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UNHCR
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UNHCR POSITION ON THE INTERNATIONAL PROTECTION NEEDS OF ASYLUM-SEEKERS FROM LEBANON DISPLACED AS A RESULT OF THE RECENT CONFLICT

A. Introduction

1. The hostilities in Lebanon and in Israel between 12 July and 14 August 2006 resulted in the displacement of an estimated one million Lebanese.[1] Around 750,000 were displaced within Lebanon and some 250,000 outside, the latter primarily in Syria. A number of third-country nationals were also displaced from Lebanon during this period.

2. On 3 August 2006, UNHCR issued preliminary considerations on the protection needs of persons displaced due to the conflict.[2] The present paper replaces these considerations and sets out a number of protection and humanitarian concerns which may arise for individuals who have fled the country due to the conflict and may not be willing to return, as well as for those who may seek asylum abroad.

B. Update on the situation in Lebanon

3. Security Council resolution 1701 (2006)[3], adopted on 11 August 2006, resulted in a cessation of hostilities between the warring parties on 14 August 2006. The parties have "largely complied with the cessation of hostilities" with some minor infractions, although it remains fragile.[4] This cessation of hostilities triggered a massive and rapid return of refugees and the internally displaced. The

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1 United Nations Security Council, *Report of the Secretary-General on the implementation of Security Council resolution 1701 (2006)* (hereinafter "Report of the Secretary-General"), S/2006/730, 12 September 2006, para. 3, available at http://www.un.org/Docs/sc/sgrep06.htm. The situation in Israel is not relevant to this paper.

2 United Nations High Commissioner for Refugees (UNHCR), *UNHCR Considerations on the Protection Needs of Persons Displaced Due to the Conflict in Lebanon and on Potential Responses*, 3 August 2006, available at http://www.unhcr.org/home/RSDLEGAL/44d707c44.pdf.

3 United Nations Security Council, *Resolution 1701 (2006) – The Situation in the Middle East*, adopted by the Security Council at its 5511th meeting, on 11 August 2006, available at http://www.un.org/Docs/sc/unsc_resolutions06.htm.

4 *Report of the Secretary-General*, see above footnote 1, paras. 12–13.

majority have been able to return to their areas of origin, although not necessarily to their homes if the latter have been destroyed. UNHCR estimates that as of 1 November 2006 up to 200,000 people could still be displaced within Lebanon.[5] For the reasons outlined below, this displacement is expected to continue for at least 18 to 24 months following the cessation of hostilities.

4. Due to the heavy bombardment, infrastructure has suffered widespread destruction, especially in southern Lebanon, southern Beirut and parts of the Beka'a Valley. It has yet to be restored to a level adequate to support the populations in affected areas. Hospitals, schools, roads, bridges, fuel storage depots, airports and seaports have sustained major damage, leaving many towns and villages without electricity, running water and the basics for survival. In addition, harvests have been destroyed and farmland remains contaminated by cluster munitions in these areas, making the reestablishment of livelihoods difficult. The situation as regards access to healthcare remains particularly acute in communities in the south that were badly damaged during the conflict.[6] The coming winter will present particular challenges for those whose homes were destroyed and/or who continue to be displaced within the country.

5. The prevalence of unexploded ordnances (UXOs), especially cluster sub-munitions in residential areas, public spaces and farmlands, represents a significant threat to civilians, although these are restricted mainly to the southern regions of Lebanon. The presence of such explosive devices severely restricts freedom of movement within the south and hampers the re-establishment of livelihoods there. The UN Mine Action Coordination Centre (UNMACC) estimates that it will take between 12 and 15 months to clear what are estimated to be between 170,000 and 340,000 unexploded cluster bomblets from southern Lebanon.[7] Towns and villages south of the Litani River (and immediately to the north) remain particularly unsafe. As the Secretary-General has noted: "In addition to the threat to human lives, UXOs present an obstacle to the return of displaced families, access to housing and agriculture activities affecting livelihoods of the population of southern Lebanon."[8]

6. The authorities have as a result mounted immense efforts, with the support of the international community, to implement recovery plans, particularly in the areas of housing, clearance of UXOs, restoration of livelihoods and basic rights. Massive financial commitments have been made by the international community

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5 IRIN Middle East, *Lebanon: Up to 200,000 still displaced after war, UN says*, 9 November 2006, quoting the UNHCR regional representative in Lebanon, available at http://www.irinnews.org/report.asp?ReportID=56142.

6 United Nations Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, Mission to Lebanon and Israel* (hereinafter "Report of the Special Rapporteurs"), A/HRC/2/7, 2 October 2006, para. 89, available at http://www.ohchr.org/english/bodies/hrcouncil/2session/documents.htm #reports.

7 *Report of the Special Rapporteurs*, see above footnote 6, paras. 54 and 87.

8 *Report of the Secretary-General*, see above footnote 1, para. 39.

and good progress is being made towards early recovery and reconstruction. Nevertheless, reconstruction efforts in response to the heavy destruction of residential areas in south Lebanon and the southern suburbs of Beirut will take many years to complete. The scale of the destruction means that, at least in the short term, the country has limited absorption capacity. As the report of the mission by a number of Special Rapporteurs to Lebanon and Israel notes: "In Lebanon, the major obstacles to resumption of normal life in the affected areas are the violations of the right to adequate housing and health, including the destruction of housing, lack of access to water, electricity and sanitation, and the dangers of unexploded ordnance."[9]

7. More generally, the situation in Lebanon is gradually improving, although the coming months will be critical given that the United Nations Interim Force in Lebanon (UNIFIL) has yet to reach its planned full strength of 15,000 troops and implement its mandate, and Hezbollah has stated that it does not plan to disarm for the moment. After the cessation of hostilities, there were also numerous minor incidents.[10] The numerous sectarian, communal and political divides existing in the country remain strong, and since the war, they appear to have grown even stronger.

8. The loss of traditional community support structures means that some families and groups may be left to cope on their own as minority groups. Older persons, single women and children without support, the chronically ill and the disabled are in a particularly dire situation.

C. Assessing international protection needs

9. In light of the cessation of hostilities and the resulting improvement in the security situation, UNHCR's paper of 3 August 2006 referred to in paragraph 2 above is no longer applicable.

10. UNHCR's current position is that, given the cessation of hostilities and efforts being made toward recovery and reconstruction, Lebanese and individuals who fled Lebanon due to the armed conflict should no longer be presumed automatically to be in need of international protection because of the conflict. Any international protection needs should be examined individually based on the merits of the case, taking into account the update of the situation provided in this document. In States parties to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol, the criteria set out in the Convention should be applied and claims examined in fair and efficient asylum procedures to determine refugee status.

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[9] *Report of the Special Rapporteurs*, see above footnote 6, para. 84.

[10] *Report of the Secretary-General*, see above footnote 1, paras. 12–13, referring, *inter alia*, to a military operation on 19 August 2006, which was carried out by the Israeli Defence Force (IDF) in the Beka'a Valley. On 31 October 2006, the Secretary-General's Personal Representative for Lebanon, Mr. Gier Pedersen, also expressed serious concern at continuing Israeli over-flights of Lebanon, including intensive mock air raids over Beirut. See "Senior UN Envoy for Lebanon 'particularly disturbed' by Israeli over-flights of Beirut", UN News Centre, 31 October 2006, available at http://www.un.org/apps/news/story.asp?NewsID=20432.

11. Particular attention should be given to the political views or activities of the individual claimant, as well as to his or her religious or communal affiliations as appropriate and to the place to which the individual is expected to be returned. Depending on the individual circumstances, these factors are likely to be particularly relevant to determining international protection needs, even in a situation where most have been able to return safely. The international protection needs of individuals who are members of communities living in areas where they represent the minority – whether because they have been internally displaced or were already in a minority – should also be carefully assessed. Whether any discrimination or inequitable treatment faced rises to the level of persecution will depend on the circumstances of each case, in particular the consequences that such discriminatory treatment will have on the individuals concerned.

12. In addition, there may be individuals, including members of the South Lebanese Army (SLA), who are suspected of having or who have collaborated with Israel, whether before or during the recent conflict. There may also be individuals perceived to be a voice of dissent against particular majority communities in which they are located. Such persons could be particularly at risk of targeted reprisals, in particular from non-state actors.

13. In the context of determining whether an internal flight or relocation alternative may exist within Lebanon, an assessment of the relevance and reasonableness of any proposed area of relocation needs to be made.[11] If, for instance, the area of relocation is not practically, safely and legally accessible to the individual, or if the individual concerned would be exposed to persecution or other serious harm upon relocation, then consideration of an alternative location within Lebanon would not be relevant. If the individual concerned would not be able, in the context of the country concerned, to lead a relatively normal life without facing undue hardship, then it would not be reasonable to expect him or her to move there.

14. In making this assessment of the relevance and reasonableness of any proposed internal relocation alternative, an area where the individual would be in a minority situation and at risk of discrimination, denial of assistance or other serious harm would render such relocation irrelevant and therefore would not constitute an internal flight alternative. In this respect, it is necessary to consider the internal coping mechanisms of communities in the Beka'a Valley, in the area south of the Litani River and in southern Beirut which have deteriorated and may worsen in the coming months, not least because of the approaching winter. Consideration should also be given to the prevalence of UXOs and minefields in parts of Lebanon, which could render these areas inaccessible and/or a normal life there unreasonable, even impossible. Where such factors do not come into play, internal relocation may, however, apply.

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[11] See generally, UNHCR, *Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, available at http://www.unhcr.org/home/RSDLEGAL/3f2791a44.pdf.

D. The situation of Palestinians who have fled Lebanon

15. Concerns may also arise with regard to Palestinians displaced from Lebanon as a result of the conflict. When Palestine refugees previously receiving protection or assistance from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) flee outside that organization's area of operations (i.e. outside Jordan, Syria, Lebanon, the West Bank and the Gaza Strip), they no longer enjoy the protection or assistance of UNRWA and are therefore automatically entitled to the benefits of the 1951 Convention, providing of course that Articles 1C, 1E and 1F do not apply. For further details, see UNHCR's position on Palestinian refugees set out in its 2002 Note on the Applicability of Article 1D of the 1951 Convention.[12]

E. Humanitarian considerations affecting possible forced returns

16. Where individuals are found to have no international protection needs and are being considered for return to Lebanon, UNHCR recommends that the feasibility and timing of any return be taken into account and that States consider humanitarian reasons for permitting individuals to stay until the situation improves further.

17. Factors to be borne in mind include the high contamination of cluster sub-munitions and other UXOs, the massive destruction of homes and infrastructure in large parts of the country, as well as the time the reconstruction effort will take. These factors all restrict the absorption capacity of the country. There may also be individuals who have been traumatized as a result of the war who could, if returned, be left without adequate care. Similarly, the humanitarian situation of older persons, single women and children without support, the chronically ill and the disabled should especially be considered.

18. Returns should be undertaken only with caution and taking due account of these humanitarian considerations. As UNHCR's Executive Committee has stressed, it is important to ensure "the sustainability of returns and … avoid … further displacements in countries emerging from conflict".[13]

UNHCR, Geneva
15 November 2006

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[12] UNHCR, *Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*, October 2002, available at http://www.unhcr.org/home/RSDLEGAL/3da192be4.pdf. It should be noted that there are also several thousand Palestinians living in Lebanon who were not receiving protection or assistance from UNRWA. If they have fled the country, even within UNRWA's area of operation, they cannot be considered as receiving protection or assistance from organs or agencies of the United Nations other than UNHCR, as per Article 1D of the 1951 Convention.

[13] Executive Committee Conclusion No. 96 (LIV) of 2003 on the return of persons found not to be in need of international protection, 10 October 2003, para. (l), available at http://www.unhcr.org/excom/EXCOM/3f93b1ca4.html.