

**High Commissioner's Closing Remarks
2010 Dialogue on Protection Gaps and Responses**

**Palais des Nations, Geneva
9 December 2010**

As Delivered

Excellencies, Ladies and Gentlemen,

Thank you very much. We have had an excellent debate – wide-ranging and substantive. It represents an important first step in our preparations for the commemoration of the two conventions next year. We will take stock of everything that has been discussed and use this Dialogue as a tool for brainstorming in the run-up to the ministerial-level meeting in December 2011. At that meeting, I hope we will be able to reach a broad consensus on the steps needed to improve the situation of the persons we care for: refugees, returnees, stateless persons and the internally displaced.

There are two methods of summing up a meeting. The first is to have the conclusions prepared in advance. This is safer but I have opted for the second approach which, though it leaves me without a safety net, I hope will more faithfully reflect the debate and the recommendations emerging from it. We will place my remarks on our website so participants can have a period of time after the meeting to examine them and ensure they accurately reflect the content and spirit of the Dialogue.

Allow me to begin my remarks with the implementation and normative gaps in the international protection regime.

An important implementation gap relates to access to territory. More and more obstacles are being erected to prevent people from accessing countries where they may be able to find protection. There have been several instances recently of *refoulement* and so-called “push backs.” This is an aspect of contemporary practice it is crucial to deal with.

Another important gap exists in terms of access to fair procedures for refugee status determination (RSD) and the excessive recourse to detention. We need also to look at access to livelihoods, health care and other basic services. And to the absence of capacity to deal with situations of particular vulnerability, such as for the victims of sexual and gender-based violence.

Delegates noted that many implementation gaps are due to a lack of resources. There are often good intentions or good programmes but insufficient resources to implement them. Sometimes the difficulties result from specific situations, such as the application of the cessation clause, protracted refugee situations, large-scale influxes or the increasingly common challenges relating to urban-based refugees. At other times, the gaps come about as a result of societies themselves, for instance, in new waves of racism and xenophobia.

While there are gaps, there are also many good practices. I will not try to enumerate them all, as the breakout groups have done. But I do want to touch on some of the most prominent, such as transposing international norms into national legal and institutional frameworks, using human rights instruments to strengthen refugee protection, building up institutional capacity, training initiatives, public awareness campaigns, mechanisms for self-reliance --even though these will not always result in full-fledged local integration-- and other activities promoting solutions.

We still have a long way to go and this will require pledges of actions from States. That is the main hope I have for the commemorations: securing pledges that will be translated into action. We need even better cooperation with States. UNHCR needs to be more effective in its relations with States, as well as with people of concern. We need to make fuller use, for example, of courts to enhance refugee protection.

The most complex part of our discussions in the first breakout group related to normative gaps. I was struck by one participant's comment that "there is no right for people to run for their lives." This is true. It is really and literally true. We have situations of natural disasters and of slow-onset climate change. Most of the displacement is internal but some people are forced to cross borders. We have stranded migrants and other situations not covered by the 1951 Convention. These show that there are protection needs to be met and normative gaps to be filled.

Again, there are a number of good practices to point to. There are the OAU Convention and the Cartagena Declaration. There are the temporary protection mechanisms established by a number of Nordic countries for people displaced by natural disasters. Argentina has also recently passed a new law on this.

The good examples that exist, at three levels, provide us with a foundation to build upon. These include, at national level, drawing on different sources of international law to ensure their complementarity in the approach to protection. At regional level, this means ensuring that the different platforms established complement and do not replace or undermine national frameworks or capacity. The international level is the most difficult. Do we need only to exchange good practices to fill gaps? Do we need a comprehensive approach, to use and combine different bodies of law? Or do we need to go one step further and develop, as was at the Dialogue, a set of Guiding Principles similar to those adopted on internal displacement?

During the discussions that will follow I hope we will reach some common understandings on the way forward for addressing normative gaps. These are central to our plans for next year, when we will further explore the possibility of developing guiding principles to fill lacunae in the existing normative framework. It is also very much my hope that the ministerial meeting will inspire us on the way forward.

Let me turn now to burden-sharing, which was the focus of the second breakout group.

Perhaps, as some have suggested, we need a new term for this, emphasizing brotherhood and solidarity. To speak only of "burdens" fails to capture all the positive aspects of international cooperation involved.

Clearly, though, there is a burden in hosting uprooted people and it falls very much to the developing world, where 80 percent of refugees reside. This has a significant impact on local communities, both in terms of their economies and social cohesion, and warrants a substantial effort on the part of the international community to share the onus more equitably.

There are three components to burden-sharing: prevention, protection and solutions. And these have humanitarian, human rights and political dimensions.

There was discussion of regional and global frameworks. We need both. Regional frameworks provide flexibility but on their own are not enough. They have to be supported by meaningful international solidarity if they are to be fully realized.

We have a number of models of excellent practice: the earlier Comprehensive Plan of Action for Indo-Chinese Refugees, the recent Mexico Plan of Action and the emergency resettlement mechanisms in Romania and the Philippines. These instances of good practice need to be multiplied and enhanced.

Returning to the three components of burden-sharing, *prevention* was less fully discussed than the other two. This is partly because it is not part of UNHCR's mandate, but it is an essential aspect --perhaps the most important aspect-- of international action. Preventing crises and the suffering and displacement they cause would be much more useful, and cheaper, than responding to them after the fact. The best way to deal with refugees is obviously not to produce them in the first place. Doing a better job on prevention means fuller cooperation at the UN and international level, at regional level and at the individual stakeholder level.

With respect to *protection*, the second aspect of burden-sharing, participants emphasized the importance of transposing international law into national law, capacity-building, training and other forms of knowledge-sharing and South-South cooperation. We have a lot to learn from the South – probably the best legislation on refugees today is in Latin America. We need as well to make more substantial, effective and strategic use of resettlement. It is not only a very important protection tool but a solution itself and a catalyzer of other solutions.

Assistance to and *solutions* for refugees are the third aspect of burden-sharing. Delegates highlighted a number of areas of focus, such as ensuring that both host states and local communities benefit from international assistance, regional development programmes that improve living conditions for local inhabitants and refugees, and support for the sustainability of returns in situations of voluntary repatriation. International support is also needed for local integration projects, such as the remarkable effort being made in Tanzania. It is likewise needed for the rehabilitation of refugee-impacted sites. In all this, UNHCR cannot meet the needs on its own but we can have a catalytic role on the engagement needed by international development agencies, international financial institutions, bilateral donors and others. The investments needed are substantial, they cannot just be token gestures.

I mentioned in my opening remarks that we need a “new deal on burden sharing.” Participants were more creative, calling for a common framework on burden sharing, international cooperation and comprehensive regional approaches. A set of core

principles were identified. These included expanding and improving protection space, not undermining national responsibilities, putting in place protection-sensitive migration policies and border management systems, ensuring fair asylum procedures, a commitment to solutions, fair and equal partnerships between relevant actors, including the media and civil society in advocacy efforts. We will work with you to develop such a common framework linked to a toolbox for identifying burden-sharing triggers and responsibilities.

Ladies and gentlemen, on a personal note, allow me to relate some observations arising out of my mission to Somalia and Djibouti last week. In Djibouti, which is an important partner for UNHCR and host country for refugees and which is becoming more significant for the smuggling networks who are moving their business west from its former hub in Puntland, I traveled with a number of colleagues through desert to the coast. There, beyond the bushes, we came upon two groups of prospective voyagers – a group of older male adults who were largely aware of the risks involved but fully determined to cross and a group of younger people, mostly boys, who were much less aware of the risks of the crossing or, if they were successful, of the dangers that lay beyond. There were no asylum issues – these were clearly economic migrants. UNHCR has no mandate for these people but they are human beings. They were just a few youngsters among the hundreds and thousands of people who make the same perilous trip - and for none of them is there a mechanism in place to help respond to their needs: information, counseling, facilitation of return to their families, livelihoods, more opportunities for legal migration. For me, nothing could have underlined more emphatically the gaps we have as a result of the complex interaction of factors prompting movement in today's world.

Let me turn now to the third focus of the Dialogue, statelessness. I would like to begin with what Dr. Sriprapha Petcharamesree, one of the co-chairs of this breakout group, described as “footnotes.” Statelessness is an anomaly. It is not a normal or natural thing and it has a terrible impact on the lives of people affected by it, who are effectively without legally identified rights. It is an anomaly whose removal requires political and legal action. Nationality is a right recognized in international law. This means that there are implications and responsibilities for it both at the national and the international levels. Effective citizenship is necessary for rights to be fully enjoyed.

Delegates identified four main areas of action going forward.

First, we need to increase accessions to the convention, even while recognizing that this is not a panacea. Much can be done by States who are not parties to the instruments. Issues such as lack of data and lack of awareness of the statelessness phenomenon need to be tackled. The reluctance of States to address statelessness, I believe, is sometimes linked to a fear that engagement might impact adversely on sovereignty. To my mind, this is a misapprehension. Resolving statelessness problems is in fact a way to enhance the sovereignty of States. UNHCR will develop a global awareness campaign on statelessness and we will rely on your thoughts and suggestions to promote accessions.

The second group of actions pertains to the identification of good practice, including in situations where the States concerned have not adopted the conventions. These include the transposition into national law of relevant norms, national efforts to

generate political will and initiatives on solutions. Many mentioned the importance of finding good practice champions and the critical importance of mobilizing civil society.

Thirdly, there is the role of international human rights frameworks, such as the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination against Women. Many of the provisions of these instruments are relevant to statelessness. At the same time, we pursue discrete initiatives. The two campaigns we presently plan are on birth registration and civil registration, and on the capacity of women to pass nationality to their children. As UNHCR, we need alongside to develop activities at the field level to promote these and other types of actions, such as the use of strategic litigation. I have heard and will take up the suggestion to talk more with stateless people and on statelessness issues in my upcoming missions.

The fourth set of actions relate to enhancing public awareness of statelessness issues. It is imperative to convey the human face and the human cost of statelessness, not just the numbers. The photo exhibition by Greg Constantine yesterday illustrated how effective portraying the issues in images can be. Story-telling too is an important way to humanize the issues and build public awareness and support. As part of the commemorations activities, UNHCR is building just such a storytelling website, allowing refugees and stateless people to tell their stories in their own words.

Overall, ladies and gentlemen, this Dialogue has not just been a debate about protection gaps. It has also been a call for action. A call to States, governments, parliaments, civil society, the media and international organizations, including UNHCR. My central appeal is for us to use 2011 not merely to commemorate the anniversaries of instruments but to articulate and undertake actions. To examine what we can do, and to do it.

I would encourage all of us --and States in particular-- to consider the concrete steps they may be prepared to take so that when we come to the ministerial-level meeting at the end 2011, we are in a better position than we are at the end of 2010. We do not want the ministerial conference to be tied up on issues where we are divided. Nor do we want it to be a 'blah blah' affair. It is a rare opportunity and one at which we hope states will commit themselves with concrete pledges of different measures to improve the lives of refugees, stateless people and others we care for.

Thank you, again, ladies and gentlemen, for your contributions and the excellent quality of the debate.