Thank you, Chair.

This statement has been drafted in consultation with, and is delivered on behalf of, a wide range of NGOs working in the Asia Pacific region. It reflects the diversity of views within the NGO community.

Introduction

NGOs remain deeply concerned by the overall lack of protection for asylum seekers, refugees, IDPs, stateless persons and other people in need of protection in most countries of the Asia Pacific region. In the absence of meaningful protection, refugees and stateless persons are subject to severe rights violations including arbitrary detention; lack of access to healthcare, education and lawful employment; exposure to exploitation and sexual and gender-based violence and, most seriously, forced return (*refoulement*) to countries in which they are likely to suffer persecution. We remain particularly concerned about the situation of displaced women and girls who continue to face endemic sexual and gender based violence which is both a cause and consequence of the pervasive gender inequality they continue to face. When available, asylum seekers also endure lengthy registration and refugee status determination procedures, whereas, most countries in the region have no procedure in place to identify and protect stateless persons. Furthermore, stateless persons in the region, in particular women are often unable to register themselves and their children in civil registration systems. Along with very limited opportunities for voluntary repatriation, local integration or resettlement, this leaves many desperate and in legal limbo for protracted periods of time.

Insufficient international responsibility sharing with some of the largest refugee hosting countries particularly affects the region. Lack of support to host-countries and of resettlement opportunities are major obstacles to the provision of emergency and longer term assistance and solutions to millions of refugees.

Ratification of the 1951 Refugee Convention and Introduction of National Refugee Legislation

Only 20 out of 45 countries in the Asia Pacific region are State parties to the 1951 Convention Relating to the Status of Refugees and/or its 1967 Protocol. Only six countries in the region have acceded to the 1954 Convention Relating to the Status of Stateless Persons, and four countries to
the 1961 Convention on the Reduction of Statelessness. NGOs call upon States to ratify these Conventions and to also develop national legislation that is in line with international standards of refugee protection and the identification and elimination of Statelessness. We encourage those States which have signed other international human rights instruments to ensure that they also provide the associated protections to refugees, asylum seekers and other people of concern.

During 2017 we have noted some positive developments in the region. We commend countries that have taken positive steps and stand ready to support these initiatives in close cooperation.

The Thai Government has shown leadership by making commitments at the Leaders’ Summit on Refugees in September 2016, including to develop a “screening mechanism” and ensure the non-detention of children among other commitments. NGOs recognise that Thailand is showing some willingness to engage with diverse actors among civil society and NGOs encourage more of this engagement and collaboration. Indonesia enacted the Presidential Regulation on the Handling of Foreign Refugees on 31 December 2016, which contemplates documentation and alternatives to detention among other improvements for those in need of protection. In Malaysia, the introduction of UNHCR cards with enhanced security features have led to a reduction in arrests of card-holders. The government is considering a registration and documentation scheme, and importantly the government is piloting a project to allow up to 300 Rohingya refugees to work legally in the country. UNHCR and a strong civil society have also established a model for referrals in an urban refugee context. In the Philippines, the Department of Labor and Employment issued its Revised Rules for the Issuance of Work Permits to Foreign Nationals in November 2017, and refugees were included among those who are exempted in the work permit requirement.

**Rohingya refugees**

As of 20 January 2018, more than 688,000 Rohingya people had fled Rakhine State, Myanmar to neighbouring Bangladesh, with still more crossing the border nearly every day since. This mass exodus has primarily been the result of large-scale military clearance operations carried out by the Myanmar security forces and has been described by the UN High Commissioner for Human Rights as “a textbook example of ethnic cleansing”. More than three quarters of the Rohingya population from northern Rakhine State, including women, children and the elderly, have been forcibly displaced from their homes. Reports and eyewitness accounts gathered from refugees inside Bangladesh attest to horrific human rights abuses including killings, systematic razing of villages, and systematic and widespread rape of women and girls.

While NGOs commend Bangladesh for hosting the large number of Rohingya refugees, NGOs are concerned that Myanmar and Bangladesh struck a repatriation deal which was scheduled to commence on 23 January but has been temporarily delayed by Bangladesh. A list that was provided in February by the Bangladesh authorities to the Myanmar government and included the names of 8,000 individuals to be repatriated, raises further concern. The repatriation scheme would involve the issuance of ‘Nationality Verification Cards’ which the Rohingya have rejected as it does not guarantee access to Myanmar citizenship with associated rights. The non-refoulement obligation
is binding on all States, including Myanmar and Bangladesh. Repatriation must be both safe and voluntary and because safety cannot be assured at this stage, it is premature for any scheme of repatriation to take place. Also premature, forced or coerced returns are likely to result in further displacement, both internal and cross-border. Pre-requisites for a repatriation scheme must include: an end to violence inside Myanmar, access for humanitarian actors to all affected communities inside Myanmar, UNHCR leadership to ensure the voluntariness of those deciding to return, and peace and reconciliation schemes that will address the root cause and serve to ensure safety and dignity for all among the returning and receiving communities. Implementation of the Rakhine Advisory Commission recommendations by Myanmar provide a clear starting point.

The Rohingya refugee crisis is a shared responsibility, and the international community must provide resettlement places, financial support, humanitarian and development support, and must ensure support to Bangladesh, and also assert political pressure on Myanmar. All countries must provide access to asylum and prima facie recognition to Rohingya refugees. We appeal to all governments to explore a regional solution that would strengthen protection and provide durable solutions for stateless Rohingya across the region, and prevent exacerbation of the humanitarian crisis in our region. The crisis demands immediate focused attention and action by every State present in this committee.

**Durable Solutions**

NGOs are concerned over the limited durable solutions available to refugees in the Asia Pacific, and the many protracted refugee situations. The reality of limited durable solutions results in refugees being stuck in limbo, has tremendous consequences and costs for refugees and States alike, including heightened susceptibility to trafficking, women and girls being forced to resort to survival sex, underground markets and organised crime, insecurity, exploitation and abuse.

NGOs appeal to UNHCR and states, particularly Australia, Japan, Korea, and New Zealand in the Asia Pacific, to ensure faster resettlement processing times for more persons displaced in Asia, regardless of country of origin, particularly the most vulnerable among them.

NGOs further appeal to States to remove obstacles to local integration. There are tremendous benefits to the State by ensuring local integration from the start. We encourage States to ensure legal access to labor markets for refugees and asylum-seekers, and reap the economic and social benefits, and access to education and health care as a public good for the local community.

With regards to voluntary repatriation, we call upon UNHCR to guarantee the informed consent of refugees in line with international standards of dignity, voluntariness of the decision to return, and safety. It is important that UNHCR and States actively involve refugees and their communities in all stages of the process.

With regard to some specific situations, NGOs welcome limited ongoing regional efforts to address the protracted Afghan refugee situation. However NGOs are concerned about forced
returns to insecure conditions in Afghanistan. The short Proof of Registration (PoR) card extension periods in Pakistan create a continual sense of insecurity and uncertainty. While recognizing UNHCR efforts for principled humanitarian response, we call on the signatories of the tripartite agreement to avoid using refugees for political purposes. NGOs believe that the international community must share the responsibility to host and assist displaced Afghans in the region, by urgently and substantially scaling up its support to Afghanistan neighbouring countries. NGOs welcome the government initiative for the provision of Social Security Insurance (SSI) for refugees and migrants with work permits in Iran, and encourage further expanded coverage for more families in need, alongside universal health coverage. NGOs also welcome efforts that may result in a regularisation process and adequate international protection. NGOs also express concern about the declining support for refugees on the Thailand-Myanmar border, and about pressure to pursue large scale return policies prematurely.

Finally, given the relationship between internal displacement and cross-border movements including returns, additional emphasis should be placed on achieving durable solutions within countries of origin, both for returning refugees and IDPs. This demands a more holistic approach to durable solutions that integrates planning and policy for IDPs with that for returning refugees. One important first step for countries of origin would include incorporating the Guiding Principles on Internal Displacement into their national laws and policies.

**Alternatives to Immigration Detention**

Despite some progress, the use of immigration detention for asylum seekers, refugees, and stateless people across the region remains extremely alarming. States in the region continue to use arbitrary immigration detention practices as a migration management tool, and refugees seeking asylum continue to face prolonged, and in some cases, indefinite periods in detention. NGOs call upon governments in the region to explore and strengthen the use of to detention (ATDs) to prevent unnecessary and damaging detention practices. States must also ensure that children and other vulnerable groups are not subject to immigration detention.

NGOs welcome the steps taken by Thailand to implement alternatives to detention, including: Thailand’s commitment at the Leaders’ Summit; a signed Standard Operating Procedure between the Government, UNHCR, and NGOs on alternatives to detention for children, and a draft MoU being considered that may extend the ATD policy to their parents to prevent separation of families and prevent the need for foster care arrangements. NGOs express concern about the high numbers of children in detention in Malaysia, and call on the government to continue discussions on the possibility of introducing a pilot alternatives to detention program for unaccompanied and separated children. In Indonesia, although there are provisions in the Presidential Decree for children and other vulnerable groups to be placed in community shelters, the focus appears to be on institutional, rather than community-based care arrangements for unaccompanied and separated children. There have been alarming reports about deteriorating conditions in immigration detention centres, including physical violence at the hands of guards, lack of access to basic medical care, food and clean water, and widespread despair about the lack of solutions to their situation.
NGOs express concern about Australian government policies that shift responsibility onto other States such as interception at sea and relocation to other States for third-country processing. Australia must act to address the growing humanitarian emergency for refugees stranded on Manus Island. This includes food, water, shelter, genuine safety, and immediate medical care for all refugees. Australia has responsibility for the welfare of refugees that they have relocated to a third country, including those in Papua New Guinea and Nauru.

We recognise UNHCR's efforts to connect governments in the region, in order to share and learn from good practices in managing refugees and asylum seekers outside of immigration detention facilities. NGOs continue to support UNHCR’s Global Detention Strategy but encourage further strengthened collaboration with civil society when implementing action plans, as well as translating key documents into local languages.

**Refugee Status Determination**

NGOs continue to express concern about State asylum systems in Japan, Korea, and Hong Kong which fail to respect international standards, and maintain some of the lowest recognition rates in the world. The result is the impossibility to apply for asylum and to access international protection or to repeat applications to avoid *refoulement*, onward movement, marginalisation of refugees and asylum-seekers, destitution, and serious degradation of health and well-being over time.

NGOs welcome the introduction of new chapters in UNHCR’s Procedural Standards on legal representation and interpretation in Mandate Refugee Status Determination (RSD). In Thailand and Malaysia we welcome UNHCR’s decision to allow legal representatives to attend RSD interviews and to review RSD transcripts of interviews. We also welcome the signing of formal MoUs for the provision of legal services and representation between UNHCR and legal aid providers in both countries in January 2018. In Thailand, UNHCR’s facilitation of legal aid providers accessing Immigration Detention Centres (IDC) to provide representation to asylum seekers in 2017 was appreciated. In addition, the current time frame for first instance decisions have dropped remarkably. NGOs express concern about the decision to pause the registration of all Vietnamese nationals in Thailand (beginning in February 2017), resulting in serious risks, denial of UNHCR ID cards, limited access to medical care and children’s education. NGOs note that protection consequences will continue until registration is resumed for the entire population.

In Malaysia, NGOs note with continued concern the thousands of Rohingya refugees who remain unregistered. We encourage UNHCR to work towards greater transparency with regards to, and easier access to information on, UNHCR's registration and RSD processes, particularly when dealing with refugee communities who have limited access to Registration or who have been affected by changes in UNHCR’s RSD process in the past few years.

**Statelessness**
In absolute numbers, statelessness affects more people in the Asia Pacific than in any other region of the world and includes a complex combination of sizeable populations, protracted cases and multifaceted causes and impacts. Next to the stateless Rohingya, there are large in situ stateless communities, who have been denied citizenship and access to civil registration due to ethnic and gender discrimination, and other factors.

NGOs welcome the Afghan government’s decision to issue ID cards (Tazkera) for Afghans living abroad, but its capacity to deliver is very limited. Therefore, NGOs strongly recommend scaling up international community support to help the Afghan government implement its decision.

UNHCR’s estimates of 1.4 million stateless people in the region are likely to be significantly underrepresenting the reality, due to challenges of unknown and unreliable data. NGOs call upon all governments to take steps to map issues of statelessness, eradicate discriminatory laws, policies and practices that cause and perpetuate statelessness and establish procedures to identify and protect stateless persons in the Asia Pacific region.

Thank you, Chair.