

Multi-dimensional migration challenges in North Africa

by Johannes van der Klaauw

Facing tighter European border controls, increasing numbers of refugees and asylum seekers from sub-Saharan countries find themselves stranded in North Africa. In the absence of functioning state asylum structures and with a growing caseload of asylum seekers, UNHCR is working to strengthen regional protection capacity, particularly in Morocco.

Until 2004 the number of asylum seekers approaching UNHCR in North Africa had been modest – at most a few dozen a year in each country. Numbers have steadily increased as a result of persistent conflict and violence in a number of sub-Saharan countries, greater visibility and activity of UNHCR and imposition of more rigorous border controls by European countries. In early 2007 Morocco officially hosted 500 refugees and 1,300 asylum seekers, Algeria 175 refugees and 950 asylum seekers, Libya 880 refugees and 2,000 asylum seekers, and Tunisia 93 refugees and 68 asylum seekers.¹

In response, the European Union decided to finance capacity-building programmes in migration management and the delivery of protection services by governments, international organisations and civil society in North Africa. The first project was undertaken by UNHCR and a number of NGO partners and primarily aimed to analyse the nature and trends of refugee movements in mixed migratory flows and the public policy responses. It also sought to develop basic protection mechanisms in the region by enhancing the operational capacities of UNHCR

offices and government institutions and supporting civil society efforts to assist refugees and asylum seekers. It additionally assessed the role of the media in reporting refugee issues and, finally, aimed to strengthen inter-state cooperation in responding to the humanitarian and protection dimensions of rescue and interception at sea.

The project was implemented only partially and at a slower rate than anticipated, owing to lack of consensus in the Maghreb countries. To date the official response of these governments has been that asylum seekers and refugees registered with UNHCR entered their territory in an irregular manner, having stayed in transit in third countries where they could or should have sought asylum. They are considered irregular migrants and governments deny that their international obligations to protect refugees are put in jeopardy if they decide to arrest or expel them.

Developing the asylum process

In the next two years, UNHCR's main objective in North Africa is to support comprehensive responses to

asylum and migration management with full respect for human rights principles and based on collaboration with relevant national, regional and international stakeholders. UNHCR wants to strengthen the protection mechanisms for refugees and asylum seekers by developing a legislative and procedural framework in asylum and refugee matters, and building capacities among partners in managing the asylum process. UNHCR also seeks to establish burden-sharing arrangements promoting solutions for refugees, including voluntary return to the country of origin (conditions permitting), self-reliance in the host country or resettlement to a third country.

In Morocco, UNHCR has developed a fully-fledged Refugee Status Determination (RSD) procedure which is now accepting some 100 asylum applications per month. During 2006, UNHCR processed more than 1,700 asylum applications resulting in the recognition of some 350 persons as refugees. A similar pattern is developing in neighbouring Algeria where in late 2006 UNHCR started to receive on average 100 asylum applications per month.

In the Maghreb the asylum issue has tended to become inextricably linked with the irregular and clandestine migratory movements affecting the region. A substantial number of economic migrants approach UNHCR hoping for protection against expulsion. This puts considerable

pressure on the asylum process. The situation is compounded by secondary, irregular movement of refugees and asylum seekers from first countries of asylum, often for a mixture of reasons. Furthermore, refugees, asylum seekers, economic migrants and victims of trafficking from one particular country of origin tend to intermingle. Developing a fair and efficient asylum process requires a differentiated approach, taking into consideration these complexities.

None of the countries in the Maghreb region has established a comprehensive legal framework or a functioning procedure to deal with asylum and refugee matters, nor have they developed the necessary institutional and administrative capacities to address protection challenges effectively. As signatories to the 1951 Convention (with Libya a notable exception) they allow UNHCR offices to determine refugee status, yet frequently dispute the results. In Morocco, UNHCR has asked the authorities to approve RSD decisions and to allow these refugees to exercise their rights to residence, access to employment or other forms of livelihood, and to benefit from basic services. UNHCR has also urged the authorities to establish a functioning asylum process, managed by the public administration, including registration, documentation, standards and procedures for RSD and measures to be taken following recognition (legal residence and access to livelihood and services) or rejection (assisted return in safety and dignity to the home country).

Durable solutions

As part of its search for durable solutions UNHCR in North Africa is promoting the admission and stay of refugees in the region by establishing burden-sharing arrangements with all stakeholders. UNHCR supports refugees in their search for self-reliance by facilitating vocational skills training, microcredit schemes and income-generating activities. As long as the authorities do not recognise RSD decisions, however, holders of UNHCR refugee certificates find it difficult to earn a living.

In response to urgent protection concerns, UNHCR has proposed the resettlement of a small quota of vulnerable refugees to third countries – including southern European states hitherto not designated as resettlement countries.²

Voluntary repatriation to countries of origin remains the preferred durable solution for refugees yet most refugees in the Maghreb countries are nationals of countries where conditions are not conducive to return (Ivory Coast and Democratic Republic of Congo). In the case of those whose applications have been rejected, UNHCR wishes to facilitate their safe and dignified return to their countries of origin, coordinated by the International Organization for Migration (IOM) in cooperation with governments concerned. Ensuring these returns helps to increase authorities' confidence in the integrity of the asylum process and to convince them to support recognised refugees in their efforts towards self-reliance.

The case for partnerships

UNHCR's support for putting in place an asylum process in each of the North African countries has seen encouraging progress in training and support of civil society and NGOs. In Morocco, in partnership with international and national NGOs, UNHCR has organised training sessions in international refugee law, the application of protection elements of the existing immigration law, and the provision of legal counselling and social assistance to refugees and asylum seekers.

NGOs have shown increasing interest in such training and capacity building though some are reluctant to support refugees as a distinct group while advocating for the rights of migrants generally. Some NGOs do not wish to engage in activities aimed at long-term stay of refugees in Morocco, claiming that they should not contribute to a situation which they consider to be a result of European states 'externalising' their asylum process to North African countries.

Following initial consultations and capacity-building activities, NGOs are gradually becoming involved in providing legal and social counselling

to refugees and asylum seekers, and material assistance to vulnerable cases such as victims of trauma and sexual violence, female heads of households and unaccompanied minors. Public welfare organisations are including refugees and asylum seekers in informal education schemes and facilitating refugee access to medical care and public health programmes such as in HIV/AIDS prevention. They are also providing microcredit schemes and other incentives for refugees to enable some degree of self-reliance. Lawyers are increasingly willing to defend refugees and asylum seekers pro bono in court or to support refugees in lodging complaints with the police.

UNHCR in Morocco has obtained the agreement of the Ministry of Education that all refugee and asylum seeker children can be enrolled in public primary school. In parallel, NGOs and training institutes offer Arabic language classes while the refugee community provides supplementary classes in the culture, language, religion and customs of the refugees' countries of origin. The refugee community is also setting up its own associations to defend the rights and promote the legal and social protection of refugees and asylum seekers.

Notwithstanding these positive developments, much remains to be done in order to provide refugees in the North African region with a minimum level of legal security and socio-economic well-being. The legal status and living conditions for refugees and asylum seekers remain precarious, as is also true for undocumented migrants. In the absence of a clear public policy commitment and broad societal support for the refugee cause it will remain very difficult to find durable solutions for refugees in the region.

There is a clear need for a balanced, positive and informed portrayal of the migrant and refugee issue in the North African media. UNHCR and our NGO partners are developing a communication strategy involving various segments of society including youth, women, schools, employers and trade unions. Media professionals could benefit from exchanging information

and analysis, and training, on refugee and asylum issues.

Protecting refugees in broader migratory movements

As refugees and asylum seekers are arriving in North Africa within broader, irregular migratory movements, it is imperative firstly to establish mechanisms by which persons in need of international protection can be identified within these movements; appropriate responses can then be made. Efforts to put in place a fair and efficient asylum process will bear fruit only if complemented by measures to find solutions for other groups of irregular movers such as economic migrants or victims of smugglers and traffickers. In the absence of an identification and referral system for all groups, the nascent asylum system will be at risk of abuse by persons without a case for international protection.

Protection capacity building should not be confined within national

boundaries as almost all of North and sub-Saharan Africa is affected by irregular migration, as are the countries of southern Europe. Policy responses should be based on cooperation between countries of origin, transit and destination, including in matters of interception and protection at sea. Where efforts to put in place protection mechanisms in one country are not complemented by similar activities in neighbouring countries, the result may well be irregular secondary movement and unwelcome pressure on nascent systems.

Asylum should be properly managed as part of a comprehensive framework addressing the key challenges of irregular migration. For this purpose, UNHCR has proposed a 10-Point Action Plan to address protection imperatives within mixed migratory movements.³ This Plan presents a framework within which all interested partners can support protection capacity-building efforts and address the multi-dimensional migration challenges facing the North

African region. In essence, asylum is not the problem in this region but irregular migration is. The number of refugees and asylum seekers forcibly displaced is modest in comparison to the much larger flows of persons migrating in an irregular manner in search of a better life. A collective effort involving all relevant stakeholders is needed to ensure proper management of the migratory flows and to do justice to the time-honoured tradition of protecting and hosting refugees in the region.

Johannes van der Klaauw (vanderkl@unhcr.org) is Head of Mission for UNHCR in Rabat, Morocco. The views expressed in this article are those of the author and do not necessarily represent the views of UNHCR or the UN.

1. These figures do not include Palestinian refugees in Libya and Algeria nor Western Saharan refugees in the camps in Tindouf, Algeria.
2. Spain and Portugal accepted in total 20 cases resettled from Morocco in early 2006.
3. Available in English and French at www.unhcr.org/migration/