

UNHCR Standing Committee and Convention Plus Report - June 2003

This report emphasises the key areas addressed in both the Standing Committee and inaugural Convention Plus Meeting held in Geneva.

The introduction addresses the key achievements made through our attendance at these meetings and the informal meetings held with UNHCR and NGOS.

CRR aims for meeting participation

To develop a better understanding of the role of NGOs in the EXCOM process including ways in which to influence the EXCOM agenda and Conclusions.

To ensure that issues relating to refugee women at risk are reflected in the EXCOM agenda.

To ensure that the particular concerns of asylum seekers and refugees in Australia and the Asia Pacific Region are reflected in the meetings.

To seek input into the EXCOM conclusions in particular on gender related issues

Outcomes

There was strong support expressed by the NGO representatives and UNHCR for CRR's work on Refugee Women at Risk. Our series of proposals relating to the issue of Refugee Women at Risk were also enthusiastically supported by many of the NGOs and key UNHCR staff. These proposals include:

1. A workshop on Refugee Women, Rape and Sexual Violence - Pre-EXCOM 2003.
2. The Launch of a Booklet containing stories of Refugee Women at Risk - Pre-EXCOM 2003
3. A major international meeting or "dialogue" on Refugee Women and Violence based on the Asian Women Human Right's Councils Courts of Women aimed at addressing the protection needs of Women at Risk to be held prior to EXCOM 2004.
4. Significant input into the NGO Statements (appendix 1)

EXCOM Conclusions

A series of EXCOM conclusions are currently being drafted by UNHCR for acceptance at the forthcoming EXCOM meeting. Three of the four conclusions are outlined in the UNHCR EXCOM Agenda to 2005 which relates to the implementation of commitments made in the Agenda for Protection. These are:

1. A Conclusion on the Return of rejected asylum seekers
2. A Conclusion on Protection safeguards in interception
3. A Conclusion on Protection responses to sexual exploitation (i.e. West Africa)

The fourth Conclusion is a new one which relates to definitions of Effective Protection.

CRR will propose that a Conclusion on Refugee Women at Risk be included on the UNHCR agenda for EXCOM 2004 or 2005. We have been advised that although Conclusions are drafted by UNHCR that these may be proposed/ suggested by both States and NGOs.

CRR/ Searching for Solutions will work with student interns to develop papers on each of the Conclusions for EXCOM 2003, 2004 and 2005. As we learn more of the process, we have identified that the best strategy is to plan ahead for the conclusion in the following year.

KEY POINTS OF THE MEETINGS

UNHCR STANDING COMMITTEE MEETING 24/6/03

This report highlights some of the key discussions of the UNHCR Standing Committee with particular reference to areas of interest for the Centre for Refugee Research/Searching for Solutions and ARRA. The positions of key countries are also highlighted.

UNHCR Budget

The High Commissioner emphasised that UNHCR's funding shortfall continued to have an impact. There is not sufficient funding to meet all the identified needs - also a lack of flexibility in the unified budget.

There was substantial discussion outside the formal meeting among NGOS and UNHCR of the need to move from a resource based to a needs based budget. It would appear that often funding has been allocated in an arbitrary manner with no consideration of the type and size of the needs of the affected population , not of the context of the situation. An example of this was a statement that all refugee women in Kakuma get sanitary towels because it was a line item in the budget. UNHCR staff at Kakuma report that the budget is insufficient for even food, and that only a minimum number of sanitary towels have been distributed

The UNHCR wide salary increase and the weakening of the US dollar have also had a serious impact on the UNHCR budget. This has been mitigated to some extent by contributions in Euros. The UNHCR donor base has now expanded to include Kuwait, Russian Federation and Botswana.

UNHCR's target 2004 Budget is \$958 Million

UNHCR priorities for 2003

¢ A supplementary program for Africa

¢ A focus on Afghanistan as needs are still high but there is a fear that as the international focus shifts to new situations that donor countries will reduce support.

¢ Iraq - consolidated appeal launched in New York 23/6/03

Partnerships

- ç Partnerships with NGOs are essential as they are able to provide more cost effective services.
- ç Full partners are those who raise all their own funds.
- ç Implementing partner rely on UNHCR for funding.

There is a push from UNHCR to increase the numbers of full partners. This has serious implications for the quality of work done as the big organisations are often the most conservative. It will also change the relationship between UNHCR and Governments if major funders are non-Government players.

Burmese refugees and Thailand

Bangladesh noted that they are still hosting 22,000 Burmese refugees.

Thailand, newly appointed to the UNHCR Committee - referred to itself as a "host country" with respect to the Burmese refugees. There is concern as to why a country which has not signed the convention has sought a place on the committee. It was noted with surprise that they called the Burmese "refugees"

Thailand also noted that UNHCR figures which reported that there had been 2,534 asylum claims in Thailand in the last year seemed too high and argued that the "person of concern status" was too widely applied as this was due to irregular movement.

Africa

The EXCOM Committee chair reported on a recent visit to Africa and noted that Africa had not received enough support from the International Community. The under funding has impacts on both the refugees and host community. He acknowledged that the levels of assistance were considerably lower than what was considered adequate in other parts of the world. He emphasised the generosity of Zambia and the success of the Zambia initiative.

Note on International Protection - Erika Feller

She noted a worrying trend that some asylum countries were narrowing access to asylum - across the developed and developing world - including refoulement, lack access for UNHCR, detention and xenophobia. That despite the reduction in asylum claims in industrialised countries that there had been no increase in funding to UNHCR.

UNHCR protection function is its *raison d'être* but its staff intensive and barriers to effectiveness are: staff numbers, safety and negative political and media rhetoric. However she also noted that protection remains the primary responsibility of state as the Agenda for Protection was accepted as the collective responsibility of states & others.

She cited a number of best practices in addressing SGBV. These included;

- ç Guinea - Empowerment of refugees to address SGBV and pilot legal clinic - to seek redress through criminal legal system.
- ç Tanzania - courts to address SGBV.

© Liberia and Save the Children UK - involving children in program design - eg. Education for teenage mothers.

Standing Committee 25/6/03

USA Funding for UNHCR Protection and Resettlement activities

The USA has provided UNHCR with an additional 3 million dollars for increased protection staff and activities in Africa. This is to facilitate the integration of a protection surge strategy. To both recruit more protection officers or social services staff with protection responsibilities. The USA have also provided 4 million \$ to UNHCR to increase resettlement processing capacity. It is noted that they dictate the allocation of this additional funding. The USA also emphasised that it is focusing on group resettlement eg. Bantu Somalis.

Canada

Canada called for more systematic reporting on the implementation of the High Commissioners five commitments to refugee women (See attached) and for follow up on the 3 evaluations undertaken which review the implementation of UNHCR commitments to refugee women.

Canada is currently working with IOM and Australia to identify groups from Dadaab camp for resettlement.

Tanzania

Indicated that local integration of the Burundians is not feasible as it presupposes naturalisation. The 1951 convention refers to limited and manageable numbers though they have been able to integrate the Somalis this has been difficult without resources . They emphasised that repatriation was the best option. They emphasised that any incidences of refoulement have been accidental.

AGAMI What is this??

An initiative established in November 2001 with IOM to work on the Asylum/Migration nexus.

Budget

UNHCR reported that Protection posts are as far as possible cushioned from the budget cuts. But RSD and the Resettlement deployment scheme are both affected by budget pressures.

Australia

Advocated for an extension to resettlement by developed countries as a durable solution as it is an orderly and secure process and provides a durable new home.

Sweden

Sweden emphasised that individual protection should remain a primary concern in resettlement and also indicated that they are proposing legislation in Sweden on asylum for unaccompanied minors and that victims of SGBV will qualify for protection under the convention. It totally rejected the "British Solution" of border protection and detention centres, based on the "Australian Solution"

HIGH COMMISSIONERS FORUM - CONVENTION PLUS 27/6/03

The inaugural meeting of the High Commissioners Forum/Convention Plus meeting, focused on the following four key areas:

1. Resettlement - focussing in particular on protracted refugee situations
2. Secondary Movement
3. Responses to Mass influx situations
4. Targeting of Development Aid

Both the issues of Resettlement and Secondary Movement are of particular interest to CRR and ARRA. CRR/ Searching for Solutions will work with student interns to develop papers on these issues for EXCOM 2003.

These notes highlight some of the key discussions and country positions articulated in the Forum and should be read as an addition to the attached High Commissioners summary of the Forum discussions. (Appendix 2) The first section summarises the NGO briefing held prior to the Forum on Weds 25th.

Convention + NGO Briefing by Jean Francois, UNHCR 25/6/03

The Convention Plus (C+) aims to fill some of the gaps identified by the Agenda for Protection in the 1951 Convention and International law. In particular the regulation of roles and responsibilities of states to one another with regard to responsibility/burden sharing.

Four key areas for the C+

5. Responses on Mass influx situations - gaps in law and understanding relating both to general and protracted crisis.
6. Targeting of Development Aid to solving refugee problems in terms of reconstruction and rehabilitation. Need for better definitions of tools/ formulas for targeting.
7. Secondary Movement has become a major "irritant"! The responsibilities of states in relation to primary and subsequent movements need better definition.
8. Resettlement - a major C+ issue. One of first C+ initiatives on which special agreements will be sought. On a framework of principles on the place of resettlement in protection regime. UNHCR must play an essential role in setting the priorities for this while acknowledging the political context and the need to seize opportunities as they arise.

Process issues

- ç It was noted that the Forum as outlined in the Agenda for Protection was not necessarily exclusively linked to C+, but that the forum could be used to address a range of other emerging issues in the future.
- ç Important work will also happen among smaller clusters of states & UNHCR calling on outside expertise. Outside the Forum.
- ç States will generally self select but UNHCR will take a role to facilitate the participation of key states.
- ç NGOs expressed a concern that agreements might be concluded without reference to the Forum and noted that refugees were also stakeholders eg. Bhutanese refugees

as an example.

ç The idea of a group of NGO experts to the Forum is currently on hold.

Secondary movement

Human Rights Watch emphasised that secondary movement is not an Irregular movement and is legal as these movements occur when effective protection has not been found.

Return and Voluntary Repatriation

UNHCR's Spanish Committee is currently working on a 2-year project to lay down a legal framework, which will address the current gaps in protection provisions in the return and voluntary repatriation of refugees.

Treaty / Convention monitoring

States have flatly rejected any form of treaty monitoring or reporting mechanism.

The Forum

The High Commissioner emphasised that there needed to be a clear distinction between the work of the Forum and current concerns in Europe. He acknowledged the major issues of mixed flows in Europe and the need for better procedures but emphasised that this was not a Convention + topic.

He emphasised the need for negotiation of special agreements which have measurable implementation and that the Forum was about more than just lofty expectations.

The need for a Comprehensive Plan of Action like that formulated for Indochina's refugees in 1989 in order to sure more predictable responses to mass influxes both generic and specific caseload agreements and a particular focus on those groups who have waited for durable solutions for too long Working on precedents of Tripartite agreements.

Resettlement as a trigger to launch burden/responsibility sharing

Canada stated that resettlement is not necessarily more costly than local integration or repatriation. Millions are spent on humanitarian aid and often this does not provide a durable solution. In protracted crisis situations resettlement could make a substantial contribution and free up funding for humanitarian aid elsewhere as well as encourage some first asylum countries to provide local integration for some groups. Pakistan picked up this point and emphasised that the split here needed to needed not only to be fair but that the host country must have a role in deciding which refugees are resettled and which are locally integrated. Kenya and Egypt also emphasised that there must be no linkage between resettlement and local integration.

Tanzania emphasised that they did not support massive local integration but rather support for repatriation to safe areas with the support of the international community raised the issue of the supply of arms to rebel groups, Indicating that the arms suppliers were fuelling this conflict - the implication being that these countries

should bear the responsibility of addressing this refugee crisis. Called for the addressing of root causes.

It is also essential to bring development agencies into this discussion early. C+ special agreements on resettlement should not replace current resettlement provisions of the asylum regime but should focus on providing a lasting solution to a greater number of refugees. The need to further explore the meaning of a durable solution was also identified.

Settlement decisions could be done more cost effectively through an administrative rather than judicial decision process. This could allow for broader definitions than the convention eg. Large groups fleeing Civil wars who place a large burden on the host countries.

UK stated they were commencing a resettlement program this year but is concerned about protection criteria broader than the 1951 convention.

Canada also highlighted that the public policy of resettlement country influences those groups which they will accept for resettlement. Suggested that this could be resolved by a negotiated agreement between countries about which would take vulnerable groups including medical cases. Emphasised that states must, make multi year commitments.

Australia supported Canada but emphasised that it was about using existing resettlement places as part of these future agreements.

The Netherlands emphasised the need to broaden the base of resettlement countries even with smaller programs. Canada noted that there is currently 5 new countries who have expressed interest in becoming resettlement countries this would take the number to 17.

The Netherlands also expressed concern that group resettlement not be used to support policies of ethnic cleansing.

Secondary Movement

Switzerland acknowledged the impact of restrictive measures by states - though asylum seekers may be in the minority in mixed flows these measures prevent then access to asylum. Stated that secondary movements were made when effective protection could not be obtained and emphasised the need to strengthen national asylum systems.

Africa

South Africa made a strong call for further support for Africa - 15 million people are uprooted in Africa and are accorded only minimum standards - access to food, water and shelter are a luxury. For most women prostitution is the only option for survival. The case was made that at times women are forced to accept a "protector", "because it is better to be raped by one man than by a hundred". Stated that the powerful and developed rich world are seeking to prevent asylum seekers from entering their borders and expected the developing world to bear the burden.