EXECUTIVE COMMITTEE OF THE
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NGO Statement – International Protection
Agenda Item 2a
Extended Version

Mr. Chair, Ladies and Gentlemen,

This statement has been drafted in consultation with, and is delivered on behalf of, a wide range of NGOs and aims to reflect the diversity of views within the NGO community.

NGOs thank UNHCR for its summary of international protection issues and would like to draw the Standing Committee’s attention to six key areas for follow-up.

First, we reaffirm the importance of the ongoing process of ensuring the Centrality of Protection in humanitarian action, and welcome the recently released report of the Independent Whole of System Review of Protection in Humanitarian Crises. The report offers an important opportunity to correct protection weaknesses within our system, and we urge UNHCR to commit to taking the recommendations forward. Given that a number of recommendations will require additional financial resources, we call on donors to provide support to ensure these practical steps can be taken. We further call on UNHCR to finalize and share its Provisional Guidance on Engagement in Situations of Internal Displacement, which will be important to increasing the predictability and effectiveness of protection in IDP settings.

Second, we call on States to make protection at sea a priority. We strongly urge States to take immediate action to rescue and make saving lives of the refugees and migrants at sea the first and top priority. In seeking solutions to protection at sea, sharing of responsibility is a must. We call upon States to set the example of regional and international cooperation, solidarity and responsibility sharing by working responsibly together, and we ask UNHCR to support States in this endeavour.

The recent tragedies in the Mediterranean Sea and the Bay of Bengal/Andaman Sea, as well as the continuous reporting of incidents from the Gulf of Aden and the Red Sea, raise grave concerns.

We call upon the States to retain the momentum and act upon the proposals and recommendations from the Special Meeting on Irregular Migration in the Indian Ocean and urge the States to ensure the immediate search, rescue and disembarkation of people in distress at sea in the Bay of Bengal and Andaman Sea without further delay. We call upon the States to work with UNHCR to ensure the screening of all passengers on boats; identification of those in need of international protection; unconditional, full and equal access of the disembarked mixed migrants to humanitarian assistance and protection; to
avoid the use of immigration detention and other punitive measures; and to work with the Government of Myanmar to respect, protect and fulfill the rights of the Rohingya. We urge the States to address the root causes of refugee, stateless persons and migrants’ movements by sea, including expanding the avenues for safe and legal migration and combating the discrimination and persecution of any group on the basis of race, sex, religion, ethnicity, nationality or other status. We reiterate the need for States to collaboratively find regional solutions to curb people smuggling and trafficking.

We are deeply concerned at reports of the increasing number of women and children making dangerous sea crossings and reports of alarming levels of sexual violence and rape of women during their perilous journeys. The specific needs of women and children at sea require greater attention from governments, UNHCR and the international community. It is imperative that EU and Asian States prioritize the rescue of women and children at sea and that appropriate reception, medical care and protection arrangements are put in place in countries of disembarkation for women and children.

We welcome the tripling of Triton’s budget to save lives in the Mediterranean Sea, while we express our concern about the EU leaders’ continued securitisation of the borders to the EU. We urge the EU leaders to shift the focus from deterrence and border control to securing the international protection regime and fundamental human rights.

We are deeply concerned about the lack of protection for refugees in Libya, but we are also concerned about the implication of EU’s short-term solution of destroying boats to combat smuggling, and we call upon the EU to increase its efforts to address the root causes of mixed movements by sea. We urge the EU leaders to search for comprehensive and regional solutions to protection at sea, which includes that protection channels and legal avenues for access to the territory remain open, the availability of more and/or new regulated mobility avenues, and the establishment of a common European resettlement programme for those in need of international protection. Such a resettlement programme would benefit many refugees who, although they have already been granted asylum, do not enjoy effective protection in their current host countries, and have the right to pursue it in a new country of asylum. Further, we urge the EU leaders to ensure a common asylum procedure with the capacity to process the incoming cases, and importantly the solidarity and willingness to shoulder the responsibility with the frontline states receiving mixed migrants arriving by boat. We call upon States to ensure the implementation of existing regional and international protection frameworks, including the Dublin Regulation to ensure the effective use of all its tools available.

Third, we call on governments to respect, in all circumstances, the principle of non-refoulement. Non-refoulement is a core principle of international refugee law. As a part of customary international law, it is binding on all States even if they are not parties to the 1951 Convention and 1967 Protocol.

We join UNHCR is urging the EU to adopt more protection-sensitive border management that ensures compliance with the principle of non-refoulement.
In addition, all the countries neighbouring Syria are hosting large numbers of Syrian refugees, and periodically explore border management for Syrians as a response to the enormous influx and the constant strain on host communities’ resources. We encourage UNHCR to continue its work to encourage these countries to keep their borders open to Syrians seeking asylum as according to the principle of non-refoulement. Related to this, we urge UNHCR to work more closely with its partners operating inside Syria to assess the most pressing protection concerns inside Syria, to focus protection on those civilians who are not able to escape.

We express deep concern regarding protection provided by South-East Asian States and reiterate the need to cease pushing boats back to sea. Access remains a big issue, with some 3400 persons still at sea.

We are concerned about the introduction of recent changes to legislation in Australia that widen the powers of the Minister for Immigration while reducing the authority of the Australian Judiciary with respect to asylum seekers. The Migration and Maritime Powers Legislation Amendment Bill gives the Minister for Immigration the power to intercept vessels, detain people at sea, and to transfer them to any country of the Ministers choosing, without consideration of non-refoulement obligations. This exercise of powers cannot be challenged by the courts even when decisions are in breach of international obligations. These changes fail to comply with Australia’s international protection obligations and have set a dangerous precedent for other States.

We are also increasingly concerned about the shrinking asylum space in Kenya, and the far reaching implication of The Security Amendment law of 2014 which limits the freedom of movement of refugees to only the refugee camps. We are equally concerned about the consistent threat from the Kenyan government to close Dadaab camp and deport refugees residing there. Even as we welcome UNHCR’s engagement in this area, we remind UNHCR and the Kenyan and Somali governments that most of Somalia should not be judged safe for return, and that any return under the Tripartite Agreement must be voluntary and safe. Moreover, the decision by the Kenya government to build a perimeter wall along the border is of great concern unless the government puts in place measures to ensure that the wall will not limit access to the territory by asylum seekers. While acknowledging the magnitude of the security challenge the government is grappling with and further appreciating the quest by citizens for enhanced security, we are of the view that there are better ways to address insecurity in Kenya without reneging on international refugee protection.

Fourth, we encourage UNHCR and States to promote sustainable policies, legal frameworks, predictable and multiannual funding and enhanced coordination for internally displaced persons (IDPs). Displacement today is predominantly protracted in nature. In 2014, there were people living in displacement for ten years of more in 90 per cent of countries experiencing conflict and violence. Humanitarian reforms initiated ten years ago have increased attention to IDPs, but not been able to address the urgent need for durable solutions (see the Brookings Institute report from December 2014, “Ten
Years After Humanitarian Reform: How Have Internally Displaced Persons Fared?”). We urge UNHCR to deliver on the commitments made by the High Commissioner during the 2013 Dialogue on IDPs, including by finalising and publicly issuing its 2014 Provisional Guidance on Engagement in Situations of Internal Displacement. This recognises, inter alia, the clear need to facilitate solutions within a broad range of partnerships from the start of UNHCR engagement. To assist with ongoing implementation of the Secretary-General’s Durable Solutions Framework, this Guidance must also form part of a wider policy and operational package from UNHCR on solutions, including on alternatives to camps. National legal frameworks provide key entry points for preventing and responding to protracted IDPs. In Africa, UNHCR must take on a take on a stronger role in supporting states as they take steps to domesticate and implement the Kampala Convention. For this purpose, dedicated financial and human resources, such as the provision of a lead focal point, are vital. Donors should also ensure such efforts towards implementation receive greater support. We further encourage both States and international agencies to prioritise accurate, disaggregated data-collection on internal displacement. Addressing data gaps is a prerequisite for effective protection and the provision of longer term solutions.

Fifth, we urge UNHCR to keep child protection a priority as children, as persons of concern, are at greater risk than adults of abuse, neglect, violence, exploitation, trafficking, or forced military/gang recruitment. We call special attention to the needs and protection risks faced by adolescent girls and children with disabilities, who are frequently overlooked both in sudden onset emergencies, and more protracted refugee crises. We call on UNHCR and governments to improve targeting & identification of adolescent girls in emergencies; address the needs of girls in SGBV prevention and response and SRH programmes; and explore innovative ways to increase girls’ self-esteem and leadership skills and keep them safe.

We advocate that the basic human rights of children and the principle of best interest of the child be upheld at all levels. This includes strengthening families, local institutions and systems to support these rights.

We encourage robust consultation with children both in and affected by conflict, as their own views are central to effective protection.

We highlight the importance of UNHCR supplementing and strengthening systems for birth registration as the majority of countries with less than 40% of children registered are war-affected. We recognize that laws that inhibit the equal ability of both parents to confer nationality on their child heightens children’s risk of statelessness and threatens their access to critical social services, including education and healthcare.

Education, which is a right in itself and essential for the enjoyment of other rights, must remain an integral part of UNHCR’s Framework for the Protection of Children as a new education strategy is composed for 2017 and beyond. Communities and children themselves consistently call for prioritization of education in ranking their needs. We underscore the need not only to provide quality basic education, but also secondary
education for refugee and displaced children to enable them to realize their full potential and equip them for the future. We note that access to secondary education remains chronically low in refugee and displacement situations, in particular for adolescent girls. We call on UNHCR, host and donor governments to give greater attention, funding and resources for secondary education and to urgently address the need to increase girls’ enrolment, attendance and completion of secondary schooling.

Protecting children of concern includes supporting their enjoyment of the highest attainable standard of health, nutrition and food security. Specific nutritional needs of children and pregnant and lactating mothers must receive particular attention by the humanitarian community and governments. We recall that the right to adequate food and nutrition at all times, as well as the access to potable water and sanitation, is fundamental for a child’s survival and development.

Access to family tracing without delay and reunification (except when not in a child’s best interest) should continue to be a protection priority for unaccompanied or separated children.

We reaffirm that States should not criminalise children or subject them to punitive measures, particularly deprivation of liberty, because of their or their parents’ migration status. We also call on UNHCR to continue efforts to go Beyond Detention, in particular where children are concerned. States should not criminalise children or subject them to punitive measures, particularly deprivation of liberty, because of their or their parents’ migration status. The Committee on the Rights of the Child has observed, “The detention of a child because of their or their parent’s migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. . . . States should expeditiously and completely cease the detention of children on the basis of their immigration status.”

We reassert that children must have meaningful access to asylum procedures, including provision of information about the process that is appropriate to their age, maturity, and culture, by making legal representation available to them, and by recognising child-specific forms of persecution as the basis of asylum claims. Any age assessment procedures should be undertaken as a measure of last resort, and only when there are grounds for serious doubt. Such procedures should always give the benefit of doubt to the individuals whose ages are being assessed.

Finally, we urge UNHCR to strengthen its fight against Sexual and Gender Based Violence (SGBV) (including SAFE) and to include Persons with Disabilities in SGBV Prevention and Response Programmes. NGOs welcome UNHCR’s ongoing efforts to ensure that prevention and response to gender-based violence (GBV) is prioritized from the start of humanitarian response. This will require continued investments by UNHCR in staff capacity, quality programming and improved data collection consistent with inter-agency standards. We also look to UNHCR to be a strong advocate on SGBV issues in the humanitarian system given its protection mandate and
leadership of the Global Protection Cluster. The impending release of the revised inter-agency Guidelines for Integrating Gender-based Violence Interventions in Humanitarian Action is an important opportunity for UNHCR and NGOs to advance SGBV prevention and response efforts in all humanitarian sectors. We hope UNHCR will give focused attention to effective implementation of the Guidelines internally and across the humanitarian system. NGOs would also like to acknowledge the steps UNHCR is taking to roll out its new strategy on Safe Access to Fuel and Energy (SAFE) and would urge UNHCR to prioritize implementation in those countries where women and girls are at great risk of assault during firewood collection—for example, the Democratic Republic of Congo, Central African Republic and South Sudan. We encourage donors to routinely include funding for cooking fuel in their contributions to UNHCR and WFP programmes.

We also highlight the need to include persons with disabilities in SGBV prevention and response programs. Refugees and displaced persons with disabilities are at heightened risk of sexual violence during conflict and displacement contexts. Women and girls with disabilities and female care-givers of persons with disabilities face multiple discrimination (based on both disability and gender), which increases their vulnerability to sexual violence, abuse and exploitation. Women and girls with intellectual and mental disabilities are at particular risk. Men and boys with disabilities are more likely to be at risk of physical and psychological violence, especially those with intellectual and mental disabilities. Despite high levels of risk, persons with disabilities are frequently excluded from humanitarian SGBV prevention and response programmes. This includes prevention initiatives such as women’s empowerment, livelihood, education, training and peer support programmes which could help persons with disabilities develop positive protection strategies and break cycles of vulnerability. NGOs call on UNHCR and governments to include women, girls, boys and men with disabilities and their caregivers in the design, implementation and evaluation of SGBV prevention and response programmes.

In closing, we call on UNHCR and States to anchor protection in humanitarian principles. We stress that humanitarian assistance should not be conflated with military aid of any form. Humanitarian aid is delivered on the basis of humanitarian principles of impartiality, neutrality, humanity and independence.

Thank you, Mr Chair