Migration, mobility and solutions: an evolving perspective

Katy Long and Jeff Crisp

There is growing recognition that refugees' mobility is a positive asset that can contribute to their lasting protection.

Freedom of movement is a fundamental human right and is central to the functioning of the international refugee protection regime. The very ability to seek asylum depends on the ability to move in search of rights that have been denied in the country of origin. In a broader sense, it is now increasingly recognised that human mobility provides an important means for people to improve their standard of living and to contribute to the economic and social life of their countries of origin and destination. Despite a growing recognition of this, however, the international community has been slow to incorporate mobility into its responses to forced migration. Solutions to displacement have focused on containing or reversing movement, rather than on restoring the lost rights which prompted flight in the first place.[1]

For most of its 60 years, UNHCR stuck firmly to the belief that 'there is no place like home'. Even in the Cold War years – when refugee repatriation was relatively rare – resettlement and local integration programmes were projected as the making of new, permanent 'homes'. Those refugees unable to access these solutions were frequently encamped in what often became protracted refugee situations, their freedom of movement severely restricted by host states who awaited their eventual 'return home'. However, the last three years have seen a significant shift in thinking and UNHCR now believes that the protection and enhancement of refugees' mobility may in fact offer a means of ensuring their enduring access to meaningful rights and sustainable livelihoods.

UNHCR's changing attitude to mobility can be explained by a number of factors. There is a growing body of academic research indicating that forced migrants' return home is frequently neither possible nor desirable, and that transnational diasporic community networks can contribute positively to the de facto protection of refugees, asylum seekers, IDPs and other persons of concern to UNHCR. The difficulties encountered in finding sustainable solutions to protracted refugee situations have also influenced the development of new policies.

A sedentarist approach to forced migration crises does not reflect the reality of refugees' decision-making processes or provide forced migrants with an adequate choice of livelihood strategies. Nor are anti-mobility strategies able to offer a serious answer to the increasingly complex challenges faced by those seeking to provide effective international protection to those in need. These challenges – which include mixed migration flows, the onward movements of refugees and asylum seekers, the growth in human smuggling and trafficking operations, and the increasing urban self-settlement of refugees – are all symptomatic of a serious imbalance between international responses to forced displacement and the socio-economic protection needs of those who are displaced. These protection gaps will not be bridged by attempts at more effective population containment but instead require more effective protection of forced migrants' rights to move freely.

Enhancing refugees' mobility is now recognised as a key factor in both understanding and addressing refugee movements from camps to cities. Protecting mobility is also seen as a key part of combating the human rights violations that frequently occur as a result of irregular or secondary movements from the first country of asylum, often in search of effective protection. And increasingly mobility is also seen as offering a possible solution to refugees' displacement in itself, through the use of regularised international labour migration channels and the strengthening of refugees' and IDPs' prospects for post-return mobility. Refugees from Kenya's Kakuma and Dadaab camps, for example, face restrictions on their freedom of movement and access to local labour markets. With no durable solution to their situation in prospect, significant numbers have found their own 'solution' by self-settling in Nairobi – but because this escape from aid-dependency is often illegal under the laws of the host states, greater socio-economic independence often comes at the price of loss of international protection.

UNHCR's new urban refuge policy, published in September 2009, reflects the need for protection strategies that work with, rather than against, refugee mobility.[2]

Similar changes can be seen in UNHCR's response to continued concerns over onward movements of refugees and asylum seekers from first countries of asylum. Although recognising states' political and security concerns regarding the irregularity of many such movements, UNHCR now insists that 'effective protection' in a country of first asylum must include access to adequate and dignified means of subsistence, and that failure to ensure this is a justification for continued movement.

Improving access to protection

Given this recognition that refugees' onward movement is defensible in at least some cases, the challenge is to provide better access to protection within processes of onward movement and mixed migrations. From this perspective, human smuggling and human trafficking networks need to be tackled not in order to secure states' borders but in order to better protect their clients' and victims' human rights.

People with protection needs will move – and should be able to move – in order to find effective protection. This principle is central to the very concept of the international refugee regime. This helps to explain why UNHCR has become increasingly interested since 2006 in the possibilities offered by promoting regularised labour migration as a solution to refugee exile, particularly in terms of meeting socio-economic needs. UNHCR's 2007 10-Point Plan for providing refugee protection in mixed migration flows suggests that:

" There will be circumstances where people who do not meet the criteria for refugee status may nevertheless be in a position to access alternative temporary migration options. These could variously allow them to stay legally in the country of arrival, or to move to a third country for humanitarian reasons, or for the purposes of work, education or family reunion. Efforts to address mixed population movements should also explore a place for regular migration options, temporary or even longer term..."[3]

Regularised labour migration may also play an important role in addressing the needs of protracted or residual refugee populations unable to access the three traditional durable solutions of repatriation, resettlement or local integration:

"Refugees in such situations could perhaps be admitted to the migrant worker and immigration programmes maintained by states that are unable to meet their own labour market needs. Many of these programmes, it should be noted, also offer opportunities for long-term residence and naturalisation, and thus offer the prospect of a durable solution as well as an interim one."[4]

These ideas are not only being developed at a policy level but are also being implemented in practice. In West Africa, the free movement protocols agreed upon by the Economic Community of West African States (ECOWAS) are now being used to provide residual refugee populations from ECOWAS states with both greater socio-economic mobility and increased political security.[5] In 2009, Nigeria issued residual refugee populations from Sierra Leone and Liberia with three-year ECOWAS residence permits, alongside the re-issuing of passports from Sierra Leone and Liberia, and the government of Sierra Leone has recently offered some 5,600 passports to former refugees wishing to integrate locally in their host countries.

As the ECOWAS case shows, durable solutions for refugees must, in some way, involve the regaining of meaningful citizenship, which is not necessarily connected to accepting more mobility. Yet it is equally clear that in many cases, fragile states emerging from conflict cannot provide returning refugees with a sustainable socio-economic livelihood or access to meaningful political rights. UNHCR has begun to explore how repatriation could be linked to greater encouragement of post-return mobility, most prominently in its work on the 2003 Afghan Comprehensive Solutions Framework, which – although hampered by significant state security interests – argued for the need for an integrated long-term "migration and development'' approach to Afghan population flows.

The value of internal post-repatriation mobility is also increasingly recognised. UNHCR's current return and reintegration policy is explicit in rejecting the idea that successful returns to refugees' countries of origin require refugees to return to their pre-displacement lives:

"Reintegration does not consist of 'anchoring' or 're-rooting' returnees in either their places of origin or their previous social and economic roles. For example, refugees and IDPs who have experienced urban or semi-urban lifestyles during their period of displacement may well move to towns and cities upon their return. Such forms of mobility should only be regarded as a failure of the reintegration process if returnees are unable to establish new livelihoods or benefit from the rule of law in their areas of origin, and thus feel that they have no choice but to settle in alternative locations."[6]

Conclusion

In embracing mobility as a potential tool of protection, UNHCR is shifting towards a rights-based approach to displacement, acknowledging that it is refugees' inability to access their human rights – rather than their physical exile, which is only a symptom of the loss of such rights – which should be the focus of international protection efforts. Meanwhile, however, states continue to impede the movement of both refugees and migrants across international borders. Increasing concern with border securitisation, the impact of global economic recession and rising domestic xenophobia have created a political cauldron of intolerance in both the North and the South. Asylum and migration space is shrinking; states perceive no immediate political advantages in allowing refugees' greater freedom of movement.

This means that the real challenge in the coming years – for researchers, UNHCR and refugees themselves – will be how to persuade reluctant states that acknowledging and protecting the mobility of refugees may in fact help to 'solve' twenty-first century displacement crises more effectively than insisting on return 'home'. Collaborative research on this topic will be vital if we are not only to turn research findings into UNHCR policies but to turn such policies into practice, with the ultimate aim of securing the most effective protection possible for all refugees.

Katy Long (katylong@gmail.com) is currently working at the Refugee Studies Centre, University of Oxford, and is a consultant to UNHCR's Policy Development & Evaluation Service (PDES). Jeff Crisp (crisp@unhcr.org) is Head of PDES (http://www.unhcr.org/pdes/).

1. This article is written in response to Giulia Scalettaris' article on 'Refugees and mobility' (published in FMR 33) in which she concluded that UNHCR still retained an anti-mobility policy bias.

2. UNHCR policy on refugee protection and solutions in urban areas. September 2009 http://www.unhcr.org/4ab356ab6.pdf

3. UNHCR, Refugee Protection and Mixed Migration: a 10-Point Plan of Action, January 2007 http://www.unhcr.org/refworld/pdfid/45b0c09b2.pdf.

4. UNHCR, 'Protracted Refugee Situations: A discussion paper prepared for the High Commissioner's Dialogue on Protection Challenges' Geneva, December 2008. http://www.unhcr.org/492ad3782.html.

5. See 'Local integration in West Africa' by Alistair Boulton, FMR 33 http://www.fmreview.org/FMRpdfs/FMR33/32-34.pdf

6. UNHCR, UNHCR's Role in Support of the Return and Reintegration of Displaced Populations: Policy Framework and Implementation Strategy. February 2008. http://www.unhcr.org/47b06de42.html.