

## **Additional Guidance Note to Support the State Pledges Process**

### **Introduction**

The ministerial-level meeting on 7 and 8 December 2011 is being prepared in part as a pledging conference. It is envisaged that States will use this meeting to make forward-looking and specific commitments to undertake activities which will concretely improve protection and assistance for refugees and stateless people. An initial *Guidance Note to Support the State Pledges Process* (UNHCR, October 2010) was disseminated last year, and is available in Arabic, English, French, Russian and Spanish on UNHCR's website at <http://www.unhcr.org/4d1c95859.html>.

This Note has been prepared further to a request from States for more guidance on the process for making these voluntary pledges. It takes fully into account that the environment for assisting and protecting refugees and addressing statelessness will differ among regions and between States. Hence, this Note has been prepared as a general list of areas in which States might, where relevant, consider making pledges, depending on their national and regional specificities. This Note is not intended to be exhaustive of the areas in which pledges might be made, nor does it assume that all pledges will be national; it might equally inform pledges at the regional level.

UNHCR stands ready to support the process of elaborating pledges, which could in addition involve civil society and refugees and stateless people. Should States wish to signal their pledges to UNHCR ahead of the meeting, this can be done to the meeting Secretariat ([hqst00@unhcr.org](mailto:hqst00@unhcr.org)). Sharing the pledges in advance has the advantage of enabling their wide distribution at the meeting, or in any other way that a State may wish. It is envisaged that a document containing all pledges could be compiled and disseminated after the meeting.

### **Possible areas in which pledges could be made**

#### **Refugee and statelessness conventions**

States could explore making pledges relating to accessions and the withdrawal of reservations. Where relevant, pledges could more specifically address:

- Ratifying or acceding to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol, as well as the 1954 Convention relating to the Status of Stateless Persons and/or the 1961 Convention on the Reduction of Statelessness; and/or
- Withdrawing reservations to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol, as well as the 1954 Convention relating to the Status of Stateless Persons and/or the 1961 Convention on the Reduction of Statelessness.

## **Determining refugee status**

States could consider pledges that would improve implementation of their refugee status determination procedures and ensure efficiency and consistency with high standards. Where relevant, pledges could more specifically address:

- Age, gender and diversity sensitivities in the asylum system;
- Language barriers during hearings and interviews;
- Procedural safeguards for asylum-seekers, including effective remedies;
- Government capacity and refugee status determination expertise;
- Repeal of legislation that permits non-suspensive asylum appeals; and/or
- Assuming greater responsibility for refugee status determination.

States could explore making pledges to introduce or amend legislation, as required, or to issue policy guidance to asylum adjudicators to assist in the interpretation of the refugee definition. Where relevant, pledges could more specifically address:

- Ensuring the full and inclusive interpretation of the 1951 Convention refugee definition in light of relevant international and/or regional developments; and/or
- Clarifying that gender-related forms of persecution are recognized grounds for refugee status.

States might also consider making a pledge that the grounds for exclusion from refugee protection are stated, interpreted and applied in a manner that is consistent with the 1951 Convention and its 1967 Protocol.

## **The reception and rights of asylum-seekers and refugees**

States could consider making pledges to ensure that all people seeking international protection can access their territory. Pledges could reaffirm their commitment to the internationally recognized principle of non-refoulement. Where relevant, pledges could more specifically address:

- Entry systems which allow asylum-seekers and other groups with specific needs to be identified and granted access to their territory;
- Training for border officials;
- Cooperation and coordination among all relevant stakeholders to ensure the swift disembarkation, at a place of safety, of asylum-seekers and refugees rescued at sea;
- In situations of large-scale influx, admission of asylum-seekers at least on a temporary basis and the provision of protection in accordance with fundamental principles; and/or

- Repeal of laws that permit the prosecution or penalization of refugees and asylum-seekers who enter the country unlawfully or with fraudulent or false documents but who have good cause to do so.

States could consider pledges which address the problem of individual documentation for all asylum-seekers and refugees, including women and girls. Where relevant, pledges could provide more specifically that such documentation:

- Protects against removal; and/or
- Enables asylum-seekers/refugees to access basic services and enjoy their economic, social and cultural rights.

Where feasible, States could consider pledges which facilitate freedom of movement for refugees and stateless people, including for travel abroad, in particular though the issue of machine-readable travel documents which meet the standards in International Civil Aviation Organization (ICAO) Document 9303.

States could explore pledging activities which open up broader educational opportunities for refugee children, young people and adults, both male and female. Where relevant, pledges could more specifically address:

- Removal of education fees for refugee children;
- Recognition of refugees' school certificates; and/or
- Literacy programmes and adult education opportunities for refugees.

To the extent possible, States could explore making pledges that would improve male and female refugees' access to the labour market. Where relevant, pledges could more specifically address:

- Time limits on any bars to work for asylum-seekers;
- Recognition of refugees' professional and vocational diplomas; and/or
- Support and facilitated access to lawful employment for victims of survival sex.

### **Treatment of asylum-seekers and refugees**

States could consider pledging to activities which would improve the extent to which asylum-seeker, refugee and stateless women and girls enjoy protection and assistance on an equal basis with men and boys, and are able to participate equally in the making of decisions that affect them. Where relevant, pledges could more specifically address:

- Access to livelihood opportunities and increased economic self-reliance;
- Legal avenues to prosecute perpetrators of violence, sexual abuse and rape;
- Facilities to support victims of violence, harassment, rape and sexual abuse; and/or

- Gender-specific training for service providers, as necessary.

States could explore making pledges relating to government policies and practices governing the treatment of all children, both boys and girls, in particular unaccompanied and separated children, to ensure that they are effectively identified and their protection needs respected. Where relevant, pledges could more specifically address:

- Birth registration for all children of refugees, asylum-seekers and stateless persons; and/or
- Non-discriminatory access to national child protection services for all refugee and asylum-seeking children, both boys and girls, on an equal basis with nationals.

States could consider pledges which would improve the extent to which the specific protection needs and vulnerabilities of asylum-seekers, refugees and stateless people with a disability are taken into account. Where relevant, pledges could more specifically address:

- Prohibiting all forms of discrimination on the basis of disability;
- Taking measures to protect all refugees, asylum-seekers and stateless persons with disabilities against such discrimination; and/or
- Providing support, services and facilities to asylum-seekers, refugees and stateless people with disabilities.

States could consider pledges that aim to combat all forms of racism, discrimination and related intolerance and protect the most vulnerable groups, including asylum-seekers, refugees and stateless persons. Where relevant, pledges could more specifically address:

- Instituting legislation to prohibit unlawful discrimination;
- Training for law enforcement officials, lawyers and judges;
- Implementing the Programme of Action under the Durban Declaration, in particular the seven paragraphs<sup>1</sup> which make specific reference to forcibly displaced and stateless persons;
- Condemning discrimination and intolerance and promoting respect and understanding through public statements by political leaders; and/or
- Providing access for victims to effective complaints mechanisms and legal remedies, including legal counselling and psychosocial support.

States that enforce the detention of asylum-seekers and/or refugees could consider pledges that would reduce reliance on this practice and/or improve conditions of detention. Where relevant, pledges could more specifically address:

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<sup>1</sup> Paragraphs in the Programme of Action: 34-36, 78 (d), 138, 144 (e) and 185 in relation to Paragraphs in the Declaration: 16, 28, 52-55, 65, 89 and 111.

- Ending the detention of refugee and asylum-seeking children;
- Ending automatic detention regimes for refugees and asylum-seekers;
- Reducing reliance on the detention of asylum-seekers;
- Setting legislative time limits on permissible periods in detention;
- Improving conditions of detention so that they comply with appropriate standards and norms of treatment set out in international human rights instruments;
- Establishing procedural safeguards in relation to detention, including that any detention takes place in accordance with the law;
- Establishing or designating an independent detention monitoring body; and/or
- Exploring, piloting or implementing alternatives to the detention of asylum-seekers and refugees, including systems for bail/bond, reporting requirements or community-based supervision.

### **Urban refugee situations**

States could consider pledging activities which would lead to better assistance for urban refugees. Where relevant, pledges could more specifically address:

- Working with UNHCR and partners towards achieving the objectives of UNHCR's *Policy on Refugee Protection and Solutions in Urban Areas*;
- Strengthening partnerships between relevant international and non-governmental entities, as well as community groups, to improve protection and access to available services; and/or
- Taking urban-based refugees into account when it comes to urban planning and poverty- and disaster-risk-reduction strategies.

### **Durable solutions**

States could explore making pledges to support efforts to integrate voluntary repatriation, local integration and resettlement, whenever feasible, into a comprehensive approach to finding durable solutions. Where relevant, pledges could more specifically address:

#### Voluntary repatriation

- Eliminating obstacles to refugees' return and creating conditions conducive to voluntary repatriation;
- Supporting sustainable reintegration for returnees through, for example, access to employment, education and social services;
- Supporting socio-economic recovery and peacebuilding in communities and countries receiving returnees; and/or

- Including returnee women and girls in all peace talks, peace negotiations and reintegration efforts through the promotion of a National Action Plan in accordance with UN Security Council Resolution 1325 (2000) on women, peace and security.

#### Local integration

- Supporting the legal, social and economic integration of refugees in their host community and country through, for example, access to agricultural land, employment opportunities and/or longer-term, durable residence status.

#### Resettlement

- Introducing a regular resettlement scheme with an annual or multiyear quota;
- Increasing the annual resettlement quota;
- Improving the State's capacity to respond to urgent and emergency resettlement needs, including medical needs, and to expedite the processing of these cases;
- Building the capacity of emerging resettlement countries, including through twinning or mentoring programmes; and/or
- Facilitating the integration of resettled refugees, in areas such as health and social services, education, employment and community attitudes.

#### Legal migration

- Exploring additional solutions for refugees, including legal migration opportunities, where appropriate.

### **Protracted refugee situations**

States could consider pledges which would contribute to resolving protracted refugee situations. Where relevant, pledges could more specifically address:

- The root causes of one or more particular protracted refugee situation(s) via comprehensive, multilateral and multi-sectoral collaboration and action;
- A particular protracted refugee situation by engaging with UNHCR, States and other partners to set in place comprehensive approaches to solutions, including through the strategic use of resettlement; and/or
- Support for communities hosting refugees using development processes such as the national Poverty Reduction Strategy Plan (PRSP), the United Nations Development Assistance Framework (UNDAF) and other mechanisms.

### **Mixed movements**

States could explore making pledges which would meet the needs of different categories of people involved in mixed movements, such as asylum-seekers, refugees, victims of trafficking, unaccompanied and separated children and migrants in an irregular situation. Where relevant, pledges could more specifically address:

- Referral mechanisms to identify, obtain information from, and provide information to these different categories of people;

- Differentiated processes and procedures to meet the needs of these different categories of people and provide durable solutions for those with international protection needs;
- Preventing and combating trafficking in persons, including through support and protection to victims and, where appropriate the granting of refugee protection;
- Recognizing the international protection needs of trafficked persons, including those that have arisen as a result of their trafficking experience; and/or
- Cooperative arrangements to ensure that rescue-at-sea operations involving asylum-seekers and refugees are consistent with relevant international law and enable persons to be disembarked safely and swiftly, with access to appropriate procedures and solutions.

### **International cooperation**

States could consider pledges that reaffirm their commitment to international cooperation to share burden and responsibilities. Where relevant, pledges could more specifically address:

- Working together with UNHCR, interested States and other relevant stakeholders to develop a common framework on international cooperation to share burden and responsibilities; and/or
- Developing cooperative arrangements with other relevant States to address particular displacement situations in a comprehensive and collaborative way, with a view to enlarging the protection space.

### **Statelessness**

States could explore making pledges which would help to identify statelessness on their territories and improve the mapping of this problem worldwide. Where relevant, pledges could more specifically address:

- Compiling data on the number of stateless persons within the country, such as through surveys, population censuses or other appropriate means; and/or
- Introducing a formalized but simplified determination procedure for stateless persons that would grant them a recognized status.

States could consider making pledges which would help to prevent statelessness, including by reviewing nationality laws and procedures relating to the acquisition of nationality. Where relevant, pledges could more specifically address:

- Including safeguards in nationality laws against statelessness among children, such as granting citizenship at birth to those who would otherwise be stateless, whether they are born on a State's territory or are born to nationals abroad;

- Revising nationality laws to ensure that States grant citizenship to foundlings on their territory;
- Closing loopholes in nationality laws that allow for statelessness upon renunciation, loss, or deprivation of nationality;
- Ensuring gender equality in nationality laws and amending discriminatory provisions which cause statelessness among women and/or their children;
- Applying reformed nationality laws retroactively to address statelessness cases caused by past instances of gender discrimination;
- Streamlining administrative procedures and reducing relevant fees to facilitate the acquisition of nationality by eligible stateless persons; and/or
- Improving access to birth registration and other identity documentation.

States might consider making pledges to reduce statelessness on their territory. Where relevant, pledges could more specifically address:

- Granting citizenship to a particular group of stateless people;
- Resolving a particular protracted statelessness situation; and/or
- Adopting a comprehensive strategy or action plan for the reduction and prevention of statelessness and its causes.

States could explore developing pledges to improve the protection of stateless persons, such as by granting them with standards of treatment consistent with the 1954 Convention relating to the Status of Stateless Persons, including the provision of identity and travel documents.

### **Protection needs outside the scope of international refugee protection instruments**

States could explore making pledges to ensure and/or improve the protection of people who may fall outside the scope of existing refugee protection instruments, including by reviewing national legislation. Where relevant, pledges could more specifically address:

- Developing legislation or policy guidance for asylum adjudicators on granting complementary forms of protection;
- Increasing the entitlements of persons granted complementary forms of protection and their family members, and bringing them to the level of rights attached to refugee status under the 1951 Convention; and/or
- Providing legal migration opportunities for people who may be forced to leave their countries of origin owing to slow-onset environmental degradation and/or the effects of climate change, such as sea-level rise or desertification.

States could consider making pledges which would facilitate the development of the international protection regime, in light of contemporary displacement trends. Where relevant, pledges could more specifically address working with UNHCR, other interested States and relevant stakeholders to:



- Identify situations that may fall outside the scope of existing refugee protection instruments;
- Develop the international protection regime in a way that provides appropriate and consistent responses to these situations, building on existing norms and the good practices of States; and/or
- Develop a guiding framework for temporary or interim protection scenarios, identifying the circumstances in which protection would be activated, the treatment that would be provided and how it would come to an end.

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