

Mediterranean migration: a comprehensive response

by Erika Feller

Ensuring an effective, coherent and humane response to mixed migratory movements remains a major challenge.

Growing numbers of people, primarily from sub-Saharan Africa, are making their way across the Mediterranean and Atlantic oceans in the hope of entering European Union countries such as Spain and Italy. We do not know exact numbers but we do know that the people concerned are placing themselves at great risk. Rarely a week passes without news of an unseaworthy boat that has sunk with all its passengers on board, of dead bodies washed ashore on holiday beaches and of people who have paid huge sums of money to unscrupulous human smugglers whose last concern is the welfare of their clients. We also know that some of the people in transit across the Mediterranean are the victims of human traffickers – women and children who, even if they reach land safely, will be condemned to a life of exploitation and abuse.

In addition to the threat that it poses to human life and human rights, the movement of people across the Mediterranean has a number of other important consequences. Because such movements are irregular in nature, they can give the impression that the countries of destination are no longer in control of their borders and can thereby contribute to the xenophobic sentiments that are to be found in many parts of the EU.

Countries of transit in North Africa are confronted by growing numbers of people who congregate in coastal cities, waiting for the opportunity to leave. When ships' captains

discover stowaways or encounter people in distress on the high seas, it is often unclear where and when those people can be disembarked.

An issue of particular concern to UNHCR relates to the mixed nature of the movement of people across the

The Italian Coast Guard intercepts a boatload of African asylum seekers and immigrants.



Mediterranean. From the evidence collected by UNHCR, it would appear that most have left their country of origin for the EU in order to find a job, earn some money, gain new skills and generally improve their prospects in life. But we also know that a proportion of these people come from countries where they are at serious risk of persecution and human rights violations. Such people are refugees and, as such, they have a right to international protection.

Challenges

The presence of refugees among a larger group of migrants, some of whom may also intend to use the asylum channel as a means of entering and remaining in Europe, presents UNHCR and other members of the international community with some important challenges. First, and in addition to the immediate task of saving lives, systems and procedures have to be established in order to identify those people who are in need of asylum. Second, we must ensure that any measures taken by states to curb irregular maritime migration do not prevent refugees from gaining the protection to which they are entitled. Third, we need a clearer understanding of the roles and responsibilities of the different actors involved (countries of origin and transit, international organisations and shipping companies) when people are intercepted or rescued at sea. And, finally, we have to ensure that all of those people who have travelled – or who hope to travel – to Europe by sea find a lasting solution to their situation, whether or not they are recognised as refugees.

These are complex and difficult issues. A number of different fora have already been established for consultation and cooperation on migration issues in the Mediterranean region. But securing an effective and coherent response to mixed migratory movements – that includes the protection of refugees and asylum seekers – remains a major challenge.

Our first objective is to identify those people who are in need of asylum and international protection. In this respect, we need to think in terms of a channelling mechanism to differentiate individual cases, register claims to refugee status and provide counselling to the people concerned. In UNHCR's experience, this is essential both to assess the validity of each case and to correct false expectations.

We also need to consider the accommodation arrangements provided for people who are waiting



an effective channelling mechanism that differentiates between individual cases after disembarkation might prove to be an important means of preserving this important principle.

Our third objective is to arrive at a clearer understanding of respective roles and responsibilities in the case of interception or rescue at sea. There are no definitive rules on the allocation of responsibility for the disembarkation of rescued persons and long delays can unfortunately sometimes occur. It is nevertheless a strong maritime tradition to come to the rescue of those who are in distress at sea, and this tradition has been codified to some extent in instruments such as the 1974 Convention on Safety of Life at Sea¹ and the 1979 Maritime Search and Rescue Convention².

After a rescue at sea operation, an office of the Italian Coast Guard Patrol helps to examine a rescuee.

Recent amendments to these Conventions seek to clarify responsibilities, especially when it comes to the issue of disembarkation. Guidelines on this matter have also been developed by the International Maritime Organization (IMO).³ Effective implementation of these guidelines is essential if the international community is to address this issue in a coherent and effective manner.

for their cases to be assessed. The limited facilities on board ships are clearly inadequate. We may therefore have to consider the possibility of establishing reception centres that provide temporary accommodation in coastal areas, where individuals and families can be provided with shelter, food, health care and other basic needs.

Our second objective – and one that is closely linked to the first – is to ensure that border control measures do not prevent refugees from gaining access to asylum procedures. States have, of course, legitimate right to control and secure their borders. However, interception at sea and other measures that are taken to curb irregular maritime migration should not result in violations of the *non-refoulement* principle which prevents people from being returned to countries where their life and liberty would be at risk. The establishment of

Our fourth and final objective concerns the need for lasting solutions for all those people engaged in irregular maritime migration, whether or not they are recognised as refugees. What, for example, should happen to those individuals deemed to be in need of international protection? Once they have been granted refugee status, can they be offered residence rights and integration opportunities locally, or does resettlement in a third country offer a more viable solution? With respect to those not in need of international protection, how can they be assisted to return home in humane conditions or, when this is in everyone's interest, to regularise their status in the country where they are to be found?

There is also a need to find longer-term solutions to the problem of irregular maritime migration. To what extent, for example, can

information programmes be used to discourage economic migrants from setting out on long and dangerous journeys? And how can the protection capacities of countries of first asylum be strengthened so that refugees and asylum seekers do not feel obliged to move from one country and continent to another in order to feel secure and to meet their basic needs?

In the 1980s, many thousands of people from Vietnam and Cambodia set to sea in the hope of reaching South-East Asian countries such as Malaysia, Singapore, the Philippines and Thailand. To address that movement, the international community established a Comprehensive Plan of Action that

was intended to ensure the welfare of all these 'boat people' and to provide protection and solutions for those who qualified for refugee status. While the circumstances of the current movement across the Mediterranean and Atlantic are somewhat different, a similar approach is now needed, involving a coherent and interlocking cluster of measures, agreed to by countries of origin, transit and destination and supported by international organisations such as UNHCR and IMO.

Conclusion

The pattern of migration that we are witnessing in the Mediterranean

today is not, in essence, a refugee situation. But the movement of people with a need for asylum and international protection is a feature of it. It is not an unmanageable situation and there is scope for action. It is a problem for individual states though it has no specific geographical borders. A comprehensive and collaborative response offers the best chance of success.

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1. www.imo.org/Conventions/contents.asp?topic_id=257&doc_id=647
2. www.imo.org/Conventions/contents.asp?doc_id=653&topic_id=257
3. www.imo.org