

Refugees and mobility

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The way that mobility is dealt with in respect of protracted refugee situations shows a gap between social practices and international policies.

Asylum and migration are currently considered as separate policy areas. Refugees are seen as lacking agency, mostly not doing but being done to; they are forcibly displaced and in need of protection. Migrants are seen as voluntarily migrating and

(repatriation), or in the neighbouring countries (local integration), or in a third country (resettlement).

However, mobility and transnational networks often constitute effective livelihood strategies. For instance, mobility patterns of Afghans and Somalis, both considered among the largest and protracted refugee populations, intensified following outbreaks of conflict. Both populations have extensive diasporas and have developed extended transnational networks with multidirectional and/or cyclical mobility patterns. From this viewpoint, mobility could be considered as a solution by itself.

Secondary movements are one of the key issues discussed in policy documents on protracted refugee situations (PRS). The notion refers to refugees moving independently

from their first host country to a third country. PRS are seen as particular susceptible to secondary movements, which are prompted by the lack of durable solutions. In addition, secondary movements are seen as strictly of concern to the refugee regime – a matter of asylum rather than of migration policy areas.

The notion of secondary movements acknowledges that as a matter of fact

refugees do move outside the three solutions framework. It envisages a degree of agency, as movement is not aimed exclusively at searching for protection in a 'country of destination'. While refugees' trajectories are still seen as linear and as having a direction (secondary movements are often referred to as 'onward movements'), at the same time secondary movements are considered as an exceptional phenomenon, prompted by the protracted hopelessness peculiar to PRS.

Secondary movements as a problem

In UNHCR policy papers, secondary movements are presented as a problem to be addressed and as a phenomenon to be reduced and prevented. The main reason is that they are usually irregular. Irregular movements undermine "the right of States to control who can enter and remain in their territory"¹ and entail disorderly and unpredictable flows, both considered undesirable for states.

In Southern countries refugees have often no opportunities for legal mobility and this lack of legal opportunities diverts the flows to irregular channels, meaning that in many cases secondary movements are irregular almost by definition, as a result of existing policies. Therefore, in practice, preventing irregular secondary movements means preventing any movement.



Exhausted survivors of smuggler-organised crossings of the Gulf of Aden wait for help on a beach in Yemen.

not in need of protection. While both regimes are based on states' borders, the regime addressing voluntary migrants centres on controlling and preventing migration between states, rather than on defining and protecting their rights. Within refugee policies, mobility is considered incompatible with solutions to displacement. In fact, all three durable solutions imply settlement, either in the country of origin

The strategy of Northern countries aiming at containment of refugees regionally, ensuring orderly and limited arrivals exclusively through resettlement, reflects the very same attitude which secondary movements clearly undermine. Thus, refugees are not supposed to move again after finding a refuge from persecution or war. When they move, the exception to the migration regime restricting cross-border movements that has been made for them does not hold anymore; they are caught in the same mechanisms that control and prevent international migration. As UNHCR acknowledges, this has deplorable effects particularly in the case of persons who lack protection in their country of origin, as they risk being returned there.

According to UNHCR, a related consequence of secondary movements is the fostering of human smuggling and trafficking, seen as absolutely negative for refugees, because of the human rights violations they are exposed to. While smuggling and trafficking might indeed entail serious human rights violations, it should be recognised that existing policies, by preventing migration, encourage smuggling and trafficking which are often the only means available to individuals wanting to move.

UNHCR also sees secondary movements as “destabilising ... structured international efforts to provide solutions to refugees”² – that is, refugees’ mobility strategies perturb the refugee regime itself. Refugees are not supposed to search on their own for solutions other than the three proposed by the refugee regime – even though it is acknowledged that these solutions have reached an impasse. In order to apply the three solutions and assist refugees, clear responsibilities on defined territories have to be established, meaning that protection and assistance can be given only to people that ‘stay’. Refugees are not supposed to move except when repatriating or being resettled.

Lack of protection is considered by UNHCR as the main cause of secondary movements. This calls into question the capacity of host countries to protect refugees. Within the debate on PRS, UNHCR affirms that livelihoods as well as personal security should be an integrated aspect of protection.

Absence of education and employment, or the failure of the state to protect from extreme poverty, are associated with protection in host countries, whereas a person leaving their own country for the same reasons would be considered as a voluntary migrant.

Considering the importance attributed by UNHCR to fostering refugees’ self-reliance, it is paradoxical that mobility – one of the most widespread livelihood strategies, which in addition does not require any donor resources – is presented as a problem, and all the more so because the effectiveness of mobility as a livelihood strategy is indirectly recognised. The absence of self-reliance is listed among the main causes of secondary movements. Urban refugees who have escaped from camps are often presented as a positive example of refugees who have succeeded in achieving self-reliance; remittances sent by family members who have succeeded in moving to another part of the world are acknowledged to contribute to livelihoods in Somali camps in Kenya. How did Somali arrive in other parts of the world? Most probably, through the same irregular secondary movements that the refugee regime wants to prevent.

Instead of considering mobility as an asset to enhance self-reliance, the focus is rather on enhancing self-reliance to prevent mobility. In a world structured on the geopolitical order of sovereign nation states, the interests of the states take precedence over these considerations. However, international mobility and its effectiveness for people should cause us to reflect whether and how mobility could be enhanced as a livelihood strategy, rather than be considered as a problem.

RSD and migration

One has to be recognised as a refugee by the authorities of the refugee regime through refugee status determination (RSD) or, in exceptional cases, *prima facie* recognition, in order to be entitled to international protection. Through RSD, the theoretical distinction between refugee and voluntary migrant assumes concrete meaning in reality. But there are no universally accepted criteria and procedures so that falling into the refugee or the migrant category is to some degree therefore arbitrary.

Moreover, due the co-existence of international and national legal systems, legal status is not always clearly defined. For example, the one million documented Afghans in Iran are not strictly refugees according to Iranian law. Alongside them there are hundreds of thousands of undocumented Afghan commonly labelled as labour migrants who have no rights whatsoever.

More broadly, policy papers on PRS indicate lack of refugee identification as a cause of secondary movements: lack of documents provokes vulnerability and vulnerability induces onward movements. From a sedentary perspective it is important to carry out registration and identification as early as possible in the refugees’ movement.

However early registration and identification may hinder mobility strategies. While it is accepted for persons in need of protection to leave their country illegally, as soon as they have been intercepted and recognised as refugees, they are not legitimated to move illegally anymore, although no opportunities for legal mobility are available. From this viewpoint, becoming visible to refugee authorities makes it impossible to reach other destinations legally, whatever the reasons: to apply for asylum in a country with higher standards of protection, to reach an attractive labour market, or to reunite with family. In fact, often individuals strive to postpone identification and remain invisible as long as possible, going so far as to destroy identification documents.

Migration and asylum are, as we see, intertwined, even though states and international stakeholders strive to keep the two policy areas separated. Most states are unwilling to foster multilateral discussions on migration in order to safeguard their rights to control immigration flows, and are disposed to make an exception only with regard to a specific category of migrants, notably refugees. The fact remains that the two areas are closely interconnected.

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1. <http://tiny.cc/ConventionPlus>

2. *ibid*