

Standing Committee of the Executive Committee
of the High Commissioner's Programme

UNHCR's Standing Committee
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**NGO Statement on
UNHCR's activities in relation to the asylum-migration nexus**

Agenda Item 3 (ii)

Mr. Chairman,

NGOs welcome the attention that UNHCR and States are giving in this agenda item, the background paper, and the ongoing discourse to the commitment to protection in mixed migration flows.

Mixed migration flows are extremely complicated, but the need for protection is not.

NGOs are seeing this need on the ground have asked us to raise for greater attention: a mother being thrown overboard in front of her daughter off the coast of Haiti as they try to make it to Florida. Ethiopians and Somalis being stabbed and shot by those transporting them, as well as dying on boats crossing the Gulf of Aden to Yemen.

It is little better on land borders.

These are not extraordinary incidents: they are representative of the endemic risk of today's border crossings. In the sense that these stories recur, they are not entirely "new" stories, but they are *news* stories of increasing power. This month's front-page photograph of 26 human beings clinging to fishing nets and being towed for 3 days in the Mediterranean is just the latest portrayal of this life-and-death *need for some kind of more organised protection response*.

On the boats and in these crossings, a small percentage of people apprehended actually assert their fear of persecution in strict Refugee Convention terms. While we agree with UNHCR and States that it is essential to continue to distinguish those who have and raise claims to asylum, and to respond with all of the international law and architecture that has responded to refugees over the past 56 years, that should not end the conversation, or the need for a protection response regarding the others.

With estimates like those of immigration authorities in the Canary Islands that as many as 6,000 people died or disappeared in 2006 alone just trying to cross the waters from the west coast of Africa to the Canaries, it is evident that large numbers of those making these crossings have reason to fear death right there in the crossing.

We welcome and are eager to continue partnering in a more careful elaboration of the 10-Point Plan that High Commissioner Guterres has introduced. We were especially glad to see

the High Commissioner speaking on the Plan in Yemen in March. We acknowledge that the clearest mandate and the first responsibility of the UNHCR is to identify and offer protection to those with a credible claim to asylum.

But, because the risk is so high for so many, because the rates of death are being propelled steadily *higher* by a mix of human smugglers, traffickers, and enforcement-induced channelling of migrants into ever more dangerous routes, the international conversation—and response—cannot end simply by calling the rest of the travellers “economic migrants,” even if 90 or 95% of some groups are not technically refugees or asylum-seekers under the Refugee Convention. If not asylum-seekers, many are victims of human trafficking or other international crime. Literally countless others are victims of extortion, assault, rape, and murder on the high seas, and in other border areas.

Protection is not just for asylum-seekers and refugees. We believe that at the core of international mandates for protection is a recognition that it is mortal *risk* that compels protection, not status.

NGOs encourage and stand ready to partner with UNHCR and States on a more organised reflex of rescue and protection for all at risk of death in mixed migration flows. This includes specific protection for those traumatised by the danger, violence, or tragedy of their crossing, regardless of the initial motivation for their migration. Further we suggest:

1. With its unparalleled history and expertise in protection, UNHCR should help to develop guidelines and responses, such as those already developed with the International Maritime Organisation, but also with the Office of the High Commissioner for Human Rights and the International Organisation for Migration, as well as with other partners among international organisations and NGOs. Given the number of deaths and disappearances reported by NGOs and the media, the need for improved standards and mechanisms seems clear.
2. Should the suggestion arise that people who wilfully get into dangerous boats, deserts or other crossing predicaments have somehow waived any right to protection from related risks, it will be important to recall, among other things, universal standards that call for protection of victims of human trafficking regardless of whether they consented to the migration involved.
3. Recognising the issue’s urgency but complexity, UNHCR should mark it for immediate high-level, *priority* attention. We agree with States that have recently suggested the topic for discussion in the “High Commissioner’s Forum” initiative. An Ex Com Conclusion would help—not on rescue at sea, but on standards and operational responses for the protection of refugees and migrants whose lives are threatened in sea or land crossings. Developing a practical Conclusion would require great care and determination in a process that should include experts, as well as “Informal Consultative Meetings” with States and others.

As UNHCR notes in its documents for today’s meeting, mixed migration is indeed “a global phenomenon.” In a world of globalisation, migration is being propelled, not so much by traditional push-pull factors, as by a new *mutuality of need*, where for the first time in history, it is no longer simply millions of refugees, and migrants who need hope and jobs, but also receiving States that need millions of additional workers. Not only migration, but mixed migration of all kinds is today’s reality. It is just two weeks before every State and a number

of other international and non-governmental organisations present in this room will have delegates at the first Global Forum on Migration and Development in Brussels providing an opportunity to further address this reality.

We thank UNHCR for keeping a focus on the very real protection issues of such mixed migration.

Thank you
