

10-Point Plan Expert Round Table N°2 “Different People, Different Needs”

Tunis, Tunisia, 6-8 July 2009

Summary Report

Introduction

The expert round table “Different People, Different Needs” which took place in Tunis, Tunisia on 6-8 July 2009 was the second in a series of four thematic discussions on UNHCR’s 10-Point Plan of Action on Refugee Protection and Mixed Migration. It was convened jointly by UNHCR, the International Organization for Migration (IOM) and the International Federation of Red Cross and Red Crescent Societies (IFRC), and funded by the European Commission.

The meeting brought together around 50 experts from governments, inter-governmental and non-governmental organizations, academia, UNHCR, IOM and the Red Cross and Red Crescent. The majority of the participants were non-governmental actors – whether international organizations, or civil society organizations and service providers – and therefore the discussion emphasized the practical experience and perspectives of the stakeholders. While all participants recognized the fundamental role and responsibilities of governments in the mixed migration context, the emphases of the expert roundtable was placed on the roles, capacities and perspectives of non-governmental actors.

Participants explored ways to improve the identification and protection of persons with specific needs travelling within mixed migratory movements, such as, inter alia, trafficked persons, asylum-seekers, children and women at risk, especially in the immediate post-arrival phase. This topic has been identified as one which needs further attention, including in particular during the first High Commissioner’s Dialogue on Protection Challenges on “refugee protection, durable solutions and international migration”, which took place on 10 and 11 December 2007, at the IOM Council’s International Dialogue on Migration (IDM) 2008 on the ‘Challenges of Irregular Migration: Addressing Mixed Migration Flows’¹, and in the new IFRC migration policy.²

¹ http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/96/MC_INF_294.pdf

² The High Commissioner’s Dialogue and the IFRC migration policy are included in the background folder of the meeting.

1. Addressing the immediate needs of new arrivals

Setting up and location of reception centre

Participants emphasized that reception arrangements in the period following arrival required a “needs-based approach” to meet two important objectives: address immediate physical and psycho-social needs; and help identifying people with specific additional needs and rights, including those seeking international refugee protection.

Participants mentioned the advantages of setting up such reception arrangements close to an entry point (at the coast, land border or airport), to ensure access to immediate, and, where necessary, emergency assistance to new mixed groups of arrivals.

Reception arrangements can take different forms such as, inter alia, community placements or private accommodation. Reception centres, where all necessary services are provided by different experts, have proven particularly useful in the context of larger mixed groups of arrivals. Most participants agreed that reception centres should be open centres, and some speakers pointed to the added value of supplementary measures, such as daily reporting requirements, and enhanced security for persons with specific needs, such as, for example, victims of trafficking.

Participants pointed out that in general, reception centres should focus on short-term arrangements for immediate assistance, and identifying and referring persons with specific needs to the relevant actors. Thereafter, depending on people’s profiles, individualized reception arrangements should be preferred.

Finally, participants discussed the merits and disadvantages of locating reception centres in proximity to international borders. Some participants suggested that close proximity would increase accessibility in the context of mixed migratory movements. Other participants said that the close proximity of reception centres to international borders could create additional challenges, including infiltration by criminal groups or security forces from the country of origin.

Services provided in the reception centre – creating an enabling environment

Experts noted that services provided in the immediate post-arrival phase include shelter, medical assistance, food, and basic non-food items (clothing, blankets, sanitary items, etc). They also emphasized the need to provide psycho-social support to migrants who have sometimes been travelling for years and, in some cases, endured serious violence or trauma during their migration process.

Experts emphasized that the needs of new arrivals may not be apparent immediately, hence the importance of providing them with information on available services and options (asylum procedures/process, procedures for victims of trafficking, unaccompanied or separated children, women at risk etc.). Providing information is critical not only to build trust, but also to manage expectations and introduce people to their new environment.

Preferable to the dissemination of information through, inter alia, leaflets or videos, experts emphasized the importance of establishing direct, two-way communication, with the assistance of interpreters whenever needed. The interviews with new arrivals, whether counselling or screening interviews, are critical to build confidence and identify persons with specific needs who might otherwise not be forthcoming and whose needs might therefore not be identified immediately.

Actors

Reception centres can be managed by government authorities, non-governmental organizations and/or international organizations.

Experts noted that the engagement of government authorities is key, not the least for ensuring security and preventing criminals from accessing the centre. They underlined the critical role of civil society, NGOs and international organizations in receiving those arriving at such centres. Some people may feel reluctant to share information with government authorities and may prefer to talk to humanitarian workers. NGOs, the Red Cross and Red Crescent, and international organizations also have an important role in assisting governments in meeting their international obligations through their expertise and monitoring activities.

Another topic receiving attention in discussion by participants was the involvement of local communities. Participants pointed to the discrepancy between the perceived and actual impacts of new arrivals in a country, resulting in a misplaced perception of the 'burden' of new migrants. This overshadows potential discussions amongst policy makers regarding how to best support and improve local capacity to properly manage, if not actually integrate new arrivals.

Against this background, participants agreed that public authorities, the Red Cross and Red Crescent in its auxiliary role to public authorities, local agencies, NGOs and International Organizations, should proactively work to better inform local communities about the real impact of new arrivals in order to eliminate misconceptions of new migrant communities. Greater efforts are needed to raise awareness among the general public, and especially among young people, on the complexity of the issue of migration. Such efforts should include activities that emphasize the positive role that migrants generally play in their host countries, and that also decrease xenophobia.

Specific good practice examples

“The Jesuit Refugee Service”, Malta : Since 2002, following an increase in the number of boat arrivals on the shores of Malta and the subsequent setting up of large scale detention centres for all sea arrivals, the Jesuit Refugee Service (JRS) has been concentrating its efforts on the situation of new arrivals in detention. Maltese immigration law provides that all immigrants who have been issued with a removal order or are refused admission into Malta shall be detained until they can be removed or deported. Those among them who apply for asylum remain in detention until their application has been processed. The Jesuit Refugee Service reported on the effects prolonged detention has on detainees. The JRS is the only NGO offering professional legal and social work services to new arrivals in detention in Malta. An essential part

of the JRS work is pushing for a change in the government detention policy. To this effect, the JRS has been involved in Court cases challenging the constitutionality of the present detention policy. Thanks to its advocacy work, and despite the many challenges, the organization has succeeded in releasing vulnerable persons from detention.

“The Albergue Belen”, Mexico: The Albergue Belen is a semi-open reception centre known as Casas del Migrante in Tapachula, Chiapas, Mexico. The centre aims at creating an atmosphere where migrants are treated with dignity and respect. The Albergue Belen provides reception services such as, inter alia, temporary accommodation, food, non-food items, psycho-social services to migrants travelling through or arriving in Tapachula. Some specific arrangements are made for asylum-seekers as per an agreement with UNHCR Mexico and in 2008 the centre opened a specific area for victims of trafficking. The services provided at the centre are crucial in a location like Tapachula, known to be a problematic area of human smuggling and organized crime.

2. Identifying persons with specific needs

Participants pointed out that, in general, people arriving within irregular movements are in a vulnerable situation and a number will need specific assistance and/or protection.

In addition to addressing the immediate needs of new arrivals, reception arrangements should include mechanisms to distinguish between various categories of people within mixed groups of arrivals and to identify those with specific needs, such as, inter alia, asylum-seekers, victims of trafficking, unaccompanied and/or separated minors and women at risk. This identification helps to ensure that such needs are addressed early on in the process. It can also help to avoid situations in which people being channelled into inappropriate procedures.

Participants however also called for caution when dividing people into different categories and emphasized that these categories are not mutually exclusive: some people may have multiple needs. Participants also emphasized that the different needs discussed at this roundtable are only the most obvious ones and other categories, such as, inter alia, elderly, persons with mental disabilities, may need to be considered. At the same time, categorization of different groups of arrivals should not withdraw attention from all necessary measures to uphold fundamental humanitarian principles and to protect the human rights of all people without differentiation. Categorization should only be a tool for a better-targeted response to these needs within existing international and national standards.

The group employed an analogy of a house with windows, sliding doors and walls with see-through Japanese screens; a house where people with different circumstances can move from one room to another according to their needs to receive the most appropriate assistance.

Participants stressed that the identification of persons falling into these categories and their specific needs can be challenging, especially in the immediate post-arrival phase. People may not always be forthcoming with information and/or self-identifying their needs. It is important to create an environment of trust, confidence and transparency where people know what they can expect and where service providers are fully equipped and have adequate capacity to assist arrivals.

Even where an enabling environment exists, profiling in the immediate arrival phase may not - or may wrongly - categorize arrivals. This needs to be accounted for and cross referrals must remain possible at any time in the procedure. Participants referred again to the house with the movable Japanese screens.

To facilitate the identification process, experts mentioned a number of indicators for the identification of asylum-seekers, women at risk, children and victims of trafficking in a mixed migration context. A list of these suggestions for indicators is available in the Annex.

2.1 Children

Children make up a significant component of mixed migratory movements. Thousands are apprehended by migration authorities around the world every year. Some are fleeing violence in their home countries, others are en route to join family members and many of them have left their country of origin searching for employment or education opportunities. Participants discussed, inter alia, the following issues:

Provision / gathering of information

Experts working with children underlined how important it is to inform children of their rights, including their right to seek asylum. Experts should be trained to interview children in order to identify children who may be refugees or trafficked children and refer them to the appropriate procedures and authorities. Some child protection officers also underlined the importance of notifying the consular authorities of the arrival of unaccompanied and/or separated children who have no international refugee protection needs.

Challenges of identification

Unaccompanied and/or separated children are the most vulnerable, and are at grave risk of abuse and human trafficking. Participants underlined the necessity to identify such children and to determine whether children are travelling alone, with his/her parents or family members, or with an adult not his/her parents but possibly smugglers. Interviews with children should be conducted by well-trained and experienced staff who master interviewing techniques for children and are equipped to identify, inter alia, possible cases of trafficked children, asylum-seeking children and family reunification.

Age determination

Some experts drew attention to the affirmed lack of reliability of age-determination tests. Participants called for caution when applying them and urged the use of multiple tests. Participants agreed that the principle of benefit of the doubt should always be applied.

The best interest of the child

The principle of the best interests of the child should be applied in a systematic manner for any action that affects children. Participants underlined that the “best interests” should be examined on an individual basis, taking into account the specific features of each case.

For unaccompanied and/or separated children, the appointment of a guardian or legal representative is important to ensure the proper determination of the child’s best interests. Several participants pointed out that detention is never in the best interests of the child.

Children’s needs

Among the main needs of children, participants mentioned culturally-sensitive health care services, specialized shelter, food, clothing, education and entertainment.

Contact with home

All child experts emphasized the importance for the children to maintain or re-establish contact with their relatives. Some experts suggested systematically offering unaccompanied and/or separated children the possibility to make phone calls to their family. They recommended that such phone calls be supervised in order to make sure that the person receiving the call is actually a family member. This is considered even more critical for the identification and protection of trafficked children.

Return

Some child experts expressed concerns that return to the family is too often considered the best solution for children. This is not always the case. A careful assessment and more differentiated approach is required.

Specific good practice examples

“The National Institute for Migration”, Mexico. In early 2007, the government of Mexico, with the support of UNHCR and IOM, appointed child-protection officers (CPOs) to serve as focal points for unaccompanied children. CPOs are migration officials who are trained and tasked with providing assistance to unaccompanied child and adolescent migrants. The CPOs inform children of their rights, including their right to seek asylum and identify children who may be refugees and refer them to the asylum procedures. They follow-up on their cases to their conclusion, whether the child is repatriated, recognized as a refugee, or granted some other form of protection in Mexico. Child protection officers also address the immediate needs (e.g. medical attention, food, and clothing) of children who have been through traumatic experiences such as exploitation, kidnapping and sexual abuse. CPOs play a critical role to help ensure that the specific protection needs of children are identified and addressed.

“Save the Children Italy”. Several speakers reported about the positive example of the multi-agency cooperation in the Praesidium Project in Lampedusa and commended Save the Children Italy for its work with unaccompanied and/or separated children arriving on the Lampedusa Island and in Sicily. Working alongside UNHCR, IOM and the Italian Red Cross, the organization played a critical role in identifying unaccompanied and/or separated children, in providing them with information on their rights, including their

right to seek asylum and making sure they had access to legal aid services. The monitoring activities carried out by Save the Children in the reception and residential care facilities were also key to ensure that minimum standards for the reception of children were complied with.

2.2 Women at risk

Challenges of identification

Displacement can expose women and girls to a range of factors that may put them at risk of violations of their rights. These can be present in the wider environment (security and communication problems; limited access to services, information or assistance; dependency; isolation or promiscuity) and/or be the result of the individual's particular circumstances (civil status or position in the community, exposure to sexual and gender-based violence or other forms of violence).

Experts underlined the difficulty in identifying women at risk, in particular in the context of mixed movements, where there is a diversity of protection needs. They pointed to the many challenges faced by humanitarian actors in such identification, inter alia, the invisibility of violations against women's and girls' rights, the lack of coordination, the focus on immediate response and inadequate funding. Critical issues and vulnerabilities can also be perceived as taboo topics in public or private conversation; hence the importance of creating a trusting environment that will encourage victims to confide in humanitarian staff and in turn allow them to provide protection and assistance.

Tools

Participants agreed that the most appropriate tools for collecting information are the questionnaires and/or interviews conducted by well-trained and qualified staff. Interviews allow social workers or protection staff to collect key information (migratory route, experience of violence in the country of origin or during the trip, who paid for the trip, any particular behaviour, etc.) for the further identification of women at risk.

Special Needs

Experts emphasized the importance for government partners, together with NGOs and international organizations working in multi-sectoral teams, including protection and community service staff, social workers and health care providers, to provide adequate shelter, health care, psycho-social support, legal advice and other assistance to women and girls, in particular to those who might have been smuggled, trafficked or abducted.

Specific good practice examples

In 1992, “**SOS Femmes en détresse**”, an **Algerian NGO**, opened a reception shelter for women victims of violence. During the civil war in Algeria many women sought refuge with their children in the reception centre. Sexual violence was and continues to be a taboo subject in Algeria, but the association succeeded in creating an environment of trust that encouraged SGBV victims to recount their experiences and to receive needed assistance from psycho-social workers. “SOS Femmes en détresse” has been working

with UNIFEM, organizing joint awareness-raising sessions for policemen, military officers and doctors. Based on their experience with Algerian women, they decided to broaden the scope of their work and to include migrant and refugee women, many of whom had also experienced violence in the context of conflict situations. The association has signed an agreement with UNHCR to provide emergency shelter and assistance to asylum-seeking women who have been victims of SGBV or domestic violence.

The “**Women’s Aid Organization**”, **Malaysia**, provides a shelter to battered women and children. Qualified social workers offer counseling sessions and provide legal information to women, either by telephone or through face-to-face meetings. In addition, the Sexual Assault Helpline is a safe and confidential forum for survivors of sexual violence, where they can receive moral support and counseling. The one-day free clinic offers health care advice to pregnant women and young mothers. The WAO conducts counseling sessions with asylum seeking and refugee women in Kuala Lumpur.

2.3 Victims of trafficking

Challenges of identification

The identification of victims of trafficking, especially at borders, in transit, or in a mixed migration context, was considered by the experts as a major challenge.

Victims of trafficking are often not able to identify themselves and are usually reluctant to tell their stories for various reasons such as, inter alia, fear of their traffickers, a sense of shame, and/or a general lack of trust in the service provider. Moreover, there continues to be a widespread clash and confusion between enforcement and protection approaches to the circumstances and victims of trafficking, to the extent that trafficked persons are often regarded strictly as “illegal immigrants”. Participants underlined the need to create an environment of trust which is sensitive and culturally appropriate.

To determine whether an individual is a victim of trafficking, the legal definition of human trafficking in Article 3 of the United Nations Supplementary Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, was seen as a starting point. However, participants also pointed out the limitations of this provision which was drafted for law enforcement purposes rather than as a tool to assist in the identification of needs. In some countries corruption and the lack of adequate prosecution mechanisms were identified as additional challenges.

Indicators

Experts mentioned the difficulty in collecting and harmonizing indicators for the identification of victims of trafficking. Age, gender, documentation, migration route, signs of abuse and the impossibility to make a phone call are some indicators that participants mentioned during the discussions.

Some experts also made reference to the list of indicators that was developed by the EC, ILO, and IOM, as well as to IOM's screening and assistance forms.³ Participants called for caution in using these indicators which are only intended to assist in the identification process, and are not intended to determine status or otherwise exclude an individual from legal protection to which s/he would otherwise be entitled.

Tools

An adequate legal framework and its implementation are the fundamental tools necessary for a proper system of identification and protection of victims of trafficking. Participants also acknowledged the utility of standard questionnaires and interviews, provided they are conducted by staff who have received the necessary training to understand the legal concepts of smuggling and trafficking.

Special Needs

Participants underlined that the needs of victims of trafficking call for a wide range of responses, such as specialized shelter, witness protection, legal assistance, medical and psycho-social assistance, as well as voluntary return and reintegration.

Some speakers pointed out that trafficking in human beings is often controlled by international organized criminal networks and the potential levels of risk to which victims of trafficking and personnel who interact with trafficking victims are exposed is significant. Participants underscored the need to increase inter-state cooperation not only to combat crime but also to protect victims and responders.

2.4 Asylum-seekers

Some people within mixed migratory movements may be fleeing persecution, human rights violations and armed conflict and be in need of international refugee protection. The establishment of proper mechanisms for the identification of asylum-seekers in the immediate post-arrival phase will ensure that their needs are addressed at an early stage. The capacity to direct persons without international refugee protection needs to alternative mechanisms may also reduce the pressure on the asylum system and contribute to fairer and more efficient procedures for asylum-seekers.

Challenges of identification

Asylum-seekers, in particular the most vulnerable, may not always be able to self-identify, while persons who do not qualify for international refugee protection might claim to be refugees. Several speakers emphasized the fact that even if some individuals express their intent to look for a job, in an immigration context, this does not necessarily mean that they do not have a refugee claim. Participants discussed the various tools and indicators that may help those in contact with new arrivals to overcome these challenges and identify asylum-seekers among larger groups of migrants.

³ The IOM Handbook on Direct Assistance for Victims of Trafficking, 2007.

Some asylum experts underlined the importance of distinguishing the identification of asylum seekers from the determination of refugees and strongly emphasized that profiling does not replace formal refugee status determination procedures. Those who have first contact with new arrivals, be they humanitarian workers or government officials, may not possess the necessary expertise to undertake refugee status determination. However, provided they receive basic training and adequate tools, they should be able to identify asylum-seekers among other categories of migrants and refer them to the appropriate procedures. At the first Expert Thematic Roundtable held in Geneva in November 2008, some experts mentioned that specific training programmes have produced positive results, including an increased sensitization of border guards and the capability to identify asylum-seekers and victims of trafficking⁴.

Tools and Indicators

The identification process can be facilitated through the use of questionnaires or through profiling interviews. Experts underlined that the profiling exercise is a non-binding process that precedes any formal status determination procedures. Indications that somebody is seeking asylum could be questions such as e.g. the individual's area of origin, his/her reasons for leaving his/her country of origin and his/her ability and/or willingness to return.

Provided it is comprehensive, accurate, impartial, up-to-date and drawn from a variety of sources, country of origin information can facilitate the identification of asylum-seekers as well as those who do not require international refugee protection. Maps, Country fact sheets and language tests could also be useful tools for the identification of asylum-seekers. The use of pre-screening forms when conducting profiling interviews might also facilitate the identification of persons of concern.

Provision of information

Experts underscored the need to inform new arrivals early and accurately about the options that may be available to them. They should be provided with information on the asylum procedures or process and on migration and related procedures. This can be done through the distribution of information leaflets, video materials or during counselling/profiling interviews. The UNHCR office in Morocco has developed a "Guidebook for Asylum-seekers in Morocco" available in several languages. Similar leaflets have been developed in other countries, for example in Ukraine, Zambia, or Romania, either by UNHCR or by government authorities.

Depending on the context, traditional actors include the border and immigration authorities, the police, the Ministry of Interior, International organizations (eg. UNHCR, IOM), NGOs, lawyers and cultural mediators. Participants emphasized that actors involved in the identification of asylum-seekers should be trained on recognizing who qualifies for international refugee protection.

⁴ Further information on the First Expert Roundtable is available at <http://www.unhcr.org/4a27bf566.html>.

Specific good practice example

An expert reported on the positive experience developed by UNHCR's implementing partner **IOPCR** (International Organization for Peace, Care and Relief) in Libya. The organization conducts counseling interviews with new arrivals and asks standard questions such as the person's country of origin, reasons for leaving his/her country, and problems faced in the country of origin. Based on the information collected during the interview, IOPCR staff refers new arrivals to UNHCR or IOM for follow-up.

3. Enhancing cooperation among partners for the identification and the protection of persons with special needs

Throughout the round table, participants emphasized the importance of effective cooperation among organizations and with government authorities. It was pointed out that in a mixed migration context, teams with expertise in different fields have proven most effective for the identification of different or multiple needs.

Some speakers pointed out that, in most countries, protection systems for asylum-seekers and victims of trafficking, when they exist, are separate mechanisms with no systematic linkages, ignoring the fact that victims of trafficking for example may need the support of both systems.

The background study on the "Identification of Victims of Trafficking to Procedures for Determining International Protection Needs"⁵ that was presented during the roundtable identified that proper referral systems are often nonexistent resulting in gaps in the identification and protection of victims of trafficking.

Experts agreed that coordination and referral mechanisms between the asylum system and other systems, such as the child-protection or the victim of trafficking systems, need to be established in order to ensure the international protection needs of various categories of persons, are recognized and addressed. Drawing from their respective experiences, experts suggested concrete measures to enhance the cooperation among the various partners for the identification and referral of persons with special needs in mixed migration contexts.

Some speakers called for high levels of cooperation. Regular meetings with a rigorous training component would be conducive to establishing trust and collegial links between the plethora of agencies involved in child welfare, victims of trafficking and international refugee protection.

Experts positively commented on the draft screening questionnaire developed by IOM and UNHCR for the identification of asylum-seekers and victims of trafficking.

⁵ "The Identification of Victims of Trafficking to Procedures for Determining International Protection Needs", Jacqueline Bhabha and Christina Alfiev, (forthcoming). This research paper was commissioned by the Division of International Protection Services, Protection Operations and Legal Advice Section UNHCR Geneva.

They made a number of suggestions on how the questionnaire could be further developed to include additional needs and groups. The methodology was discussed and suggestions were made to differentiate the interview part from the case analysis. Participants also agreed that the questionnaire should be accompanied by an annotated version or a user guide for the interviewer to clarify in which particular context the questionnaire should be used, for which purpose and by whom. The need to conduct targeted training sessions for users on how to use this tool was also emphasized. The questionnaire which is provided in the Annex has been revised in line with these comments and suggestions.

Specific good practice example:

Inter-agency cooperation in Lampedusa: Several speakers reported on the positive example of the Praesidium project under which several government and non-governmental actors (the Government of Italy, IOM, UNHCR, Save the Children Italy, local NGOs) joined their forces and expertise to identify and address the needs of new arrivals on the Island of Lampedusa.

Conclusion and follow-up

Participants appreciated that the roundtable provided them with the opportunity to exchange their respective experiences and learn about projects implemented in various regions that they could replicate in their respective countries. They also called upon the organizers to finalize and test the profiling questionnaire.

Experts emphasized that the main conclusions of the discussion included particularly:

- The recognition that protection at points of arrival in mixed migration contexts is a matter that is imperative for refugees and asylum-seekers and also for children, women at risk, victims of trafficking and others suffering from the effects of violence or trauma during their migration;
- The importance of taking a “needs-first” approach to arrivals in such contexts, not only to address immediate physical and psycho-social needs but also to differentiate effectively among those in need of and with rights to specific protection and assistance, was also stressed;
- The need for an environment of trust, confidence and transparency where the expectations of new arrivals are managed adequately and service providers are fully equipped and have adequate capacity to respond to their needs.

Experts underlined that legal systems, complemented with proper administrative structures and well-trained and equipped staff, are fundamental to the identification and protection of persons in need of protection and/or assistance. There was a general acceptance that these systems should be monitored closely to avoid persons with specific needs being screened out.

Participants felt that given the variety of regional and national particularities, it had not been possible to discuss all issues exhaustively. They suggested initiating similar discussions at country level with government authorities and civil society in order to more concretely address the specifics of each country and identify appropriate responses.

UNHCR, IOM, IFRC
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