



KEY MESSAGES TO THE AU-HORN OF AFRICA INITIATIVE ON HUMAN TRAFFICKING AND SMUGGLING OF MIGRANTS BY THE NORTH AFRICA MIXED MIGRATION TASK FORCE

The North Africa Mixed Migration Task Force notes the importance of political will, dialogue and cooperation at all levels as a guiding principle to eliminate the exploitation of migrants, refugees and asylum seekers, prevent trafficking in persons as well as smuggling of those on the move. States can and must come together to strengthen the positive potential of regular

and safe migration by developing a coordinated rights-based and humane system of mixed migration governance. Humanitarian responses to alleviate the suffering of those on the move must be maintained and enhanced. At the same time, we call on States to work towards a true political shift in the way in which migration is governed at national and regional levels.

KEY MESSAGES FOR ACTION

- Put the protection of the human rights of all migrants, regardless of their legal status, mode of travel and country of origin at the heart of all responses.
- Ensure that responses to these movements pay particular attention to the specific risks faced by groups that are more vulnerable to harm, such as children, including unaccompanied and separated children and victims of trafficking in line with international law.
- Expand access to safe and regular migration channels for migrants at all skill levels including for low-skilled migrant workers and students.
- Focus attention to the root causes of precarious movement, including poverty, conflict, persecution, climate change, environmental degradation and natural disasters, discrimination, and violations of economic, social, civil, political and cultural rights.
- Uphold international standards for migrants, refugees and asylum seekers on arrival and in transit, ensuring that all border management measures safeguard the human rights of those on the move and respect the international principle of non-refoulement in the case of refugees, asylum-seekers and migrants and the rights of those with specific needs such as children and other vulnerable groups.
- Provide rights-based and dignified options to those who do not meet the criteria required to engage international protection instruments (such as alternative migration channels, safe and voluntary return, and alternatives to detention).
- Recognise that by itself a security or military response to the situations at borders is not sufficient to stop persons from crossing and could place migrants, refugees and asylum seekers at greater risk driving them into the hands of smugglers and possibly traffickers.
- Tackle transnational organized crime through international cooperation, while rejecting any measures that criminalize people on the move or put them at greater risk of human rights violations and abuse.
- Firmly counter xenophobia, racism and discrimination against migrants, refugees and asylum seekers; and invest in measures to promote social cohesion between host and migrant / refugee populations.
- Ensure that asylum seekers and refugees have access to solutions, including and in particular, local integration opportunities in host states and that safe legal alternative pathways to protection are in place. Consider making available access to education, health care and livelihood options for migrant populations present in a country to reduce their vulnerability and dependency on the host country and thereby fostering their potential for their own development and that of the communities around them.
- Base migration policies on sound evidence, backed up by rigorous data collection.

TASK FORCE - The North Africa Mixed Migration Task Force is a group of agencies working on (or with an interest in) mixed migration in North Africa. It promotes a human rights-based approach to ensuring the protection of people moving in mixed and complex flows to, through and from North Africa. The task force regularly gathers to exchange information, experiences and lessons learnt and to discuss thematic, programmatic and advocacy questions. Current members are the Danish Refugee Council (DRC), International Organization for Migration (IOM), Office of the High Commissioner on Human Rights (OHCHR), Regional Mixed Migration Secretariat (RMMS), United Nations High Commissioner for Refugees (UNHCR), and the United Nations Office on Drugs and Crime (UNODC).



THE ISSUE

Who is moving?

Migrants, asylum-seekers, refugees, internally displaced persons and victims of trafficking, among others are moving in increasingly mixed flows. Distinctions between the “deserving” and “undeserving” should be resisted: all migrants, irrespective of their status, are human beings and entitled to the full protection of their human rights. Refugees and asylum seekers are entitled to particular protection of the 1951 Refugee Convention, while human rights law provides minimum standards of treatment for all people, as well as particular protection to vulnerable groups such as children. Solutions will only be effective if the situation and needs of all groups on the move are addressed.

Some States perceive irregular migration as a threat to national security and may therefore give primacy to security concerns and to prevent migrants, refugees and asylum seekers

from crossing international borders. While acknowledging the sovereign right of States to manage their borders and address security threats arising from transnational crime, actions should under no circumstances lead to the criminalisation of migrants, refugees and asylum seekers for mere illegal entry, or prevent individuals from finding safety. Where concerns lead to overly repressive approaches toward migration and border management lacks human rights safeguards, smugglers and traffickers in fact stand to gain as those on the move are forced to resort to more dangerous routes and modes of travel. In addition to the risks incurred on route, migrants, refugees and asylum seekers who are forced into the shadows of irregularity in countries of transit and destination, will not only experience greater vulnerability but are also less able to contribute socially and economically to the societies around them.

TRAFFICKING OR SMUGGLING?

Trafficking in Persons

Defined as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Smuggling of Migrants

Defined as the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Trafficking and smuggling are two separate crimes that should be understood and tackled as such. Smuggling is not in itself a human rights violation, and too often these crimes are confused or conflated to the disadvantage of trafficking victims who may be at risk of being less protected. While smuggling and trafficking are per se distinct, in reality a smuggling situation can turn into one of trafficking, when an element of exploitation arises. Nevertheless, it should not be assumed that a smuggled person has not suffered severe abuse

and human rights violations, even if these do not amount to the definition of trafficking in persons. Without access to regular means of movement, migrants, refugees and asylum seekers are forced to seek irregular alternatives, often at the hands of smuggling networks, including those that use unsafe routes and transportation, frequently exposing them to risks and abuses. In a sense, therefore, smuggling is the symptom, not the cause, of an underlying problem of a lack of legal migration avenues for those seeking to live in safety and dignity.