

**UNHCR Statement at the Human Rights Council**  
**High Level Panel discussion on human rights mainstreaming**  
**Theme for 2014: *The Protection and Promotion of Human Rights of Migrants***  
**[4 March 2014]**  
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Mr. Chairperson, let me add my thanks for inviting UNHCR to speak on this distinguished panel. It is a pleasure to be here.

For UNHCR, migration is at the very juncture between our international refugee protection and solutions work on the one hand and the policies and practices of governments in managing their borders, on the other. Migration is not only quintessentially at the core of human identity and development but, from our perspective, also a positive force, bringing us closer together and allowing us to learn from our different social, economic, political and cultural traditions. The economic benefits of migration are well-documented. While refugees and asylum-seekers are not generally included within the category of migrants, or migration, they too bring economic benefits to their host communities - something which is unfortunately often overlooked. It is also true that the refugee protection regime can bring positive examples to the migration realm. For example, the refugee protection regime sets basic minimum standards for asylum-seekers and refugees, which can influence improved conditions for other migrants. When UNHCR carries out detention monitoring of asylum-seekers and refugees, we become aware of the wider migration population in detention and can intercede or refer the cases of such persons to other actors. Likewise, more migration opportunities could be made available to refugees, such as providing refugees with access to labour rights and labour migration.

Migration laws and policies can also impact negatively – directly, as well as indirectly – on persons of concern to UNHCR in many ways. For example, the building of walls and the tightening of border controls, as well as the imposition of carrier sanctions and immigration checks prior to embarkation, make it more difficult for persons in urgent need of international protection to access safety across international borders. While these may be legitimate measures taken by governments for the prevention of irregular migration, their non-discriminatory application means that asylum-seekers and refugees can be caught by this web of *non-entrée*. Such measures also mean that asylum-seekers and refugees are increasingly likely to take treacherous irregular journeys to avoid these controls, and in turn placing their lives in danger. Interdiction/interception, “push backs” and other measures of deterrence – such as detention – have also become commonplace, and their blanket application without distinction, threatens to undermine “the right to seek and enjoy asylum from persecution in other countries,” the right at the core of UNHCR’s work and recognised in Article 14 of the Universal Declaration of Human Rights.

UNHCR is particularly concerned about these modern trends in the movement of persons, which are found in all parts of the world. Such movements are increasingly characterised by smuggling and trafficking, abuse and exploitation, and violence. The challenges governments face in managing their borders is two-fold – to ensure that any measures they adopt are both lawful and effective. Lawful in the sense that obligations under international human rights and refugee law are respected, not least the customary international law prohibition on *refoulement* – or the unlawful return in any manner whatsoever of persons to where their life or freedom is at risk; and effective in the sense that governments are able to differentiate between those in need of international protection and others. We are particularly alarmed at the rising rate of lives being lost at sea, persons being held in inhuman conditions of detention upon arrival, and the treatment of children.

Together with our partners, we have been working with governments to strike the right balance in their migration management policies and practices, whether they be countries of transit or destination. In 2007, UNHCR released a *10-Point Plan of Action on Refugee Protection and Mixed Migration*,

which is meant to be a practical tool for governments.<sup>1</sup> It sets out 10 action points and advises on the establishment of entry systems that are protection-oriented so as to ensure the identification of persons in need of international protection within irregular mixed flows. In 2010, UNHCR released a complementary guide of good practices.<sup>2</sup> These tools are oriented to ensuring that entry systems recognise different categories of persons moving, requiring differentiated responses and solutions. In this context it is important to note the special legal regime for refugees and asylum-seekers, and the need for its strengthening and reinforcement.

Alongside the 10 Point Plan, a two-year project to move to implementation of the Plan was carried out in 2008-10 in Central America, Western Africa, Eastern Africa and Southern Asia,<sup>3</sup> and UNHCR continues to work within regional processes and with national governments in this regard. UNHCR has teamed up with the International Labour Organization to look into labour mobility for refugees,<sup>4</sup> as well as with OHCHR and the International Detention Coalition to promote workable alternatives to detention.<sup>5</sup> UNHCR has also launched a regional strategy on smuggling and trafficking in the Horn and East of Africa,<sup>6</sup> a phenomenon that has very serious consequences for persons of concern to UNHCR, and other migrants. I would be pleased to speak about these initiatives in more detail in the discussion time.

Mr. Chairperson, it is clear that there are many facets to the topic under discussion today. UNHCR takes a rights-oriented, yet pragmatic approach to this issue. We recognise that large-scale irregular migration can challenge national entry systems, as well as the proper functioning of asylum

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<sup>1</sup> UNHCR, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*, January 2007, Rev.1, available at: <http://www.refworld.org/docid/45b0c09b2.html>. The 10 action points are: 1) cooperation among key partners; 2) data collection and analysis; 3) protection-sensitive entry systems; 4) reception arrangements; 5) mechanisms for profiling and referral; 6) differentiated processes and procedures; 7) solutions for refugees; 8) addressing secondary movements; 9) return of non-refugees and alternative migration options; and 10) information strategy.

<sup>2</sup> UNHCR, *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, February 2011, available at: <http://www.refworld.org/docid/4d9430ea2.html>.

<sup>3</sup> UNHCR's 10 Point Plan in Central America, Western Africa, Eastern Africa and Southern Asia - A two year project, March 2008, available at: <http://www.unhcr.org/refworld/docid/484d437f2.html>.

<sup>4</sup> UNHCR and ILO, *Labour Mobility for Refugees : Workshop in Geneva, 11 - 12 September 2012 - Summary Conclusions*, 25 October 2012, available at: <http://www.refworld.org/docid/508e4fa72.html>.

<sup>5</sup> UNHCR and OHCHR, *Global Roundtable on Alternatives to Detention of Asylum-Seekers, Refugees, Migrants and Stateless Persons: Summary Conclusions*, July 2011, available at: <http://www.refworld.org/docid/4e315b882.html>.

<sup>6</sup> UNHCR, *Smuggling and Trafficking from the East and Horn of Africa, UNHCR Strategy and Regional Plan of Action*, March 2013, <http://www.refworld.org/pdfid/51d175314.pdf>.

procedures. We also recognise that many governments are not always equipped to deal with such challenges. It is for this reason that we have developed the range of tools I have just described but it is also clear that it is time to move from tools to action.

A particular concern for UNHCR is the loss of lives at sea. This is one of the sharpest reminders of the risks being faced by asylum-seekers, refugees and other migrants. This year the High Commissioner for Refugees will dedicate his annual protection dialogue in December to the issue of protection at sea. Too many lives are being lost as individuals take such perilous journeys, whether in the Asia-Pacific, the Caribbean, the Gulf of Aden or across the Mediterranean. What is needed is reinforced search and rescue capacity, the removal of disincentives to rescue such as including penalization of shipmasters and private boats involved in search-and-rescue operations, standing agreements on disembarkation, protection and solutions, and within this context, equitable sharing of the burdens of coastal states.<sup>7</sup> UNHCR's *Guidelines on Temporary Protection or Stay Arrangements*, issued in February 2014, may be suitable to situations of rescue at sea.<sup>8</sup> There is much that can be done to reduce the loss of life at sea, and UNHCR is keen to work closely with others in this endeavour. We will be reaching out to various stakeholders over the next few months.

Mr. Chairperson, let me conclude by reiterating that while irregular migration presents particular challenges to governments, migration as a whole is a positive force. For asylum-seekers and refugees, the impetus to move is to seek protection and to reach safety. This is an ancient right of sanctuary based on our shared humanity, which needs to be respected and given meaning within the modern migration context in which we live and work. We have many of the tools at our fingertips, the challenge remains to see them implemented in a spirit of solidarity and international cooperation.

Thank you.

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<sup>7</sup> See UNHCR, *Refugees and Asylum-Seekers in Distress at Sea - how best to respond? Summary Conclusions* ("Djibouti Summary Conclusions"), 5 December 2011, available at: <http://www.refworld.org/docid/4ede0d392.html>.

<sup>8</sup> *Guidelines on Temporary Protection or Stay Arrangements*, February 2014, available at: <http://www.refworld.org/docid/52fba2404.html>.