

## CONCEPT NOTE

### **Regional Conference on Refugee Protection and International Migration:**

#### **Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa**

**Dar es Salaam, Tanzania, 6–7 September, 2010**

#### **1. Introduction**

This Concept Paper provides a synopsis of the proposed Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa which will be hosted by the Government of the United Republic of Tanzania from 6-7 September 2010, under the auspices of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM).

The Conference will cover the challenges that arise in mixed migratory movements involving irregular migrants, refugees and asylum-seekers and in the case of the latter two, the particular international protection concerns in those countries in East and Southern Africa sub-regions facing the same aspects of south-bound migratory flows emanating primarily from the Horn of Africa and gravitating southwards to South Africa and beyond. These countries have been identified as Burundi, the Democratic Republic of the Congo, Ethiopia, Kenya, Malawi, Mozambique, Rwanda, Somalia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe.

##### ***1.1. The Growth of the Phenomenon of Mixed Migratory Movements***

International migratory movements in Africa have become more complex in recent years and are increasingly mixed in character. These movements include women, men and children leaving their own country and seeking to take up residence in another country for a variety of reasons and at times using the same modes of transport; employing the services of the same people smugglers and are exposed to the same risks and abuses. While the majority of people in this category move in order to establish new livelihoods, join family members or for educational purposes, others do so due to protection concerns which force them to flee their home countries for their own security or to protect their integrity and dignity and that of their families.

Mixed movements when they take place irregularly evidently pose challenges for the individuals concerned but also for governments, international and civil society organizations. Persons traveling in mixed movements are exposed to risks and often need assistance to ensure that their human rights are protected and their basic material needs are met in countries of transit and destination. Mixed movements often place people in

vulnerable situations and expose them to economic exploitation, abuse, physical violence, including gender-based violence, detention, destitution and even loss of life. For States, mixed and irregular movements raise legitimate questions concerning the sovereign prerogative and duty to regulate the entry and sojourn or stay of aliens in a country. Such movements may also give rise to actual or perceived threats to national security.

UNHCR and IOM, together with their partners, have recognized the need to work cooperatively in addressing the nexus between refugee protection and international migration. UNHCR's involvement with mixed movements is principally linked to the need to ensure due adherence to the protection of refugees and other persons of concern to UNHCR who are caught up in such movements. In 2006, UNHCR launched the 10-Point Plan of Action on Refugee Protection and Mixed Migration (10-Point Plan).<sup>1</sup> The 10-Point Plan provides a framework to assist States in developing comprehensive and protection-sensitive strategies to address these movements. Within the sub regions covered by the Tanzania Conference, UNHCR and IOM<sup>2</sup> systematically partner with states to attain a comprehensive protection approach to the specific needs of asylum-seekers and refugees involved in mixed migratory movements. To this end, UNHCR's work based on the 10-Point Plan and progress made nationally on implementation of the 10-Point Plans will be relied upon in the deliberations of the upcoming Conference.

UNHCR's first High Commissioner's Dialogue on Protection Challenges in December 2007 focused on the theme: "Refugee protection, durable solutions and international migration." The Dialogue highlighted the critical importance of addressing the different protection needs of people on the move. The government, civil society and expert participants called upon the international community, including UNHCR and IOM, to coordinate actions and work in close partnership with states to create synergies and fill the critical gaps in legal and institutional arrangements for protection and the delivery of essential services affecting those involved in mixed movements.<sup>3</sup> As a follow up to this Dialogue, UNHCR has along with IOM and other partners undertaken a comprehensive review of the nexus between refugee protection and mixed movements and has come up with suggestions on how these could be best addressed, notably by convening a series of Regional Conferences on Refugee Protection and Mixed Migration.<sup>4</sup>

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<sup>1</sup> UNHCR's 10 Point Plan of Action is available at <http://www.unhcr.org/4742a30b4.html>

<sup>2</sup> A concrete example being the Immigration and Border Procedure Manuals (Guidelines on Policies and Procedures for Immigration Officers) being developed for the sub-region under the Capacity Building in Migration Management for East Africa (CBMMP) by the International Organization for Migration which contain elaborate sections on "Refugee status claimants"; individual country's obligations under the Refugee Conventions; the handling of claims for refugee status at points of entry; as well as summaries of the refugee definitions.

<sup>3</sup> Information on the High Commissioner's Dialogue on Protection Challenges is available at <http://www.unhcr.org/pages/4a12a6286.html>

<sup>4</sup> These include the Regional Conference on Refugee Protection and International Migration in West Africa, Dakar, Senegal, 13-14 November 2008; the Regional Conference on Refugee Protection and International Migration in the Gulf of Aden, held in Sana'a, Yemen, 19-20 May 2009 and Protection Considerations in the Context of Mixed Migration, San Jose, Costa Rica, 19-20 November 2009. Further information on these conferences is available on the UNHCR website.

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IOM has similarly promoted the adoption of comprehensive policies to address the challenges of managing migration, while retaining its inherent benefits. The essential objective is to uphold obligations under human rights and refugee law, while also ensuring due respect for the sovereign prerogative to regulate the entry and stay of foreign nationals on a State's territory.<sup>5</sup> IOM in the countries covered under the Conference purview, is liaising with concerned governments and other partners to strengthen the response to these mixed migratory flows in a way which is respectful of the human rights of migrants. The interventions have included emergency voluntary repatriation and capacity building for national immigration institutions. In 2008 IOM conducted a comprehensive research documenting the mixed migration flows of Somalis and Ethiopians from their home countries and towards South Africa. The research findings raise serious concerns around the abuse and exploitation of these irregular migrants and potential asylum-seekers during their long and irregular journey. As a result of the research published in 2009<sup>6</sup>, IOM partnered with the Government of Malawi to hold a Bi-regional Conference on Mixed Migratory Flows from the Horn and East to Southern Africa which brought together a wide range of stakeholders including government representatives from Burundi, Ethiopia, Kenya, Malawi, Mozambique, Rwanda, South Africa, Tanzania, Zambia and Zimbabwe, along with COMESA, UNODC, UNHCR, UNOHCHR, Interpol, SADC, SAMP and some embassies participating as observers. The conference created an intergovernmental forum for discussion on how to deal with the challenge of mixed migratory flows. The Conference produced a set of recommendations regarding regional collaboration on such issues as identification of specific vulnerabilities of migrants, their admission and protection as well as the return of migrants in an irregular situation.

Jointly, UNHCR and IOM are also co-chairing a Mixed Migration Task Force for the Gulf of Aden, coordinating responses for protection of refugees and irregular migrants, which constitutes a concrete example of effective inter-agency collaboration and reply to mixed migration flows.

The proposed Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa in Tanzania, will build on these Agency-specific initiatives, as well as efforts of governments from participating countries, with an overall aim of deepening the understanding of the scope and extent of the southward migration and reaching comprehensive, collaborative and well-coordinated protection-sensitive strategies to address this phenomenon.

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<sup>5</sup> IOM Discussion Note to the 2008 International Dialogue on Migration, "The challenges of Irregular Migration: Addressing Mixed Migration Flows" is available at <http://www.iom.int/jahia/Jahia/pid/2034>

<sup>6</sup> International Organization for Migration, "In Pursuit of the Southern Dream: Victims of Necessity-Assessment of the irregular movement of men from East Africa and the Horn to South Africa", (April 2009).

## ***1.2 Mixed Migratory Flows from the East, Horn, and Great Lakes Sub Regions of Africa towards Southern Africa***

Over the last two decades, mixed movements from the East, Horn and Great Lakes sub-regions to other parts of the continent and beyond have steadily increased. These movements, which originate mainly in Somalia, Ethiopia and Eritrea, and to a lesser numerical extent from the Great Lakes, involve various categories of people, including refugees and asylum-seekers. They follow a southbound route from the Horn of Africa and the Great Lakes region into the East Africa, notably Kenya or Tanzania, and onward through Southern Africa, including Malawi, Mozambique, Zambia and Zimbabwe, to South Africa and beyond using a variety of ever changing routes.

Although extensive hard data regarding these southward movements is limited, a 2009 IOM study<sup>7</sup> found that some 17,000 to 20,000 Somali and Ethiopian men are on the move along this route each year. Apart from individuals originating from South-Central Somalia, who presumptively have valid refugee claims, a small per centage of these people have protection-related reasons as evidenced by the asylum claims they present in the various countries of transit and their residency, temporarily or longer term, in UNHCR-supported refugee reception centres and camps. The same study found that smuggled people involved in these movements, including people in need of international protection, are at the risk of serious violations of their most basic human rights and are often intercepted, detained, stripped of personal possessions and, at times, deported back into countries they have transited through.<sup>8</sup>

While the mixed movements towards Southern Africa have similar parallels to those widely reported in other regions of the world, they have captured little attention in the international media. Internationally, reporting on mixed migration has tended to focus principally on movements out of Africa to Europe and the Middle East. The personal tragedies and protection challenges faced by smuggled people on the southbound movements require international attention and support and the upcoming Conference will be an opportunity to draw such attention and at the same time offer a useful platform for discussions on how to systematically gather, analyze, share and publicize information on the southbound migratory movements.

## **2. Objectives of the Conference**

The Conference will pursue the following objectives:

1. Increase understanding on the nature, scale and reasons for south-bound mixed migratory movements from the East, Horn, and Great Lakes sub regions of Africa.

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<sup>7</sup> *Ibid* footnote number 5 *supra*

<sup>8</sup> *Ibid.*

2. Examine the challenges to responding to the phenomenon of mixed movements from a human rights-based approach including the adequacy and effectiveness of the respective legal, policy, institutional, operational and management frameworks and exploring ways of enhancing such frameworks.
3. To achieve consensus on recommendations to address the challenges related to mixed migration movements with the final aim to agree on an Action Plan, as well as on a Road-Map, spelling out how to implement the Action Plan and achieve these recommendations, with special focus on regional co-operation

To promote a deeper understanding and a common analysis, the Conference will consider the origins and profiles of persons involved in this south-bound mixed migration, the main migratory routes, the factors motivating them and the role of smugglers in facilitating their movement, as well as the challenges they face in accessing refugee and human rights protection mechanisms. To support these discussions, UNHCR and IOM will prepare a joint Background Paper which will be shared with participants later.

The Conference will review and benefit from the experience gained and positive models of collaboration developed in similar regional conferences in Africa and globally. The Conference will also seek to move forward in a very concrete way by developing specific proposals for activities at the regional and national level. The discussions will consider such positive practical examples as the Tanzanian Government and IOM joint African Capacity Building Centre (ACBC/TRITA), which provides capacity-building and training in border management for immigration officials from the partner States of the East Africa Community. UNHCR will also share experience gained through its 10-Point Plan of Action Conferences<sup>9</sup> and Expert Round Tables,<sup>10</sup> as well as a compilation of best practices with regard to the implementation of the 10-Point Action Plan<sup>11</sup>. Positive models of inter-agency collaboration will be presented and discussed: the inter-agency work developed by UNHCR, IOM and partners regarding Standard Operating Procedures for victims of trafficking, as well as the highly operational Mixed Migration Task Force, established in 2006 and co-chaired by IOM and UNHCR, addressing the challenges of mixed migration from Ethiopia and Somalia through the Gulf of Aden to Yemen and beyond.

To have real significance and impact, the Conference must produce a clear and realistic Plan of Action and Roadmap to which the participating governments and partner agencies

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<sup>9</sup> These include the Regional Conferences referenced under Footnote 3, above.

<sup>10</sup> These include the expert roundtables on “Controlling borders while ensuring protection” held in Geneva, Switzerland 20-21 November 2008; on “Different People-Different Needs” held in Tunis, Tunisia, 6-8 June 2009 and “The return of non-refugees and alternative migration options” held in Geneva, Switzerland 30 November – 1 December 2009. Further information on the roundtables is available on the UNHCR website.

<sup>11</sup> Published as *Refugee Protection and Mixed Migration: The 10-Point Plan in Action*, June 2009, Provisional release, available at: <http://www.unhcr.org/refworld/docid/4aca0af82.html>

can subscribe and which will draw the support and solidarity of the broader international community.

### **Conference methodology/status of discussions and outcomes**

The Conference methodology will couple presentations in plenary with working group sessions that will promote active participation and allow the broadest range of perspectives and experience to come forward. Recommendations developed in the working groups will serve as the basis for the Action Plan and Roadmap for follow-up with measures comprehensively addressing international protection principles in favour of refugees as well as the rights of irregular migrants within mixed migration movements.

### **3. Conference Convenors and Participants**

The Government of the United Republic of Tanzania will convene the Conference, in collaboration with UNHCR and IOM.

The participants will include:

- Senior level government representatives from Burundi, the Democratic Republic of Congo, Ethiopia, Kenya, Malawi, Mozambique, Rwanda, Somalia, South Africa, Tanzania, Uganda, Zambia and Zimbabwe representing the relevant ministries;
- Representatives of the African Union (AU), the East African Community (EAC), COMESA, the Southern African Development Community (SADC), and the Inter-Governmental Authority on Development (IGAD);
- Representatives of development partners;
- Representatives of international organizations, including UNHCR, IOM, ILO, OHCHR, UNICEF, UNODC, and Interpol;
- Civil society representatives involved with refugee protection and irregular migration in the context of mixed migration issues in the Horn, Eastern and Southern Africa.