

## **Workshop 1 – Mixed Migratory Flows: How to ensure international protection?**

Over the past decades, international migratory flows have increased and become more complex. Simultaneously, labour admission and asylum policies have changed profoundly; most industrialized countries have introduced more restrictive rules and made legal entry for migrants<sup>1</sup> more selective. The face and the flow of irregular movements have changed in recent years and such movements are now encompassing people whose reasons to migrate are very diverse. Frequently, refugees are moving alongside with migrants who do not seek, and are not entitled to, international protection. Victims of climate change or land degradation for instance do not have a recognised status in the 1951 Refugee Convention and the issue of economic migrants is thus becoming a great concern to the international community.

This combination of different types of migrants crossing borders in an unauthorized manner is referred to as mixed migratory flows. This phenomenon has become a real challenge for the international community as the difficulty to establish each migrant's proper status has increased. Nevertheless, it is crucial to ensure that refugees and asylum-seekers continue to enjoy the right to seek asylum and do not become entangled in the growing web of migratory controls and sanctions. Especially in times of massive irregular movements, it has indeed become difficult to maintain an entry system that is able to identify new arrivals with international protection needs, prevent "refoulement" and guarantee basic human rights to all migrants.

### ***Migration, smuggling and trafficking***

As a response to more restrictive immigration policies, migrants have developed "counter-strategies" and often run the risk of falling into the hands of smugglers. Indeed, many asylum-seekers, moving in an irregular manner, make use of smuggling networks or individual helpers as they are unable to gather the documents and permits they need in order to travel in an authorized way. UNHCR itself establishes a direct link between the tightening of asylum legislation in most developed countries and smuggling or even trafficking activities. It stresses the need to keep adequate legal channels of access to the asylums system. Individuals who have been trafficked should be given special protection and the right to claim asylum if they can base it on grounds which are not manifestly unfounded. This issue stresses the need to address the question of mixed migratory flows in a global man-

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<sup>1</sup> "Migrant" is used as a generic term relating to labour migrants, family members and refugees. Similarly, migration and migratory movements refer to the crossing of international borders irrespective of the motives of the departure or flight. Analogically "migration policy" encompasses admission and integration of labour migrants or family members as well as national asylum policy.

ner that includes a comprehensive re-thinking on the impact that changes in national asylum policy as well as in labour admission policy can have on migratory movements<sup>2</sup>.

### *Protection in the region of origin*

The issue of mixed migratory movements foregrounds the growing difficulty of protecting refugees. This has encouraged industrialized countries to think about new solutions and alternative measures. With its “Hague Programme” for instance, the EU has been searching for effective policies.

Among these new strategies, several governments expressed an interest in an enhanced protection in the region of origin. The notion is based on the assumption that people fleeing persecution, an armed conflict or violence should be encouraged to find refuge and to live in decent living conditions in a bordering region of the country of origin. This would prevent refugees from engaging in dangerous and costly journeys to industrialized countries, reduce the pressure placed on asylum and social welfare systems in destination countries, and entail greater likelihood of return and less expensive repatriation procedure if the persecution or violence in the country of origin has come to an end.

In order to avoid irregular mixed flows, the international community should also promote other strategies and policies that can contribute to effective long-term solutions for refugees. Too often, as empirical evidence shows, refugees are trapped for many years with little perspective in camps where even their basic rights are barely respected. Return, resettlement and local integration, which, according to UNHCR terminology, are the three “durable solutions” for refugees, should therefore be promoted in such a context. While return is not always a realistic solution, local urban integration could be enhanced as it may be beneficial to refugees, receiving countries in the region and industrialized states, provided that effective responsibility-sharing, including the availability of resettlement quotas, is agreed upon.

### *Best practice for the future*

International organisations are particularly concerned with the growing importance of mixed migratory flows. In its 10-Point Plan of Action, the UNHCR proposed various measures that could be adopted by states and international agencies to improve the efficiency of their policies and to reduce human rights violations and risks of unfair “refoulement”. It stresses the need to collect and analyse, on a global level, data about the characteristics of international movements in order to address the issue more effectively. It also highlights the need to improve asylum procedures and to ensure more consistent involvement of NGOs and civil society in the process. Finally, it calls for effective information strategies in countries of origin in order to alert potential migrants of the dangers of

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<sup>2</sup> In international law, “**trafficking**” is defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion or deception, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. According to this definition, human trafficking is independent of victim consent and is a human rights violation. In contrast, the concept of “**smuggling**” refers to consensual transactions where the smuggler and the migrant agree to circumvent immigration control for mutually advantageous reasons (GCIM 2005, p. 39 and Protocol of Palermo).

irregular migration. Resettlement and protected entry procedures in the region should not be forgotten either when searching for long-term effective solutions.

***Convergence and coherence of migration policies (labour, asylum and integration)***

Current debates on international migration have shown the need to work towards a convergence of asylum, labour, development and other foreign policies in order to curb irregular movements. Only strengthened capacity at national level and greater cooperation and dialogue at the international level can improve the governance of international migration. Channels of consultation between governments, civil society and other non-governmental actors are still insufficiently developed. It is crucial for a state to define the targets of its migration policy – including all national policy components such as asylum, labour, integration as well as its international refugee policy – and to assess its efficiency and impact on a regular basis. Generally speaking, it is vital to enhance interstate cooperation, as it is a major challenge towards better governance of international migration.

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