

Bordering on a crisis

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While the phenomenon of 'mixed migratory flows' has long been recognised, this was the first time it applied to a large-scale displacement. It required a coordinated humanitarian response for a large and diverse group of displaced persons.

The Libya crisis generated a massive influx of migrants and refugees in Tunisia and Egypt, which might be labelled a 'mixed migration crisis', and presented several new challenges to the humanitarian community. While the huge magnitude of the flows was not unprecedented, nothing approaching that scale had ever happened in the Mediterranean. The whole international community was taken by surprise, particularly in Tunisia which had never been affected by any substantial influx of refugees or displaced persons. Hence little prior contingency planning had taken place.

Furthermore, the composition of the flow was quite new. Particularly in the first few weeks, the majority of the new arrivals were economic migrants and third-country nationals, that is, nationals of neither Libya nor the countries in which they arrived (including Egyptians in Tunisia). And while they clearly had humanitarian and protection needs, the vast majority of the first waves of displaced persons who arrived at the borders were not technically refugees according to the 1951 Convention. Most had been migrant workers in Libya which was estimated to host as many as two million migrants, of whom 600,000 were there legally.

The number of nationalities was also staggering, dozens at a time, and as many as 120 in total, while traditionally UNHCR had been used in dealing with one or two in the same influx. Finally, the influx was taking place in two countries, Tunisia and Egypt, which were experiencing transitions of their own.

There was no pre-existing asylum system in Tunisia and only a weak one in Egypt that effectively barred refugees from achieving local integration (particularly in terms of access to employment and services) and had limited resettlement opportunities.

The humanitarian response

There was an early strategic decision at the highest levels of UNHCR and IOM's leadership to cooperate closely within a flexible interpretation of their mandates (for refugees, and for migrants more generally, respectively). This strategic cooperation was the key to the success of the operation. UNHCR and IOM reacted very quickly and by the end of February tented camps were set up in the border areas in Tunisia and Egypt, the new arrivals were soon screened and the evacuation back to countries of origin began in earnest.

The camp locations were selected by the two governments. While Shousha in Tunisia was not ideal (in a rather turbulent area only 7 km from the border) but acceptable, new arrivals in Egypt were allowed to stay only in the confines of the fenced precinct of Salloum border area, legally in Egypt but in practice in no-man's land. The restricted area of the Salloum border was not suitable for a camp within accepted standards, and even permission to

erect a few large communal tents required lengthy negotiations with the Egyptian authorities at different levels. At the beginning of 2012 the Egyptian authorities indicated that they will make more land available for the refugees but still within the Salloum fenced border area.

The Humanitarian Evacuation Programme (HEP), jointly undertaken by IOM and UNHCR, was a crucial component of the operation. The HEP, announced on 1 March 2011, facilitated the repatriation of as many as 218,000 migrants, mostly by plane, from Tunisia and Egypt, making it arguably the largest air evacuation in history. UNHCR's role in the HEP was over by 2 April and, although time-limited, was crucial in supporting IOM in the initial phase before this activity was handed over entirely to IOM.

The initial overriding concern was to decongest the Tunisian and Egyptian border areas and to provide solutions for these war-affected displaced migrants who were experiencing what has been called a 'protection gap', since they are not covered by international legal instruments. The objective of the HEP from UNHCR's perspective was to keep the protection space open in Tunisia and Egypt for asylum seekers and refugees not able to return to Libya nor to their country of origin. Depending on the definition of 'protection space' this impact was at least partially achieved.

After the first waves, the profiles of the new arrivals at the Tunisian and Egyptian border started changing. Although there were still many economic migrants, there were also two categories of refugees (who, unlike the migrants, could not repatriate because of protection concerns): Libyans and sub-Saharan Africans, mainly from Eritrea, Somalia and Sudan.

Of the approximately 150,000 Libyans who crossed primarily into Tunisia, the first to arrive were seeking a temporary safe haven from the conflict, and were then followed by those who were afraid of the political transition. However, Libyan refugees were not in much need of international protection and assistance because existing bilateral agreements allowed them full access to Tunisian and Egyptian territory and free access to most services enjoyed by the local population and those in material need were hosted by local families who showed great hospitality and generosity. Hence UNHCR's assistance role was mainly limited to paying utilities and medical bills (in Tunisia a limited number of destitute Libyans were also temporarily assisted in a tented camp and with food).

The same was not true for sub-Saharan Africans, who were ordered to stay in the Shousha and Salloum camps and could not go any further as neither Tunisia nor Egypt was prepared to allow them to enjoy full asylum on their territory but only temporary protection in the two camps. Admission had been granted on condition

that not only all migrant workers but also all refugees and asylum seekers escaping from Libya (with the exception of Libyans) would leave – and the sooner the better. These refugees were not only displaced by the war but also traumatised by the anti-Gaddafi forces' perception that all 'black Africans' had been employed to fight for Gaddafi's regime and they were therefore also fearful of returning to the new Libya.

Given that repatriation was not an option because of protection concerns, the only solution for them was resettlement to a third country. But before individual cases could be submitted to resettlement countries, a thorough refugee status determination (RSD) had to be carried out. A few refugees had already been recognised by UNHCR in Libya under its mandate but many others had never approached the office. Though the numbers were not huge (4,276 in Shousha and 1,442 in Salloom by mid August 2011), the variety of nationalities made the RSD process very cumbersome, with the need to hire interpreters for many different languages and to identify and deploy additional protection staff alongside competing emergencies in West Africa and the Horn of Africa. These challenges meant that the RSD process took on average more than six months and created some frustrations among the asylum seekers; accelerated procedures could not be followed because they would not be accepted by resettlement countries.

The influx in Tunisia and Egypt may be characterised as a mixed flow not only because there were migrants who fled side by side with asylum seekers and refugees but also because some of the persons who claimed refugee status had mixed motivations, partly economic and partly 'political', to leave their country of origin in the first place. For example Somalis and Eritreans had gone to Libya to find work but also had legitimate concerns about returning to their home countries.

The mix of nationalities also created tensions among the camp populations, particularly in Shousha, and by mid May UNHCR and its partners had to divide the camp into several sections according to the different nationalities, a move that was appreciated by the vast majority of the beneficiaries who felt much more secure, at least from a psychological point of view.

Resettlement and emergencies

Resettlement to a third country is dependent on commitments made by resettlement countries to offer refugees this solution. Unfortunately, most European resettlement countries, which have relatively speedy resettlement procedures, did not substantially increase their resettlement quotas to cater for this emergency beyond what was previously planned, in spite of a UNHCR-led Global Resettlement Solidarity Initiative and a crisis that was unfolding on the shores of the Mediterranean.

In contrast, the United States, having a large resettlement quota, could absorb the majority of the refugees referred for resettlement even though it has slow procedures owing to lengthy security checks. As a result, by the end of 2011, as many as 66% of the resettlement cases had been submitted to the US, although only 17% of the refugees submitted for resettlement and 13% of the total number of persons of concern to UNHCR had physically departed.

In Egypt the focus on resettlement for the new arrivals from Libya created resentment among the existing refugees in Cairo who, with few prospects of local integration, had also hoped to be resettled but with substantially fewer resettlement opportunities than the new arrivals and hence much longer waiting periods.

It is foreseen that all resettlement submissions will be finished by mid 2012, thanks also to the mobilisation of a considerable number of resettlement officers on an emergency basis, a novel development for UNHCR, but the acceptance process and physical departures are likely to continue well into 2013. One lesson for UNHCR is therefore that while it can undertake resettlement in emergencies, it cannot achieve emergency resettlement since it is inevitably a lengthy process.

Conclusion

The joint IOM-UNHCR HEP operation was key to providing humanitarian assistance, protection and solutions (through repatriation) to over 200,000 war-affected migrants. Together with the protection activities (particularly resettlement) and humanitarian assistance provided to refugees in the camps, it showed the international community's tangible solidarity with Tunisia and Egypt. This had the positive impact of keeping the borders open.

In this sense, the HEP and the resettlement operation had a positive impact on protection space in Tunisia and Egypt. If, however, protection space is seen as the presence of asylum systems in line with international standards, then the impact has been more mixed. Since the beginning of 2012 there have been positive signs that Tunisia might eventually adopt an asylum law and put in place a system for asylum seekers and refugees in line with international standards but the situation in Egypt appears unlikely to change in the foreseeable future.

The issue of mixed migratory flows is likely to recur and the strategic cooperation between UNHCR and IOM, as well as other partners, may therefore have to be activated again in the near future. It will also require cooperation and burden sharing from all concerned states and not just from those directly affected by these movements.

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Shousha transit camp, Tunisia

