available resettlement places. Subsequent to these positive developments, however, the Government of Uzbekistan requested UNHCR to close all its operations in Uzbekistan.

12. Elsewhere, in South and South-east Asia, durable solutions continued to prove elusive for a number of protracted caseloads in camps. Steps were initiated to explore the strategic use of resettlement as a tool to open up durable solutions opportunities. In relation to some urban caseloads, UNHCR continued to work with the authorities, civil society and non-governmental organization (NGO) partners to foster a supportive environment for protection, including through new initiatives to promote work opportunities within the broader migration framework.

13. A major preoccupation during the reporting period was the situation in Darfur, where 1.8 million persons were displaced internally while 200,000 took refuge in neighbouring Chad. In West Darfur, UNHCR held the coordinating role for protection, collaborating with United Nations agencies and NGOs to assist some 700,000 IDPs. The spill-over effect of the conflict in Darfur into Chad led to massive

internal displacements in Chad while the gravity of the security situation threatened refugee and IDP camps alike on both sides of the border, hampering humanitarian access. Massive abduction and forced recruitment in camps remained an issue of grave concern.

III. STRENGTHENING IMPLEMENTATION OF THE 1951 CONVENTION AND 1967 PROTOCOL

14. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol remain the foundation for international refugee protection. With the accession of Afghanistan, 146 States are parties to one or both of these instruments. Yet there remain regions, particularly Asia and the Middle East, where accession is lacking. UNHCR has continued its efforts to raise awareness of the value of accession. Further, in many countries which have acceded to the 1951 Convention/1967 Protocol, legal frameworks implementing the Convention regime are weak or non-existent and UNHCR has therefore been required to exercise its mandate to ensure adequate protection for asylum-seekers and refugees.

15. In Asia, UNHCR intensified its discussions with the Governments of Indonesia and the Federated States of Micronesia regarding plans to accede to the 1951 Convention and also explored with the Governments of Timor-Leste and Papua New Guinea the possible lifting of reservations. Initiatives were also taken to promote interest in the 1951 Convention through the holding of refugee law courses for government officials, such as the one conducted for government officials from Arab League States at the International Institute of Humanitarian Law in San Remo, Italy, and the courses held for government officials from South Asian States in India.

16. Many asylum countries continued to draw upon the expertise of UNHCR to provide support for their asylum processes. In this regard, UNHCR sought to clarify the protection needs of various groups of asylum-seekers from countries affected by armed conflict and issued guidance in relation to some seven nationality groups. UNHCR also administered a traineeship programme at Headquarters aimed at capacitating asylum countries to develop country of origin information. Furthermore, UNHCR was requested to provide comments on new asylum legislation in a number of countries from Africa to Asia to Latin America. The refugee definition of the Cartagena Declaration on Refugees was included in new legislation in Bolivia, as well as in draft legislation proposed in Chile and Nicaragua. In the European Union, numerous legislative initiatives linked to the transposition of EU Directives into national law took place. UNHCR noted the tendency in several countries to provide UNHCR with draft legislation for comments at a very late stage, and to lower previous protection standards to the minimum. UNHCR also warned that some new provisions were likely to breach international refugee law.

17. To facilitate harmonized interpretation of the 1951 Convention, UNHCR issued Guidelines on International Protection and made legal interventions in various judicial forums. During the reporting period, UNHCR Guidelines on International Protection were issued on the eligibility of victims of trafficking or persons at risk of being trafficked, clarifying the application of the refugee criteria to individuals based on their actual or feared trafficking experience and elaborating on procedural standards for handling asylum claims of female and child victims of trafficking.³ Legal interventions were made in a number of asylum countries as well as at the European Court of Human Rights on some critical issues relating to the interpretation of refugee criteria. UNHCR's Guidelines on International Protection and UNHCR's publication on the Global Consultations⁴ are increasingly being cited by courts.

18. Promoting gender and age-sensitive asylum procedures continued to remain a priority of UNHCR. In Europe, UNHCR developed a resource package to enhance gender sensitivity in asylum procedures. In States seeking to join the European Union, UNHCR's support for developing asylum

³ UNHCR, "Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked", HCR/GIP/06/07, 7 April 2006.

⁴ *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*, E. Feller, V. Türk and F. Nicholson (eds.), Cambridge University Press, 2003.

systems includes sensitization on gender-based persecution as a basis for recognition. Hence in Turkey and in South Eastern Europe, in the framework of the CARDS project, UNHCR's training programmes for government officials incorporate gender-related persecution. Similarly, in Latin America, efforts to promote gender and age sensitivity in asylum procedures have led to positive results: Ecuador recognized the first cases of women applicants on the basis of gender as a social group. In relation to separated or unaccompanied children seeking asylum, in a number of countries, UNHCR advocated for and provided support to the appointment of guardians to enable asylum claims of such children to be processed. During the reporting period, the detention of asylum-seeking children remained an issue of concern in a number of countries and UNHCR continued its advocacy efforts in this regard.

19. At its October 2005 session, the Executive Committee (ExCom) adopted a Conclusion on the Provision of International Protection including through Complementary Forms of Protection.⁵ The Conclusion sets out the general principles upon which complementary forms of protection should be based and clarifies the categories of persons who could benefit from such forms of protection. During the reporting period, Ukraine and the Republic of Moldova introduced complementary forms of protection through legislative changes.

20. The reporting period witnessed increasing restrictions on asylum against a backdrop of growing national concerns with security issues. In a number of asylum countries, UNHCR promoted the use of the exclusion clauses of the 1951 Convention as an appropriate means of dealing with individuals not deserving of international protection, while at the same time increasing its interventions to ensure that the exclusion clauses are applied in line with the object and purpose of the Convention. UNHCR provided guidance on international standards by commenting on relevant draft legislation or through training of adjudicators and government officials. UNHCR provided a training session on the application of the exclusion clauses to the Norwegian authorities, at their request. Within UNHCR, focus continued to be given to developing expertise in making exclusion assessments, and in this regard, during the reporting period, some 100 staff received training on the application of the exclusion clauses.

21. The protection afforded by the 1951 Convention and its 1967 Protocol begins with effective access to territory. The reporting period was marked by incidents of *refoulement* while in some countries access to territory and/or asylum procedures was limited by practical measures or new legal restrictions, including stringent requirements for documentary proof of identity and legislative mechanisms lessening procedural safeguards for assessing asylum claims. UNHCR intensified its advocacy on these issues, with training activities with border officials and the police continuing to be an important means of advocacy. For example, in Ecuador, UNHCR organized more than 40 training events for border guards, police and the military, and also introduced refugee law courses into the national police education system. In North America, in close cooperation with the Governments concerned, UNHCR monitored implementation of the "safe third country agreement" between Canada and the United States in order to ensure that all asylum-seekers enjoy full access to appropriate refugee status determination facilities.

22. During the reporting period, UNHCR continued to support many refugee-hosting countries to register asylum-seekers and refugees and to issue them with documentation. In Yemen, for instance, UNHCR signed a Memorandum of Understanding with the Government to assist the authorities in registering and issuing documentation to new arrivals as well as some 36,000 refugees who had arrived previously. Another example is the Republic of Moldova, where UNHCR supported the authorities to issue documentation to recognized refugees. Individual documentation for women was undertaken in countries in Africa, Latin America and Asia.

23. UNHCR's vehicle for strengthening registration activities, Project Profile, continued to expand the application of its registration tool "proGres". Since mid-2004, 45 operations have benefited from the roll-out with 1,000 staff having received training. Operations which have begun printing identity cards or

⁵ ExCom Conclusion on the Provision of International Protection Including Through Complementary Forms of Protection, No. 103 (LVI).

other new types of documents include Ethiopia, Botswana and the Republic of the Congo. Project Profile teams have also supported recent registration activities in Benin, Bangladesh and the United Republic of Tanzania.

24. Recent developments have added new features to the “proGres” system, including the option of using biometric fingerprint data in registration records. This new feature, which is already in use in Kenya, is particularly helpful in preventing multiple registrations. The importance of improved registration data for durable solutions planning is increasingly evident as seen in Sudan, where repatriation activities benefited from new tools for documenting returnees, and in Thailand, where “proGres” has been used effectively to expedite transmission of resettlement cases to the United States in group submissions. In Sierra Leone, new registration tools facilitated the preparation of manifests for voluntary repatriation operations.

25. The Office was involved in refugee status determination (RSD) in one way or another in 65 countries affecting some 58,000 people in 2005. The challenge remains to pursue a timely and properly resourced transfer of responsibility to national authorities. As part of efforts to address this challenge, UNHCR expanded training and capacity building of its staff and protection partners and initiated a revision of its various protection learning programmes so as to enable more of its staff as well as its partners to receive training in protection.

26. Fostering a positive attitude towards refugees is an essential part of protection. Negative attitudes are often rooted in misperceptions arising from fear that “foreigners” and refugees pose a threat to societies. These fears have grown considerably in past years. During the reporting period, UNHCR explored the need for more concerted efforts to combat intolerance, and efforts were focused on mainstreaming anti-intolerance messages into everyday media relations and news work. A recent issue of “Refugees” magazine (No. 142) was devoted to discussions on this theme, highlighting the important role which the media and governments can play to promote positive messages. More generally, in field offices, such as in Malaysia, working with the media to bring about a better understanding of refugee issues opened up a more positive attitude on the part of civil society, while in Thailand a workshop with civil society helped develop a common understanding of issues for joint advocacy.

27. During the reporting period, new initiatives were taken to expand the Office’s work on HIV and AIDS interventions in a comprehensive way. Areas of activities included voluntary counselling and testing, prevention of mother-to-child transmission, and provision of antiretroviral therapy for a limited number of refugees. A particular focus was the HIV initiative in East and Central Africa, and the Great Lakes Initiative on AIDS. Working with host governments, as well as NGO partners and other United Nations agencies constituted a key element of overall strategy. A Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern⁶ was issued which addresses some of the more prominent protection problems arising over the past years, including threats of *refoulement* based on HIV status as well as discrimination and breaches of confidentiality.

28. UNHCR’s broader engagement with IDPs provided greater opportunities for addressing root causes of displacement. However, the complexities of protecting IDPs in conflict situations only served to emphasize the important place asylum has in the protection of victims of armed conflict. As part of its activities to support the reintegration of returnees, UNHCR was engaged in developing States’ capacity in good governance, thus contributing to addressing root causes of population displacement. In Sri Lanka and Afghanistan, UNHCR provided support for national human rights bodies to develop their capacity and expertise in various areas of human rights law and monitoring. Due to such support, the Afghanistan Independent Human Rights Commission released its “Report on economic and social rights in Afghanistan” which should serve as an important source of reference for the Government. UNHCR also worked closely with the European Commission and European Union Member States in developing the

⁶ UNHCR, Note on HIV/AIDS and the Protection of Refugees, IDPs and Other Persons of Concern (5 April 2006).

concept of Regional Protection Programmes, intended to strengthen the ability of countries in “regions of origin” to provide protection to refugee populations so as to obviate the need for onward movements. Regions targeted for initial pilot projects include the countries in the western Commonwealth of Independent States (CIS) and the United Republic of Tanzania.

29. During the reporting period, Senegal and Romania acceded to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness, bringing the number of States Parties to these Conventions to 59 and 31, respectively. UNHCR also welcomed the adoption of the Convention on the Avoidance of Statelessness in relation to State Succession, adopted by the Council of Europe, which contains useful principles on nationality applicable in such situations.

30. In collaboration with the Asian-African Legal Consultative Organization (AALCO), which recently passed a Resolution on legal identity and statelessness, a study on statelessness in Asia, Africa and the Middle East was initiated, with the aim of providing a better understanding of the problem and raising awareness on the issues. UNHCR also stepped up its discussions with some governments on protracted situations of statelessness on their territory. As planned, UNHCR and the Inter-Parliamentary Union (IPU) launched a new Handbook on nationality and statelessness. The Handbook provides guidance for parliamentarians to prevent statelessness when revising citizenship laws and also suggests practical examples on how parliamentarians can take initiatives to reduce statelessness and protect stateless persons.

IV. PROTECTING REFUGEES WITHIN BROADER MIGRATION MOVEMENTS

31. Loss of lives of people attempting to cross the Mediterranean brought to focus the complexities of managing large scale irregular population movements and, combating smuggling and human trafficking. The relatively large numbers of maritime arrivals tested the capacities of coastal States. In some situations, countries of transit and destination reacted to increased migration pressures through interceptions and expulsions risking *refoulement* of refugees and asylum-seekers. UNHCR sought to engage governments at both the regional and the national level to raise awareness on international protection needs, and to promote regional cooperation for a comprehensive approach to the problem.

32. Countries in North Africa, by virtue of their geographical location, were particularly susceptible to composite movements of a “transitory” nature from sub-Saharan Africa to Europe. Although these countries are signatories to the 1951 Convention, UNHCR encountered difficulties engaging most of the governments on the issue; hence, efforts were made to reinforce UNHCR’s own protection activities, in partnerships with other international organizations and local NGOs. In contrast, thanks to the positive attitude of the Mauritanian authorities, a comprehensive approach could be taken to address the issues through exploring capacity-building possibilities with the Government and through addressing legislative gaps. UNHCR also responded to a request to provide humanitarian assistance to rescued migrants through the formulation of a proposal for a pilot project in collaboration with the Office for the Coordination of Humanitarian Affairs (OCHA) within the framework of the UN Country Teams (UNCT).

33. In some European countries bordering the Mediterranean, UNHCR provided support to strengthen reception capacity so that asylum-seekers were rapidly identified and protection claims channelled into asylum procedures. Irregular migration was not limited to the Mediterranean region, however, and identifying asylum-seekers was equally crucial to maintaining the integrity of the asylum system elsewhere. In Turkey, UNHCR assisted the authorities to identify asylum-seekers within a larger group which had been intercepted in the Aegean Sea. In Mexico, UNHCR provided support to identify asylum-seekers at the southern border. In a number of operations where UNHCR itself was confronted by composite flows, such as in Morocco, the Office streamlined its procedures to enable more expeditious identification of asylum-seekers.

34. Effective responses to irregular maritime movements, especially given the added complexity of threats to life on the high seas, require clarity with regard to State responsibilities, comprehensive multilateral cooperative approaches and political will. Whether in the Mediterranean, the Caribbean or the Pacific, safeguarding the “Search and Rescue” (SAR) regime is also critical, not least because of the human tragedies often associated with irregular maritime movements. In the Gulf of Aden, UNHCR adopted a comprehensive approach through supporting the Yemeni authorities to ensure protection of asylum-seekers and refugees, enhancing its efforts to improve the situation in countries of origin, and disseminating information in Somalia about the dangers of the voyage.

35. In order to address various issues relating to the problem of irregular maritime movements in the Mediterranean, UNHCR supported an expert workshop organized by the Migration Policy Group in Washington. The Group compared the issues across regions, and also organized a meeting in Athens among experts, aimed at developing a better understanding of the basic considerations affecting rescue-at-sea and interception, which in turn fed into a subsequent meeting of States around the Mediterranean to promote comprehensive multilateral cooperative approaches for forging solutions to the problem.

36. UNHCR and the International Organization for Migration (IOM) continued their efforts to maximize the complementarities of their respective roles through enhanced cooperation. Modalities for closer consultation and coordination were put in place and a joint letter was sent out to all field offices to this effect. As part of the agreement to establish working groups on specific issues on an ad hoc basis, a first working group was established on North Africa as a means to encourage closer cooperation and efficiencies between the two agencies in addressing the “asylum-migration nexus” in the region.

37. As part of ongoing efforts to address the issue of irregular migration, the Convention Plus Core Group on Irregular Secondary Movement of Asylum-Seekers and Refugees continued its deliberations on the subject. The Group was guided by the study issued by the Swiss Forum for Migration and Population Studies concerning irregular secondary movement of Somali refugees and asylum-seekers which shed light as never before on the complex mix of motives contributing to irregular movements. The Core Group provided a forum for laying out issues and eventually endorsed a Joint Statement by the Co-Chairs highlighting the issues on which there was a convergence of views and those where further reflection would be needed.

38. In October 2005 period, the report of the Global Commission on International Migration⁷ was issued. While the focus of the Report is on economic migration, it also exhorts States to respect their existing obligations under international law with regard to the human rights of migrants, the institution of asylum and the principles of refugee protection, and calls for an objective, informed and responsible public discourse on migration and asylum issues. As a follow-up to the Report, UNHCR worked closely with its partners in the Geneva Migration Group on the preparation of a proposal to the United Nations Secretary-General to enlarge and transform this inter-agency group on migration into a “Global Migration Group” (GMG) aimed at establishing a comprehensive institutional response to international migration.

39. At the international level, UNHCR continued to follow or participate actively in a range of migration-related forums, many of which turned their attention to preparations for the 2006 United Nations General Assembly High Level Dialogue on International Migration and Development. In this regard, UNHCR participated actively in discussions with the Secretary-General, the United Nations Department of Economic and Social Affairs and other United Nations entities. A principal objective was to encourage a common understanding of the notion of development in a broad, inclusive and rights-based manner, rather than using it simply as a synonym for economic growth.

⁷ Global Commission on International Migration, *Migration in an interconnected world: New directions for action*, Geneva, October 2005. The full report can be found on the Commission’s website at www.gcim.org.

40. In the context of international efforts to combat trafficking, UNHCR worked within the United Nations system, with other organizations including the Organization for Security and Cooperation in Europe (OSCE) and IOM as well as with NGO partners, to ensure legislation to criminalize trafficking also includes measures to protect and support victims of trafficking. In particular, the latter includes the need for reception in a safe environment, a clear immigration status while awaiting a determination, and counselling on access to asylum procedures in an age and gender-sensitive manner. At the national level, in a number of countries in Eastern Europe, UNHCR continued to collaborate with NGOs and international organizations to undertake awareness-raising activities, including through its Guidelines on asylum claims relating to trafficking to assist the proper consideration of such claims.⁸

V. SHARING BURDENS AND RESPONSIBILITIES MORE EQUITABLY AND BUILDING CAPACITIES TO RECEIVE AND PROTECT REFUGEES

41. In a restrictive international political climate, it is a challenge to promote more equitable sharing of burdens and responsibilities by States and the international community towards persons in need of protection. During the reporting period, there were nevertheless some good examples of such action.

42. In a significant development involving many different actors working together, 439 Uzbeks who had fled to the Kyrgyz Republic in July 2005 were evacuated by UNHCR to Romania, where status determination and resettlement procedures were carried out in a safe environment. The Romanian Government's generous welcome to the refugees confirmed its political will to shoulder international burdens and responsibilities while the United States, Australia, Canada and six countries in Europe rallied to realize protection for this group through resettlement. By early May 2006, 359 of the refugees had been resettled, while those detained in the Kyrgyz Republic also found resettlement places.

43. Among UNHCR's own capacity-building initiatives, the strengthening protection capacity project (SPCP)⁹ has consolidated and expanded its work. This project to develop and pilot a comprehensive and sustainable capacity-building methodology with practical and long-term deliverables was largely completed in Benin, Burkina Faso, Kenya and the United Republic of Tanzania by the end of 2005. It is now being implemented in Georgia, Armenia, Azerbaijan and Thailand. The value of this approach is its highly consultative and comprehensive approach; the involvement of governments, donors, partners and refugees; the practical results it achieves; the funding it attracts for projects to fill identified gaps; and its adaptability to other situations, for instance involving returnees, stateless persons or IDPs.

44. Several institutions, such as the International Association of Refugee Law Judges, the Inter-Parliamentary Union (IPU), and the International Institute of Humanitarian Law, collaborated with UNHCR during the reporting period on a number of initiatives, including the organization of training courses for government counterparts and dissemination of information. Numerous intergovernmental organizations also supported the work of UNHCR, notably the African Union and the OSCE, while international NGOs remained key partners.

45. Within the United Nations system, UNHCR also collaborated with other UN entities to maximize synergies capitalizing on respective competencies. Such collaboration is best seen in activities relating to reintegration in post-conflict situations where UNHCR is increasingly working within the United Nations Development Assistance Framework (UNDAF) to ensure that the specific needs of returnees are incorporated into national development plans. In Angola, UNHCR is engaged with the UN Country Team in joint needs assessments with the Ministry of Assistance and Social Reintegration, focusing on

⁸ See footnote 1.

⁹ See *Note on International Protection*, 4 July 2005, UN doc. A/AC.96/1008, para. 39.

reconstruction and rehabilitation of basic facilities. In Liberia, of special interest is the engagement of UNHCR as part of a United Nations collaborative effort with the Ministry of Youth and Sports for a national dialogue with youths aimed at seeking ways and means to provide tangible support for youth empowerment.

46. At the national level, partnerships with civil society included, in particular, local NGOs, many of which are implementing partners. UNHCR supported protection networks where local NGOs were involved in numerous activities, including: providing assistance to asylum-seekers and refugees, both in camps and outside camps; providing counselling in asylum procedures; and organizing training workshops and other promotional activities. Partnerships with academic institutions also had a positive outcome, such as in Yemen, where the University of Sana'a initiated the development of a refugee law course. In Argentina, the strengthening of protection networks with civil society as well as new partnerships with the private sector led to coverage of some 40 per cent of overall refugee needs in the country.

47. In Latin America, the Mexico Plan of Action, adopted by 20 States in November 2004,¹⁰ is proving an important vehicle for regional and national cooperation. UNHCR, international organizations, governments and different sectors of civil society worked together during the reporting period to strengthen national eligibility commissions, including through a regional Latin American course on international refugee law benefiting refugee adjudicators from 14 countries. As part of the Mexico Plan of Action's "borders of solidarity" component, UNHCR also worked with governments, other United Nations agencies and civil society through community-based projects to enable refugees living in areas bordering Colombia to gain economic self-sufficiency, enhancing their protection and socio-cultural integration.

VI. ADDRESSING SECURITY-RELATED CONCERNS MORE EFFECTIVELY

48. Addressing security issues remained a major preoccupation of UNHCR during the reporting period. Whether through armed attacks or military infiltration, the security of refugees and IDPs in many countries was threatened. Nowhere was this more daunting than in Darfur and in eastern Chad. In northern Central African Republic (CAR), banditry and lawlessness prompted Chadian refugees to repatriate despite earlier intentions to integrate locally. Sexual and gender-based violence (SGBV) remained prevalent in many camps. UNHCR staff were also under threat: in southern Sudan a UNHCR staff member and a guard were killed in an attack on the UNHCR office in Yei, while in Benin the UNHCR Representative was held hostage for some time.

49. Overall, in addressing security problems in refugee camps, UNHCR preferred the "soft option" through supporting the authorities to increase national law enforcement around camps. Depending on the situation, however, "hard options" were also adopted. In Chad, armed attacks and forced recruitment had taken on such grave proportions that the involvement of the African Union and the Department of Peacekeeping Operations (DPKO) was sought. In the United Republic of Tanzania, through joint efforts with the authorities, individuals in camps who were recruiting refugees were identified and separated from the general camp population. Of special concern was the forced recruitment of children, in response to which UNHCR stepped up its interventions, not only in Chad and Rwanda, but also in Sri Lanka, where the issue of recruitment of children continued to be taken up through joint advocacy and monitoring with UNICEF.

50. UNHCR is an active partner in the Protection of Civilians Implementation Group of the Executive Committee on Humanitarian Affairs, which is working on the establishment of a systematic monitoring and reporting mechanism to collect standardized information which will assist in analysing key protection concerns of civilians in conflict, with the aim of delivering enhanced reporting to the Security Council. Protection concerns of displaced persons and issues concerning the civilian character of asylum are fully integrated into this initiative.

¹⁰ See Note on International Protection, 4 July 2005, UN doc. A/AC.96/1008, para. 8.

51. Strengthening response and preventive mechanisms to address SGBV, including domestic violence, remains one of UNHCR's top priorities. In many countries, efforts were made to sensitize refugee and local communities, particularly leaders, as well as relevant government officials, police, lawyers, and the judiciary on the need to address SGBV issues. Women's groups and drop-in centres were formed. More specific activities included encouraging reporting by survivors, providing support to them, establishing referral mechanisms and prosecuting perpetrators. The presence of female police and mobile courts in Kenya contributed to encouraging survivors to make reports. The first successful prosecution of a rape case in Nepal represents a milestone. In Afghanistan, UNHCR, in collaboration with Medica Mondiale and local NGOs, established centres to address the medical and psychosocial needs of women survivors of violence.

52. UNHCR also stepped up efforts with Governments in strengthening their national capacity to address SGBV issues. Emphasis was given to awareness raising through information campaigns as well as training programmes with national institutions, including the judiciary. In Uganda, UNHCR was instrumental in the preparation of the National Strategy on SGBV aimed at prevention and response through institutional reform. In The former Yugoslav Republic of Macedonia, a multi-sectoral response and prevention team was established to build local capacity to respond to SGBV, while in Brazil the protection of refugee women survivors of SGBV was incorporated into the national programme for the prevention of violence against women.

VII. REDOUBLING THE SEARCH FOR DURABLE SOLUTIONS

53. Despite large-scale voluntary repatriations which took place during the reporting period, the displacement of many refugees and IDPs remained protracted. Working with States to identify comprehensive approaches for specific caseloads, taking into account complementary use of all three durable solutions, remains a major challenge. As part of ongoing efforts to give focus to comprehensive approaches to durable solutions, the restructuring of UNHCR's Division of International Protection Services included the creation of a Solutions and Operations Support Section charged primarily with reviewing protracted refugee situations.

54. During the reporting period, the Framework Document for a Comprehensive Plan of Action (CPA) for Somali refugees was finalized. The CPA highlights an approach based on the three durable solutions as well as improved quality of protection in host countries and addressing root causes. In Asia, a unique comprehensive approach was applied for a group of some 940 Vietnamese Montagnards in Cambodia, whereby under the framework of a memorandum of understanding signed by the host country, UNHCR, and the country of origin, solutions were found through refugee status determination by UNHCR coupled with resettlement or return underpinned by international monitoring in the country of origin. Another refugee group targeted for a possible comprehensive approach to durable solutions is that of the Bhutanese refugees in Nepal, where the strategic use of resettlement is being envisaged.

55. During the reporting period, voluntary repatriation continued to be the durable solution which benefited the largest number of refugees and IDPs. The largest numbers of voluntary returns globally in 2005 were to and within Afghanistan (750,800 refugees, 17,000 IDPs), while in Africa, peace agreements and democratic elections led to large numbers of voluntary repatriation to many countries. Major returns from abroad took place to Liberia (70,000), Burundi (68,000), Angola (53,000), the Democratic Republic of the Congo (39,000), Sudan (18,500), Somalia (12,000) and Rwanda (10,000). In December 2005, the voluntary repatriation operation of Angolan refugees in Zambia, the Democratic Republic of the Congo and Namibia ended after helping more than 210,000 refugees return home over the course of three years.

56. Many of UNHCR's organized returns were undertaken within the framework of tripartite agreements, which enabled a clear understanding of guarantees for physical, legal, and material safety and the responsibilities of the various parties in this regard. As a good example, the tripartite agreement covering the return of Sudanese refugees from the Democratic Republic of the Congo provides for

amnesties, as well as the preservation of family unity, recognizing the possibility for non-national spouses and children to move with refugees. It also provides for the possibility of returnees to settle claims to property which should include consideration for equal ownership, inheritance and other pertinent rights of women and children.

57. In order to promote voluntary repatriation, UNHCR facilitated “go and see” visits, such as those which took place in relation to Angolan refugees in the Democratic Republic of the Congo, as well as “come and tell” sessions, such as those conducted for Rwandan refugees in Malawi. In another context, UNHCR, in consultation with the Special Representative of the Secretary-General for Western Sahara, facilitated confidence-building measures for refugees in Tindouf, Algeria, by organizing family visits of the refugees to their relatives. The second phase of this programme was resumed toward the end of 2005, pursuant to complex negotiations with all concerned parties.

58. In post-conflict recovery, promoting reconciliation among communities is a critical means of sustaining returns. Reconciliation in the context of refugee and IDP returns entails non-differential treatment of returnees and local communities. In many situations, this means that while promoting social acceptance of returnees by local communities, economic benefits from investment programmes linked to returns must also benefit local communities. Hence in returnee operations, such as those in the Democratic Republic of the Congo, Sierra Leone, Sudan and Afghanistan, UNHCR and NGO partners implemented community-based projects which focused on rehabilitation of communal services benefiting local communities as well as returnees, and involved both communities in project design.

59. Settlement of land and property disputes also posed significant challenges to reconciliation and reintegration. The UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (“the Pinheiro Principles”) endorsed by the Sub-Commission on the Promotion and Protection of Human Rights underpinned UNHCR’s work in several operations such as Iraq, Burundi, Liberia, Serbia and Montenegro, Kosovo (Serbia and Montenegro) and Georgia, to assist authorities develop regulatory and institutional frameworks for more speedy and predictable handling of property claims of returnees. In many post-conflict countries where national mechanisms are not yet available, traditional methods of mediation remained an important tool for resolving differences in property claims, and UNHCR’s efforts in supporting legal assistance served as effective means of conflict resolution.

60. Sustaining returns requires that UNHCR works in partnership with other United Nations agencies to develop a coherent common strategy within the overarching national development framework to support national recovery efforts of States. This is the essence of the “4Rs” approach (repatriation, reintegration, rehabilitation and reconstruction) which was adopted in many countries of major refugee and IDP returns such as Sierra Leone, Angola, Afghanistan, Sri Lanka, Liberia and more recently in Sudan. An essential element of the 4Rs is ownership of the process by national authorities. However, where countries are still in post-conflict transition with limited capacities, building of national capacities through a decentralized approach was required. In Afghanistan, UNHCR collaborates closely with provincial authorities to instil a sense of ownership for community projects while also supporting efforts to develop strong national structures through close cooperation with line ministries and central bodies working within the UNDAF framework.

61. UNHCR also gave greater focus to mainstreaming age and gender into reintegration activities. In Angola, women’s empowerment programmes were actively pursued by UNHCR in collaboration with the authorities to promote awareness of civil and political rights so as to enable returnee women to participate in equal terms with men in the forthcoming elections. In Afghanistan, UNHCR supported NGO efforts to assist returnee children who have become street children through education programmes which provide them with a child-friendly environment and reduce exposure to exploitation and abuse. In Sudan, working closely with the Ministry of Education, Science and Technology, UNHCR tackled gender disparities within the education sector through promoting enrolment of girls in schools and sensitizing local communities on the importance of girls attending school.

62. New opportunities opened up for the pursuit of local integration as a durable solution during the reporting period. ExCom elaborated a Conclusion on Local Integration¹¹ which sets out framework considerations for this durable solution and provides an important tool for promoting local integration. In Angola, following intensive negotiations and sharing of the ExCom Conclusion, the authorities advised that in principle they were willing to consider naturalization for the approximately 14,000 refugees from the Democratic Republic of the Congo who had been resident in Angola for the past 29 years. Elsewhere, in Burundi, Guinea and the United Republic of Tanzania, there were positive developments in opportunities for legal integration of long-staying refugees who have culturally and socially integrated. Outside Africa, opportunities were made available to long-staying refugees who have attained some form of economic and social integration, particularly in Central Asia, as well as in Ukraine. In El Salvador, a UNHCR-funded refugee census was completed allowing long-staying mandate refugees to be identified for grant of permanent residency.

63. Self-reliance is an important means of empowering refugees, thus enhancing their protection pending a durable solution. In eastern Sudan, UNHCR shifted from care and maintenance of long-staying Eritrean refugees to community-based self-reliance projects which also benefit local communities. Wherever appropriate, UNHCR advocated for the integration of self-reliance programmes into the host country's longer term national development plans within the UNDAF. Self-reliance activities, where fully-supported by host authorities, brought benefits to the local community. This is the situation in the Central African Republic where Congolese refugees living alongside the local populations were able to successfully harvest their cash crops, revitalizing the local economy. A notable achievement was the incorporation of the Zambia Initiative in relation to self-reliance activities for Angolan refugees into the revised Zambia National Development Plan Poverty Reduction Strategy Paper and the Common Country Assessment/UNDAF for the country.

64. Resettlement remains a key instrument of protection and responsibility-sharing, and an important durable solution. During the reporting period, the group referral methodology continued to be tested in field operations, and a number of refugee groups in Africa and Asia were submitted under this methodology. Resettlement was also applied as a crucial protection tool in relation to the group of Uzbek refugees in Kyrgyzstan evacuated to Romania.

65. Reflecting positive developments in recent years to expand resettlement opportunities in Latin America, Argentina became a new resettlement country. A resettlement meeting held in Ecuador in early February 2006 to pursue the Solidarity Resettlement component of the 2004 Mexico Plan of Action offered an excellent opportunity to deepen multilateral cooperation on resettlement and increase the number of resettlement countries.

66. Managing risk to ensure the integrity of resettlement continued to be a priority for UNHCR. Steps were taken to further develop practical tools such as Standard Operating Procedures on resettlement, as well as risk assessment frameworks in field operations. Initiatives were also taken to reinforce the engagement of operational partners proactively in operations planning and implementation of resettlement activities including the identification of refugees in need of resettlement, particularly women and girls at risk.

67. Continued donor support for resettlement sustained UNHCR's commitment to strengthening operational capacities to address global resettlement needs. In particular, the United States, the United Kingdom, Australia and Norway provided key funding for resettlement activities, including the International Catholic Migration Commission deployment scheme which allowed UNHCR to maintain its resettlement capacity.

¹¹ ExCom Conclusion on Local Integration No. 104 (LVI).

VIII. MEETING THE PROTECTION NEEDS OF REFUGEE WOMEN AND REFUGEE CHILDREN

68. The protection of women and children of concern remains a core activity and an organizational priority for UNHCR. To support this, the Office has adopted a two-pronged approach of age, gender and diversity mainstreaming (AGDM) and targeted action to empower women to realize their rights, as well as to increase children's participation and respect for their rights. A rights and community-based approach underpins work to ensure partnership with the community through mobilization of all members and building on their capacities and resources to strengthen the protection of women and children.

69. While the High Commissioner's Five Commitments to refugee women continued to guide prioritization, the issuance of the Secretary-General's action plan implementing Security Council resolution 1325 of 2000 further reinforced the Office's strategic directions within a United Nations system-wide framework.¹²

70. During the reporting period, UNHCR continued to expand its AGDM strategy to field offices, targeting staff members and government and operational partners with the support of the Women's Commission for Refugee Women and Children, the Jesuit Refugee Service and Save the Children UK. The strategy seeks to ensure that age, gender and diversity analysis is fully incorporated into the development of protection strategies and programme design, and implemented through the use of multifunctional teams. Over 90 countries will be engaged in using the analysis in their programmes by the end of 2006.

71. A key element of the AGDM strategy is participatory assessment which enables the protection risk factors faced by women and children to be identified and analysed with their direct participation. In many countries, this helped formulate more targeted responses and strengthen partnerships with governments and NGOs to address protection concerns of asylum-seekers and refugees. In Guinea, Sierra Leone, Burkina Faso, Benin and Nigeria, projects were established to address problems specific to adolescents, while in Thailand participatory assessments highlighted the problems of alcoholism. Initial analysis of 40 of the 52 Country Operation Plans developed by field offices which had participated in the roll-out showed participatory assessments were carried out in all but one country.

72. The empowerment of refugee women through their participation in camp and community management committees is a major challenge despite efforts to support the commitment to fifty per cent participation. UNHCR, through NGO support, therefore developed a leadership training module for younger women, which was tested in India and Ethiopia. Worthwhile mentioning, however, are Rwanda and the United Republic of Tanzania, where the food distribution committees consist of 50 per cent of women. Training for men and boys was undertaken to overcome some of the manifold cultural hurdles that exist. In numerous urban situations, establishment of women's groups provided a base for women to voice their concerns. In India, for instance, women's clinics were formed, while in Costa Rica refugee women participated in designing micro-credit support projects.

73. As part of the implementation of Security Council resolution 1325, two internally displaced women from Sri Lanka were supported to attend the five-year anniversary of the resolution in New York and speak about their experiences. Peace-building activities supported communities in conflict resolution techniques in Rwanda, Sierra Leone and Chad. In partnership with a United Kingdom university, UNHCR also piloted a programme with staff and partners in West Darfur to provide community-based psychosocial support for those suffering from trauma due to SGBV and other forms of violence.

74. Various initiatives were also taken during the reporting period to enhance the protection of refugee and asylum-seeking children. Major concerns included forced military recruitment of children in camps, exploitation and abuse, child labour and school dropout rates, particularly of girls. Efforts were made to address these issues by sensitizing the community, reinforcing vocational training, providing psychosocial support and organizing more recreational facilities. The Office also issued "Guidelines on

¹² Security Council, "Report of the Secretary-General on women and peace and security", S/2005/636, 10 October 2005.

Formal Determination of the Best Interest of the Child”¹³ to clarify standards and procedures in this area. Initiatives included the promotion in Zambia and Nepal of children’s participation in youth activities in clubs and youth groups. In Sierra Leone, Liberian former child combatants were reintegrated into the refugee community, while in Thailand UNHCR worked in collaboration with UNICEF to establish a UNCT Working Group on children affected by armed conflict/child soldiers. In meeting the protection needs of children, collaboration with NGO partners was especially effective. In Rwanda, for instance, UNHCR and Save the Children worked to promote awareness of children’s rights to counter critical protection problems arising because children were disappearing and being forcibly recruited in refugee camps.

75. The situation of unaccompanied and separated refugee children was a continuing area of concern. UNHCR prioritized efforts to ensure they have documentation and worked with other partners to effect temporary care arrangements, tracing and family reunification. In several countries, including in Eastern Europe, there were particular challenges addressing the situation of asylum-seeking unaccompanied and separated children, especially as regards legal guardianship to ensure access to asylum procedures, disappearances during asylum processing and availability of detailed data.

76. Ensuring access to education was another focus of initiative to enhance the protection of refugee children. UNHCR worked in partnership with NGOs and governments, where appropriate within the UN Country Team inter-agency framework, to promote children’s access to education facilities, to build the capacity of host governments and support school enrolment, retention and completion with gender parity and equality. Funds such as the Albert Einstein German Academic Refugee Initiative Fund (DAFI) continued to provide refugees scholarships for higher education. In countries torn by war and beset by poverty, however, access to education for returnees and local populations alike remains a considerable challenge.

IX. CONCLUSION

77. Protection is the primary responsibility of States. UNHCR’s protection efforts are as effective as States would have them. This Note shows outstanding gaps in the protection of persons of concern which require greater commitment on the part of all. The Agenda for Protection continues to serve as an appropriate framework for a common agenda to deliver protection to those in need of it and, as suggested in 2005, a comprehensive progress report five years after the Agenda’s endorsement by the ExCom would be a timely way forward to take stock of gaps, challenges and future directions.

¹³

UNHCR Guidelines on Formal Determination of the Best Interest of the Child, Provisional Release, 22 May 2006.