

UNHCR

Convention Plus

Basic propositions on irregular secondary movements

25 June 2004

During the discussions in the 3 May 2004 Convention Plus Core group based on UNHCR's issues paper on addressing irregular secondary movements, a number of shared understandings have begun to emerge.

As an intermediate step in working towards a comprehensive framework for addressing these movements, the following propositions are tabled for further discussion to guide the way forward.

Context

1. The phenomenon of refugees who move in an irregular manner from countries in which they have already found protection, in order to seek asylum or permanent resettlement elsewhere, remains as problematic today as it was in 1989, when ExCom addressed it in Conclusion 58 (XL). Likewise, the remedial measures recommended by that Conclusion retain all their relevance today.

2. At the same time, today's reality of 'mixed flows' suggests that the problem is broader, in that it extends to the movements of refugees and asylum-seekers across several international borders either without seeking international protection or without awaiting the outcome of their claims. Ideally, strategies to address irregular secondary movements as defined by Conclusion 58 (XL) and as called for in the Agenda for Protection should also tackle this new phenomenon.

3. Recognizing that the vast majority of refugees are in the developing world, and that inadequacies in protection for refugees stem in part from disproportionate asylum burdens on developing countries, multilateral approaches must demonstrate a commitment to share burdens and responsibility equitably.

Problem statement

4. Irregular secondary movements are of concern to refugees, States and UNHCR because:

- they reflect gaps in protection for refugees, including the absence of any prospect of a timely solution to their problems.
- they can have a destabilizing effect on structured international efforts to provide appropriate solutions for refugees.
- they feed smuggling and trafficking networks, with harmful consequences to refugees and asylum-seekers.

Efforts to deter these movements can lead to refugee-in-orbit situations and, in the worst case scenario, to refoulement.

Asylum/migration nexus and rights protection orientation

5. The human rights and human dignity of all migrants must be respected and protected at all times. However, there exists an international regime for the protection of refugees because refugees have specific protection needs. To meet these needs, it is essential that refugees be identified, including within mixed flows, as early as possible after their flight.

Approaches to solutions

6. As recognized in the Agenda for Protection, the problem of irregular secondary movements is best addressed through multilateral approaches that focus on reducing the causes for onward movements. Some of these causes are known and were identified ExCom Conclusion 58 (XL). The findings of the survey on movements of Somali refugees and asylum-seekers will further inform the development of solutions-oriented approaches.

7. To address comprehensively the problem of irregular secondary movements, multilateral cooperative frameworks and approaches should have four objectives:

- to strengthen protection capacities in States where refugees and asylum-seekers initially arrive;
- to improve domestic asylum-systems in States where onward movements may occur;
- to ensure the timely availability of durable solutions for refugees; and
- to ensure that States apply border control measures in a protection-sensitive manner.

8. The work pursued under the other strands of Convention Plus, relating to the strategic use of resettlement and the targeting of development assistance, form an integral part of the objective to increase protection and solutions for refugees in a burden- and responsibility-sharing framework.

9. Multilateral efforts should not be expected to entirely eliminate irregular secondary movements, in part because timely solutions will not always be available to all persons in need of protection, and in part because of the reality that persons other than refugees and asylum-seekers will likely continue to seek access to States of their choice using the asylum system.