NGO Statement on Asia and the Pacific – Oral

Agenda Item 3 (iii)

This statement has been drafted through a wide consultation with NGOs and attempts to reflect the diversity of views within the NGO community.

NGOs continue to be deeply concerned by the on-going lack of protection for asylum seekers and refugees in most countries of the Asia Pacific region. Many asylum seekers and refugees remain unregistered, which undermines the ability of refugees to obtain effective protection. As a result, refugees suffer from severe rights violations, lack of access to basic healthcare and education, inability to access sustainable employment, exposure to exploitation and, most seriously, refoulement. Refugees also endure lengthy registration and refugee status adjudication processes, which often leaves them in limbo. Once again, NGOs reiterate the call on States to protect and uphold human rights of refugees.

Ratification of the Refugee Convention and Introduction of National Refugee Legislation

NGOs are concerned about recent changes in policies of certain countries that have signed and ratified the 1951 Convention Relating to the Status of Refugees and/or its 1967 Protocol. In particular, we are worried, in Australia,

- by the continuous use of off-shore processing
- the development of the Australia-Cambodia resettlement agreement
- the passage of new legislation that drastically reduces safeguards for people who arrive in Australia without VISA
- the end of the resettlement in Australia of recognised refugees from Indonesia
- and several instances of refoulement of asylum seekers at sea.

Together, these indicate the beginning of a trend in policies that shrink protection spaces rather than enlarge them. We urge States that have signed the Convention to respect their obligations under international law and set positive examples in the region for other States to follow.

Immigration Detention

NGOs welcome steps taken by several governments in the region to explore alternatives to detention. NGOs commend the UNHCR Regional Office on their continuous engagement with civil society in advancing regional and national action plans developed in 2013 and 2014. We further welcome UNHCR’s Global Detention Strategy but urge strengthened collaboration with civil society when developing action plans.
NGOs call upon governments in the Asia-Pacific region to ensure that immigration detention is only ever used as a last resort and that children and other vulnerable groups are not subject to detention.

**Refugee Status Determination (RSD)**

NGOs are concerned about restricted and inconsistent access to due process procedures across the region. UNHCR’s Refugee Status Determination adjudication continues to differ substantially across countries in the region, and often includes long and opaque recognition procedures. UNHCR falls short of meeting its own procedural guidelines on RSD, especially with regard to legal representation in many countries, including Malaysia, Indonesia and Thailand. NGOs also encourage States to adopt status determination procedures in line with their international obligations.

**Statelessness**

NGOs are concerned that only six countries in the Asia Pacific region are party to the 1954 Convention Relating to the Status of Stateless Persons and only four are parties to the 1961 Convention on the Reduction of Statelessness. NGOs call on other governments to take steps in ratifying these treaties and develop national legislation to eliminate statelessness. Because gender discrimination in nationality laws is one of the greatest causes of statelessness, NGOs also call on governments to remove any gender discriminatory provisions from nationality laws.

NGOs are concerned about the lack of progress towards achieving durable solutions and protection for stateless Rohingya. NGOs call on the Government of Myanmar to provide unfettered humanitarian access in Rakhine State, abolish abusive restrictions against Rohingya, and to amend the 1982 Citizenship Law in order to provide Rohingya with equal access to full citizenship rights. We further urge governments to explore a regional solution for the protection of Rohingya across the region.

**Internally Displaced Persons (IDPs)**

NGOs note that some countries in the region have developed frameworks to protect IDPs however there is concern over the failure to implement those accordingly. Governments should ensure the rights of IDPs and refugees to housing and property restitution under the Pinheiro Principles.

**Regional Protection/Protection at Sea**

NGOs urge governments to explore regional cooperation mechanisms that adopt a rights-based approach to addressing refugee flows. NGOs voice concern on the very limited attention paid within the Bali Process, ASEAN and SAARC mechanisms to strengthening protection standards. We recommend that a mechanism be developed for multilateral state engagement with civil society to ensure a protection-focused approach in managing irregular migration and trafficking.
NGOs commend UNHCR for selecting "Protection at Sea" as the topic for the High Commissioner's Dialogue in 2014. NGOs urge UNHCR and States to follow-up from the Dialogue by developing more comprehensive response mechanisms that value human life, dignity and protection from refoulement.

**Durable solutions**

NGOs are concerned over the limited durable solutions available to refugees in the region. We urge UNHCR to strengthen dialogue with States on the option of local integration. We also call on UNHCR to refrain from voluntary repatriation when refugees are unable to return in dignity and safety, such as in Afghanistan and Myanmar. NGOs further urge States and UNHCR to ensure faster resettlement process times and increased resettlement spaces.

**Education, health and livelihoods**

The lack of access to basic services such as education and health as well as the right to work, remain a key concern for NGOs in the region. NGOs express concern over recently piloted insurance schemes that have been developed with limited input from civil society and do not adequately cover the needs of refugee populations. We call on UNHCR to ensure the basic needs of refugees and we urge States to allow access to basic education and health services.

NGOs welcome steps taken by the Indian government giving refugees the right to work. We urge other States in the region to follow this example by providing refugees with work visas and allowing them to make positive contributions to host communities.

NGOs urge UNHCR and states to realise pathways for families to be reunified. Opportunities to perform parenting and caring roles can reduce distress and increase the capacity of families to contribute to the host State.

Thank you, Chair.