



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Refugee Protection and Mixed Migration: A 10-Point Plan of Action

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Introduction

While refugees and asylum seekers account for a relatively small portion of the global movement of people, they increasingly move from one country or continent to another alongside other people whose reasons for moving are different and not protection-related.

More often than not such movements are irregular, in the sense that they take place without the requisite documentation and frequently involve human smugglers and traffickers. The people who move in this manner often place their lives at risk, are obliged to travel in inhumane conditions and may be exposed to exploitation and abuse. States regard such movements as a threat to their sovereignty and security.

It has become imperative for the international community to address this phenomenon in a more coherent and comprehensive manner. States have assumed protection responsibilities for refugees under international instruments which it is in their collective interest to honour.

More specifically, steps must be taken to establish entry systems that are able to identify new arrivals with international protection needs and which provide appropriate and differentiated solutions for them, side by side with such other solutions as need to be pursued for other groups involved in mixed movements. UNHCR is especially mindful of the need to ensure that the provision of protection and asylum to refugees and other people of concern to the Office does not compound the difficulties that states experience in controlling more generally the arrival and residence of foreign nationals and in combating international crime.

This paper sets out ten key areas in which UNHCR has an interest and a potential role to play, and where the Office believe initiatives are called for and could make a positive impact. The Plan of Action provided in the paper is especially relevant to situations where refugees are at risk of *refoulement*, human rights violations and hazardous onward movements.

The paper does not purport to be comprehensive in relation to matters that are beyond the competence and responsibility of UNHCR. Nor does it contain a detailed blueprint for the implementation of each component of the Plan of Action.

The matrix in Annex I sets out the goals that the Plan of Action is intended to achieve and contains suggestions for activities that might be undertaken under each of the ten component parts. The Plan of Action is global in nature and its implementation would evidently have to be adapted to specific regional and national contexts.

1. Cooperation among key partners

Effective approaches to the dilemmas of mixed movements will inevitably depend upon full cooperation amongst the key actors concerned: affected states, governmental bodies, regional and international organizations with relevant mandates (e.g. UNHCR, OHCHR, UNICEF and IOM) as well as local and international NGOs.

Hence, a first step is to identify and convene such actors in an appropriate forum so that they can exchange information and establish terms and conditions for cooperation and coordination. The convenor of such a forum would preferably be one or more of the affected states but an international organisation can also play a ‘good offices’ role in this respect.

2. Data collection and analysis

A key to any coherent and comprehensive strategy is the collection, analysis and exchange of data about the characteristics of the movement and those groups which make it up. Such data should typically include information relating to conditions in countries of origin, motivations for movement, modes of transport, transit routes and entry points. An international or regional organization may be well placed to offer support for this function.

3. Protection-sensitive entry systems

The establishment of a functioning entry system is an important element in any strategy relating to mixed movements. Border control is essential for the purposes of combating international crime, including smuggling and trafficking, and averting security threats.

Practical protection safeguards are required to ensure that such measures are not applied in an indiscriminate or disproportionate manner and that they do not lead to *refoulement*. In this respect, border guards and immigration officials would benefit from training and clear instructions on how to respond to asylum applications and how to handle the needs of separated children, victims of trafficking and other groups with specific needs.

With regard to irregular maritime migration, a particular range of considerations arise, including safeguarding lives at sea, respecting the obligations of maritime law, maintaining the integrity of the search and rescue regime and ensuring the smooth flow of maritime traffic.

4. Reception arrangements

Appropriate reception arrangements are needed to ensure that the basic human needs of people involved in mixed movements can be met. Such reception arrangements should also enable new arrivals to be registered and provided with temporary documentation. Especially in situations where a high percentage of the new arrivals are refugees or asylum-seekers, UNHCR could facilitate the putting in place of appropriate arrangements, or be otherwise involved on a temporary basis, together with the principally responsible party.

5. Mechanisms for profiling and referral

Once new arrivals have been registered and provided with temporary documentation, an initial determination will have to be made with regard to who they are, why they have left their own country and where their intended destination is. Counselling provides an opportunity to establish whether they wish to seek asylum and to identify other options available to them, including return, regularization or regular onward migration. This channelling arrangement would not constitute a refugee status determination. Rather its role is to give a good indication of a person's motives for departure and to ensure the person's situation is met with the most appropriate response. Annex II to this note provides a schematic representation of how such a profiling and referral mechanism might work.

6. Differentiated processes and procedures

With respect to asylum claims, those which appear to be relatively simple (because they are well founded or manifestly unfounded) could be assessed in an expedited procedure. Other and more complex claims normally will require a more detailed assessment. Different processes outside the asylum arrangements should address the situation of

people with specific needs which are not refugee related, including victims of trafficking not in need of international protection, as well as persons who are seeking to migrate (see Chapter 9 below).

While UNHCR is likely to be a principal partner for states in relation to refugee status determination procedures, NGOs, lawyers and civil society institutions should also have a role to play in this component of the Plan of Action. In relation to other processes, UNHCR will only be minimally involved, if at all. The likely partners will depend on the situation in the specific country and on which organisations are present and willing to act as partner.

7. Solutions for refugees

People who are recognized as refugees or as otherwise being in need of international protection require a protection-based response that includes a durable solution, the nature of which will depend on the opportunities and constraints inherent in each situation.

A comprehensive approach involving a mix of solutions will often offer the best chances for success. Beyond the classic durable solutions, legal migration opportunities may open up a complementary avenue for some refugees.

Refugee-receiving countries may benefit from international assistance to strengthen national protection capacities.

8. Addressing secondary movements

Addressing the situation of refugees and asylum seekers who have moved on from countries where they had already found adequate protection requires a more defined strategy. This strategy should take into account both the legitimate concerns of states about irregular onward movement and the rights and well-being of the people concerned. To date efforts to articulate such a strategy have failed to muster international consensus. UNHCR is committed to continuing the effort in this regard.

9. Return of non-refugees and alternative migration options

For people who are found not to be refugees, and for those who do not wish to seek asylum, expeditious return in safety and dignity is usually the preferred response of states. UNHCR may, on a good offices basis, assist states in the return of people who are not in need of international protection where this is the most appropriate and agreed solution. The manner in which UNHCR could be of assistance deserves closer examination by all interested parties.

There will be circumstances where people who do not meet the criteria for refugee status may nevertheless be in a position to access alternative temporary migration options. These could variously allow them to stay legally in the country of arrival, or to move to a third country for humanitarian reasons, or for the purposes of work, education or family

reunion. Efforts to address mixed population movements should also explore a place for regular migration options, temporary or even longer term.

10. Information strategy

All of the measures described above should be complemented by information campaigns in countries of origin, transit and destination. People need to be alerted to the dangers of irregular movement and the difficulties they might face upon arrival, as well as to any alternatives to irregular migration which might also meet their circumstances.

Such information campaigns will likely not curb irregular movements entirely but, if combined with the other action points and supported by longer term measures to tackle the root causes of such movements, they may have a positive impact.

While information campaigns are primarily a task for agencies with a migration or information related mandate such as IOM, UNHCR may also play a role in such initiatives. UNHCR also has capacity and interest to initiate public awareness activities about the plight of refugees, in order to promote tolerance and to combat racism and xenophobia.

UNHCR
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Annex I

Ten Point Plan of Action Check List for UNHCR

Goals:

- Government responses to mixed movements are comprehensive, cooperative and protection sensitive.
- Solutions are available which address differently and in appropriate ways the situation of the respective groups.
- Refugees are identified and protected, while the irregular movement is reduced.

Objectives	Activities
<p>1. Collaboration among key partners</p>	<ol style="list-style-type: none"> 1. Identify key partners/stakeholders at national level to participate in a collaborative response. 2. Promote the creation of a national coordination structure at the appropriate level(s). 3. Establish a regular consultation mechanism with partners (Government, IOM, ILO, UNODC, ICMPD, UNICEF, UNDP, UNFPA, NGOs, regional organizations etc.) 4. Ensure consultation with civil society structures and academia in order to exchange information on developments and to mobilize community support. 5. Include asylum/migration issues on the agenda of the UN Country Teams (UNCT) and reinforce information flow and links among UNCTs in the region. 6. Inject asylum/migration issues in UNDAF at national level. 7. Establish consultation and coordination mechanism at regional level. 8. Encourage/mobilize donor support. 9. Lobby and advocate internationally for appropriate responses, around the ten points, within national and international fora.
<p>2. Data collection and analysis</p>	<p><u>On refugee flows within mixed movements</u></p> <ol style="list-style-type: none"> 1. Cooperate with the establishment and/or usage of databases covering the specific region to better understand movements and identify appropriate responses. 2. Use such databases to systematize collection of data on asylum-seekers and refugees, to set in train the exchange of data with UNHCR country offices in the region, as well as in other impacted States, to anticipate routes, movements and trends, identify secondary movement situations, and improve case tracking, using, as appropriate, ProGres.

Objectives	Activities
	<p>3. Build into this, as appropriate and in full respect for confidentiality guidelines, relevant information derived from RSD and interviews to ascertain trends, transit routes, etc.</p> <p>4. Devise Country Information Notes on trends and patterns of movement.</p> <p>5. Review and analyse reports to anticipate routes, movements and trends and to formulate country-specific strategies.</p> <p><u>Overall</u> Cooperate with data-collection and research initiatives, as appropriate, to contribute to the generation of a coherent and comprehensive overview of overall trends.</p>
<p>3. Protection-sensitive entry systems (in-country, at borders and at sea)</p>	<p>1. Undertake or strengthen capacity-building of border and law enforcement officials in order to sensitize them to refugee issues and to facilitate admission of persons in need of international protection.</p> <p>2. Put in place training programmes/workshops for NGOs, lawyers, judiciary and national human rights institutions, to facilitate admission of persons in need of international protection and build constituencies for protection.</p> <p>3. Actively monitor and follow up on conditions of detention and treatment of asylum-seekers/refugees</p> <p>4. Explore how UNHCR might positively interact with arrangements put in place for interception and managing maritime movements, including giving consideration to measures to monitor interception.</p>
<p>4. Reception arrangements</p>	<p>Make recommendations on what role UNHCR can and should play in any reception arrangements for new arrivals, including in reception sites, with appropriate safeguards (e.g. UNHCR access).</p>
<p>5. Mechanism for profiling and referral</p>	<p>Pursue establishment of joint mechanisms, with identified partners and in appropriate locations, to profile arriving groups. This arrangement should preferably include mechanisms to identify the profile of new arrivals and their eventual protection needs, and should allow for appropriate counselling and referral of the persons concerned to the appropriate response mechanism (e.g. RSD, assisted voluntary return, particularised process for victims of trafficking).</p>
<p>6. Differentiated processes and procedures</p>	<p>1. Pursue the development of legal frameworks for determining refugee status and meeting protection needs. The aim should be:</p> <ul style="list-style-type: none"> o functioning national asylum procedures; o adequate administrative and institutional capacities at appropriate level(s);

Objectives	Activities
	<ul style="list-style-type: none"> ○ NGO and civil society engagement in protection and assistance arrangements. 2. If there is no properly functioning national asylum procedure, UNHCR to assume responsibility for RSD. In this connection, offices to ensure that a proper case management is established, which is able to prioritise certain cases and can appropriately address particular needs (single women, unaccompanied and separated children, etc.).
<p>7. Solutions for refugees</p>	<p>All solutions to be considered in a comprehensive approach.</p> <p><u>Voluntary repatriation</u> Undertake activities to facilitate voluntary return, underpinned, resources permitting, by promotion of sustainable reintegration in countries of origin, in cooperation with relevant partners, as well as by returnee monitoring.</p> <p><u>Local integration</u> Where repatriation is not feasible in the short or intermediate term, explore options for whatever might prove an appropriate local stay arrangement (including advocating for leave to remain of persons found to be in need of international protection but unable or unlikely to access more formal status).</p> <p><u>Resettlement</u> In cooperation with the Resettlement Service, become familiar with the concept of strategic use of resettlement and coordinate on resettlement needs and dilemmas, with a view to agreeing on a region-wide approach to resettlement, as part of overall burden-sharing arrangements to ease pressure on host countries. Explore resettlement pools or resettlement quotas for specific groups in this context.</p>
<p>8. Addressing secondary movement</p>	<ol style="list-style-type: none"> 1. Make effective use of the Strengthening Protection Capacity Project (SPCP) to improve availability of quality protection closer to where protection is first sought or needed. 2. Actively examine how and under which circumstances UNHCR can ease the process of readmission and, as appropriate, set in train the necessary activities with countries of first asylum.
<p>9. Return arrangements and alternative migration options for non-refugees</p>	<ol style="list-style-type: none"> 1. Contribute appropriately (i.a. through cooperation with IOM) to making return of persons found not to be in need of international protection a realizable solution. 2. Advocate for proper standards for return and be prepared to facilitate return, including by activities in the areas of documentation and return counselling.

Objectives	Activities
	<ol style="list-style-type: none"> <li data-bbox="630 235 1388 304">3. Explore the need for and the value of a post-return passive monitoring role for UNHCR in countries of origin. <li data-bbox="630 312 1388 415">4. Explore utilising legal migration channels (e.g. temporary labour migration schemes in third countries and in-country of presence).
<p data-bbox="289 424 506 598">10. Information strategy in countries of origin, transit and arrival</p>	<ol style="list-style-type: none"> <li data-bbox="630 424 1388 598">1. Coordinate/cooperate in efforts of IOM and other partners to undertake mass information campaigns in countries of origin, transit and destination, to discourage irregular migration, warn of the dangers of smuggling and trafficking, and focus on legal options. <li data-bbox="630 606 1388 676">2. Explore whether and, if so, how to establish joint information centres in countries of origin. <li data-bbox="630 684 1388 808">3. Undertake public awareness activities with the media to sensitize about the plight of refugees, including through human interest stories, in order to promote tolerance, and combat racism and xenophobia.

Annex II

Schematic Representation of a Profiling and Referral Mechanism in the Context of Addressing Mixed Migratory Movements

