

No. 58 (XL) PROBLEM OF REFUGEES AND ASYLUM-SEEKERS WHO MOVE IN AN IRREGULAR MANNER FROM A COUNTRY IN WHICH THEY HAD ALREADY FOUND PROTECTION*

a) The phenomenon of refugees, whether they have been formally identified as such or not (asylum-seekers), who move in an irregular manner from countries in which they have already found protection, in order to seek asylum or permanent resettlement elsewhere, is a matter of growing concern. This concern results from the destabilizing effect which irregular movements of this kind have on structured international efforts to provide appropriate solutions for refugees. Such irregular movements involve entry into the territory of another country, without the prior consent of the national authorities or without an entry visa, or with no or insufficient documentation normally required for travel purposes, or with false or fraudulent documentation. Of similar concern is the growing phenomenon of refugees and asylum-seekers who willfully destroy or dispose of their documentation in order to mislead the authorities of the country of arrival;

b) Irregular movements of refugees and asylum-seekers who have already found protection in a country are, to a large extent, composed of persons who feel impelled to leave, due to the absence of educational and employment possibilities and the non-availability of long-term durable solutions by way of voluntary repatriation, local integration and resettlement;

c) The phenomenon of such irregular movements can only be effectively met through concerted action by governments, in consultation with UNHCR, aimed at:

- i) identifying the causes and scope of irregular movements in any given refugee situation,
- ii) removing or mitigating the causes of such irregular movements through the granting and maintenance of asylum and the provision of necessary durable solutions or other appropriate assistance measures,
- iii) encouraging the establishment of appropriate arrangements for the identification of refugees in the countries concerned and,

- iv) ensuring humane treatment for refugees and asylum-seekers who, because of the uncertain situation in which they find themselves, feel impelled to move from one country to another in an irregular manner;
- d) Within this framework, governments, in close co-operation with UNHCR, should
 - i) seek to promote the establishment of appropriate measures for the care and support of refugees and asylum-seekers in countries where they have found protection pending the identification of a durable solution and
 - ii) promote appropriate durable solutions with particular emphasis firstly on voluntary repatriation and, when this is not possible, local integration and the provision of adequate resettlement opportunities;
- e) Refugees and asylum-seekers, who have found protection in a particular country, should normally not move from that country in an irregular manner in order to find durable solutions elsewhere but should take advantage of durable solutions available in that country through action taken by governments and UNHCR as recommended in paragraphs (c) and (d) above;
- f) Where refugees and asylum-seekers nevertheless move in an irregular manner from a country where they have already found protection, they may be returned to that country if
 - i) they are protected there against **refoulement** and
 - ii) they are permitted to remain there and to be treated in accordance with recognized basic human standards until a durable solution is found for them. Where such return is envisaged, UNHCR may be requested to assist in arrangements for the re-admission and reception of the persons concerned;
- g) It is recognized that there may be exceptional cases in which a refugee or asylum seeker may justifiably claim that he has reason to fear persecution or that his physical safety or freedom are endangered in a country where he previously found protection. Such cases should be given favourable consideration by the authorities of the State where he requests asylum;

h) The problem of irregular movements is compounded by the use, by a growing number of refugees and asylum-seekers, of fraudulent documentation and their practice of willfully destroying or disposing of travel and/or other documents in order to mislead the authorities of their country of arrival. These practices complicate the personal identification of the person concerned and the determination of the country where he stayed prior to arrival, and the nature and duration of his stay in such a country. Practices of this kind are fraudulent and may weaken the case of the person concerned;

i) It is recognized that circumstances may compel a refugee or asylum-seeker to have recourse to fraudulent documentation when leaving a country in which his physical safety or freedom are endangered. Where no such compelling circumstances exist, the use of fraudulent documentation is unjustified;

j) The willful destruction or disposal of travel or other documents by refugees and asylum-seekers upon arrival in their country of destination, in order to mislead the national authorities as to their previous stay in another country where they have protection, is unacceptable. Appropriate arrangements should be made by States, either individually or in co-operation with other States, to deal with this growing phenomenon.