NGO Statement on international protection and solutions

Dear Chairperson, Ladies and Gentlemen,

This statement is delivered on behalf of a wide range of non-governmental organisations. It has been drafted in consultation with the NGO community, and aims to represent a diversity of views.

- Over the past year, we have continued to see shrinking protection space and the proliferation of policies that deter asylum-seekers and stateless persons from enjoying their rights; create conditions that result in de facto forced return; and build barriers to claiming refugee status/accessing international protection.
- Highlighting progress made on operationalizing the CRRF, NGOs also wish to flag pending protection / solutions concerns and reaffirm that responsibility sharing must not result in front line States bearing the sole impact of hosting refugees.

1. Reaffirm the right to seek asylum and non-refoulement as cornerstones of the international protection regime:
   - Forced displacement continues to be at the highest level ever recorded. At the same time, Member States are retreating from their obligations to respect the right to seek asylum and to uphold the principle of non-refoulement.
   - The NGO Community is particularly worried about the situation of stateless Rohingya and efforts to repatriate Rohingya refugees (e.g. the imposition of administrative restrictions obstructing the scale-up and implementation of protection and assistance services). Any repatriation effort in the current context would amount to an act of refoulement, strictly prohibited under international law. Concerns also exist about labelling the Rohingya as “forcibly displaced nationals from Myanmar”. This denies both their statelessness and their refugee status, each of which entitle them to international protection.
   - NGOs are also concerned by increasingly restrictive interpretations of the 1951 Refugee Convention and policies that criminalize asylum-seekers, resulting in family separation and prolonged detention (e.g. the April 2018 DHS policy to refer all cases of illegal entry on the US-Mexico border to Justice Department for prosecution). New forms of violence are inducing displacement across the globe. In countries such as El Salvador, Honduras and Guatemala, thousands of unaccompanied children and families are forced to flee because of gang-related violence and persecution and because their own governments are unable or unwilling to protect them. International jurisprudence supports the need to provide protection to individuals who have a well-founded fear of persecution relating to gang-related violence. New forms of violence and mixed migration situations should not result in excluding populations entitled to international protection, as recognized in international jurisprudence.
• NGOs are also concerned by the persistent tactics used by many developed States to obstruct the right to seek asylum through the externalization of border controls and outsourcing of border management to transit countries, grossly inadequate reception conditions, restrictions on family reunification, mistreatment by officials and legislative changes which introduce new criteria for denying or excluding refugees from qualifying for status (e.g. enshrining “safe third country” and “first country of asylum” concepts in legislation in Europe and Australia’s offshore processing in Nauru and Papua New Guinea, plus restricting family reunion pathways for refugees who arrived in Australia by boat as a policy of deterrence) are obstructing the right to seek asylum.

• NGOs also are concerned about attacks on refugees who speak out about conditions in countries of asylum.

• While there is anecdotal information pointing to killing and secondary displacement of returned cases, there is no reliable data on the fate of individuals denied asylum and deported without due process. There is also no organized empirical assessment of the negative impacts of large-scale returns to fragile post-conflict situations. For example, there is no objective measure of the impact of increased returns from Europe to Afghanistan, despite the NGO community’s strong concerns about the absence of conditions allowing for such returns and the likelihood of secondary displacement.

• Indeed, the international refugee system lacks any systematic return monitoring mechanism. NGOs urge UNHCR to work with Member States and other stakeholders to establish effective return monitoring mechanisms based on coordinated collection and sharing of data to understand the outcomes and impact of forced returns and deportation without due process.

• NGOs urge States to meet their obligations under the 1951 Refugee Convention and the 1954 and 1961 Statelessness Conventions (and human rights law) to uphold the rights of individuals to seek asylum and have access to fair and effective procedures for assessing claims for international protection.

• Member States must adhere both to the letter and the spirit of the law and regard international jurisprudence in their interpretation of asylum obligations and refugee status.

2. Access and non-discrimination in protection – ensuring no one is left behind:

• The NGO community is concerned by growing evidence that the provision of protection in humanitarian contexts often does not reach the most vulnerable, including minorities and stateless persons. Greater attention must be paid to where multiple vulnerabilities intersect.

• In particular, women and girls disproportionately face increased incidents of violence during conflict and humanitarian emergencies. Yet, they struggle to access appropriate response services due to pervasive gender inequality, discrimination and lack of resources. In a recent study in South Sudan, up to 65% of women and girls had experienced physical or sexual violence by a partner or non-partner in the course of their lifetimes and women who had more direct experience of conflict (e.g. through multiple displacement or attacks on their homes) were up to three times more likely to experience intimate partner violence.1

• Of the survivors who reported to the International Rescue Committee (IRC) in 2016, 22% were adolescent girls between the ages of 10 and 19 who faced a variety of types of Gender Based Violence, including human trafficking, forced marriage and forced prostitution, and sexual

1 Care, GWI, IRC, No safe place: A lifetime of violence for conflict-affected women and girls in South Sudan, 2017.
exploitation and abuse. The most common form of violence reported was rape. Adolescent girls also struggle to access services designed for women or children, which fail to address their specific needs.

- NGOs urge UNHCR and Member States to commit resources to life-saving health and protection services tailored to the needs of women and adolescent girls in conflict and crisis settings.
- It is not only women and girls who face significant barriers to accessing protection and assistance – children, adolescents, older persons, LGBT and persons with disability all face unique barriers to protection in crisis and conflict. It is critical that steps are taken to ensure delivery in humanitarian contexts on the SDG commitment to ‘leave no one behind’.
- NGOs welcome increasing international commitment to ensure LGBT individuals can enjoy full protection of their human rights and the recognition that they should not be persecuted because of their sexual orientation or gender identity. We also recommend UNCHR to invest in the sensitization of international actors responsible for refugee processing and provision of other critical services to ensure principles translate into practice.
- NGOs welcome the increased focus on integrated access to services, safety nets and social protection for refugees. We need to collectively build a stronger business case to integrate refugees into national schemes and plans, with additional funding from the donor community through instruments like the IDA 18 Refugee sub-window.
- NGOs also welcome UNHCR’s updated policy on Age, Gender and Diversity, which brings together essential components for achieving effective and inclusive programming, including disaggregation of data by age, sex, and other diversity factors. Support should be given to partnerships between humanitarian actors and disability specialist actors to provide capacity strengthening, dedicated technical support, tools and guidance to identify barriers to accessing services for persons with specific needs. This could also help reduce the stigma and discrimination experienced by these populations.
- Funding gaps remain for humanitarian actors who wish to make adaptations to services to ensure access for persons with specific needs. UNHCR and Member States need to ensure that support for service adaptations and the provision of assistive devices is prioritized in humanitarian assistance to ensure persons with disability receive adequate support.

3. **New approaches are needed for effective Humanitarian-Development coordination to find solutions to protracted displacement:**

- Crisis and conflict increasingly produce protracted displacement situations. With the length of displacement now averaging 17 years, we face an increased scale of protracted situations. However, despite widespread acknowledgement on the part of the international community of the need to find durable solutions, we continue to see policies and practice that prevent local integration and promote premature returns, regardless of the conditions in countries of origin.
- For decades, the vast majority of refugees have been hosted in countries neighboring crises and conflicts. Yet, few have durable solutions prospects such as returning to their home, being integrated into their host communities or being given the option to settle elsewhere. Each of the three durable solutions has (re)integration as its ultimate goal. A solutions-oriented approach must therefore focus on building refugees’ self-reliance and resilience. This cannot be achieved without the right to work and freedom of movement.
• UNHCR and Members States must ensure that return and reintegration are addressed together, both through the CRRF and in engaging with development actors on planning and programing. We need to improve humanitarian-development coordination to find solutions to protracted displacement and give the millions of displaced a chance of a better life with dignity and self-reliance.

• UNHCR should support Member States to adopt comprehensive national and regional solution frameworks with common outcomes to support joint accountability and analysis on durable solutions. We have a collective responsibility to challenge our structures and systems to do more and better together in the search for durable solutions for displacement affected communities. This change requires political resolve, long-term investments and a multi-sectorial rights and needs based programming approach. This will help work towards prevention and solutions to reduce displacement levels.

• A solutions-oriented approach must inevitably have a primary focus on building refugee self-reliance and resilience in the country of asylum. This cannot be achieved without refugees having the right to work and freedom of movement.

• It is also paramount to recognize that displacement affected communities have the right and capacity to participate to any decision impacting their life. A participatory process is key to support return and reintegration processes in order to make solutions lasting, locally relevant and supportive of social cohesion to ensure social inclusion. We must therefore collectively invest into capacities to sustain solutions locally and nationally.

Thank you, dear Chairperson.