

Refugee Protection and Migration Dynamics in Central Asia

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(photo credit: UNHCR/J.Barth/1996)



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Executive summary

This study has been prepared as background paper for the Regional Conference on Refugee Protection and International Migration in Central Asia, to take place in Almaty, Kazakhstan, in March 2011. This is the last in a series of regional conferences organized across the globe by UNHCR, in cooperation with IOM and other partners. Their aim has been to examine major characteristics of population movements, the protection challenges they pose, and to outline a collaborative approach, based on the 10-Point Plan of Action on Refugee Protection and Mixed Migration (the 10-Point Plan of Action) developed by UNHCR in 2006.¹

With its strategic, geopolitical location, Central Asia has traditionally been the scene of complex population movements, linked to the history of the region and to its demographic, social, political and economic development. The first part of the study provides a brief overview of past movements, both prior to the dissolution of the former Soviet Union, and those that occurred in the aftermath of this major upheaval. It then outlines current migratory movements and their major characteristics, including labour migration (now a major phenomenon), the growing numbers of female migrants, and the tendency to concentrate in urban areas. The impact of new factors, such as natural disasters and environmental degradation, is also examined.

The focus then turns to issues relating to refugee flows, including that of Afghan refugees, now present in the region for many years. Statelessness, of which the full extent remains unknown, is another major protection challenge in this region. A growing phenomenon causing great concern is that

¹ See “Refugee Protection and Mixed Migration: A 10-Point Plan of Action,” Revision 1, January 2007, available at: <http://www.unhcr.org/4742a30b4.html>.

of trafficking in persons, both in transit towards the Western Europe and other destinations, and internally.

The second part of the study looks more closely at the protection challenges arising from these mixed movements, and attempts to identify measures already being taken, or that need to be put in place. It begins with those that are common to migrants, refugees and stateless persons. They include the importance of gathering more consistent data as basis for identifying and assessing urgent needs; the serious problems engendered by difficulties in obtaining documentation, which can lead to the risk of falling victim to people trafficking in order to avoid arrest and detention; and the measures needed to combat child labour – a common occurrence in some countries of Central Asia.

In terms of refugee protection, the study notes that almost all countries of the region have ratified the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. But perceptions on the part of the authorities and the general public are influenced by increasing irregular migration and trafficking in persons. Refugees and asylum-seekers thus face a range of protection challenges. First among them is the need for improved access to territories, avoiding *refoulement*. Closely associated with this is their need for speedy access to procedures allowing their claim to refugee status to be examined through a fair and efficient process. While mechanisms exist in most countries, their functioning can require closer coordination between the authorities concerned. Asylum-seekers also suffer from the severe restrictions put in place to deter irregular migrants, and from the security concerns that influence government policies. Attaining self-reliance is another major challenge for refugees in a region of complex administrative procedures and limited employment prospects.

The study highlights a number of encouraging measures that have been taken to reduce the problems faced by stateless persons in Kyrgyzstan and in Kazakhstan and elsewhere. A major challenge remains that of assessing the scope of statelessness. Efforts are underway to combat the growing phenomenon of trafficking in persons, but they are mainly limited to legislative measures. Much still needs to be done to identify and assist the victims, and to prosecute the organizers. NGOs are at work in attempting to prevent this traffic and to offer protection to the victims, but their efforts need to be supported at an official level. Legislative harmonization is also urgent to tackle child trafficking more effectively.

Lastly, the study identifies a series of measures designed to increase the protection of migrant workers. Migrant workers and their families may face serious challenges at all stages of the migration process, including abuse during their journey, exploitation and exclusion in the destination countries, or insufficient re-integration upon return to their home country. Measures that can be taken to address these challenges include increased harmonization at policy level, while avoiding the tendency to over-regulate; the lifting of restrictions in the form of strict quotas and administrative procedures that prevent migrants from finding employment and fuel irregular movements and the risk of people trafficking; and ensuring that migrants are informed of their legal rights and obligations in their host communities.

A set of recommendations appear in conclusion of the study, based on the major protection issues as identified, and building on examples of best practice in various countries of the region. The recommendations are thus intended to support and encourage the work of UNHCR and IOM in assisting governments to develop comprehensive, protection-sensitive migration and

asylum policies, that address both legitimate border control concerns, as well as the protection needs of persons involved in mixed movements.

Introduction

While mixed migratory movements are not a new phenomenon, recent years have witnessed an increase in their scale, scope and complexity. These flows include people with diverse profiles, protection needs and motivations. While some are driven by the search for better economic and social opportunities, others are forced to flee due to persecution, human rights violations or armed conflicts. Climate change and environmental degradation are becoming additional factors that shape the decision of many to leave their homes.

Serious protection concerns accompany situations in which people with different motivations travel alongside each other, often using the same routes and modes of transportation. This is particularly so if people move in an irregular manner, since such movements expose those concerned to risks that include the danger of human trafficking and smuggling.

Managing the flows of people arriving across their borders has become a matter of increasing priority for states, in their efforts to control these borders and ensure national security. These efforts have often led to drastic measures aimed at deterring foreign nationals from entering their territories. Such measures can have an indiscriminate impact on all persons involved in mixed movements, if they do not distinguish between migrants and persons in need of international protection. In the face of overly restrictive and control-oriented migration policies, asylum-seekers are compelled to resort to irregular onward movements. Conversely, people not in need of international protection, but who lack legal migration opportunities, may resort to the asylum system in the hope of gaining temporary or permanent status abroad.

In order to address these concerns, and to assist states in establishing balanced and protection-sensitive migration policies, which reflect both their

legitimate concerns for the protection of their territories, and the protection needs of various groups involved in mixed movements, in 2007 UNHCR issued a 10-Point Plan of Action on Refugee Protection and Mixed Migration. This tool focuses on ten key areas, which are of particular importance from a refugee protection perspective. These areas are as follows:

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 arrangements for non-refugees and alternative migration options.
10. Information strategy.

To tailor the 10-Point Plan to specific situations and contexts, and ensure its practical implementation, UNHCR, IOM and other partners have organized a series of stakeholder conferences in different regions of the world: the Gulf of Aden, Western Africa, the Americas, and the East, Horn and Southern Africa.² The fifth and last of these regional conferences will take place in Almaty, Kazakhstan on 15-16 March 2011. It will focus on mixed migratory movements and associated challenges in Central Asia, specifically in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

² Further information on the implementation of the 10-Point Plan of Action in various regions is available at <http://www.unhcr.org/pages/4a16aac66.html>.

The Central Asian region has a long history of complex migratory movements, including forced displacements of populations. This discussion paper has been commissioned by UNHCR in order to better understand the complex migration dynamics. It describes both past and current displacement situations, and seeks to identify the various categories of persons involved in movements to, from, as well as within the region. They include asylum-seekers, refugees, labour migrants, stateless persons, victims of people trafficking, as well as persons displaced due to natural disasters and environmental degradation. While the focus is on current mixed migratory movements, the heritage of past displacement continues to weigh heavily. This is notably the case when efforts have been lacking to integrate those returning to their former places of residence, and when protracted problems induce further (irregular) movements.

Whatever the nature and motivations driving population movements, those concerned all face a variety of protection challenges at given stages of the migration process. This study seeks to analyse these challenges, and to identify measures being taken, by states and by regional organizations, to address some of the protection gaps. It concludes with a set of recommendations as to how to support and strengthen these efforts.

Methodology

The study is based on a review of available documentation on migratory flows in Central Asia, as well as an analysis of applicable national laws and practice, and relevant international and regional agreements. This research and analysis have been complemented by field missions to Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan. During these visits, the author conducted interviews with representatives of ministries and governmental departments responsible for migration and refugee issues, with border

guards, with representatives of international organizations (including UNHCR, OSCE, IOM and relevant UN agencies) and with civil society.

I. Overview of Major Patterns and Developments

1. Migratory movements before 1991

Prior to 1991, Central Asia³ was firmly integrated within the political and economic structures of the former Soviet Union. Most population movements were regulated by central planning authorities, with only limited freedom for people to relocate on their own initiative. Strict controls thus shaped migratory flows within the region for many years, affecting economic, social, cultural and demographic developments in both source and host countries.

In the 1930s and 1940s, countries of Central Asia received large numbers of various ethnic groups who were forcibly relocated from western areas of the former Soviet Union, under the so-called 'special settlers regime'. More than 3 million people comprising eight entire population groups - Volga Germans, Kalmyks, Chechens, Ingush, Karachai, Balkars, Crimean Tatars and Meskhetians - were thus uprooted from their ancestral homelands and transferred to Central Asia and Siberia. One reason given for the displacement was the "foreign origin and culture" of these groups, but the forced transfer was sometimes also a measure of collective punishment for alleged treason.⁴

In addition, throughout the period of the Soviet Union, millions of people of Slavic ethnicity (Russians, Ukrainians, Belarusians and others) were encouraged or forced by the Soviet authorities to resettle in Central Asia, in order to boost its economic development and reinforce the control exercised by

³ For the purpose of this study, Central Asia is understood to include the following countries: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. These countries are hereafter also referred to as the Central Asian countries or Central Asian region.

⁴ See for example Bougai, Nikolai; *The Deportation of Peoples in the Soviet Union*, New York, 1996.

the central authorities over this important strategic outpost. An example of these policies was the so-called 'Virgin Lands programme' implemented by the Soviet authorities in the 1950s and 1960s to facilitate the cultivation of Kazakhstan's vast agricultural lands.⁵

These state-sponsored and strictly regulated displacements resulted in the ethnic mix to be found in the region. Most Central Asian republics host more than 100 different ethnic groups.

2. Migration and displacement in the aftermath of the dissolution of the former Soviet Union

The dissolution of the former Soviet Union, accompanied by a series of far-reaching political and social changes, caused massive population movements. These included internal movements within the newly-independent republics, cross-border migration, departures from the region and arrivals from abroad.⁶ The main characteristics of migratory movements in the early years of the transition period was the return of distinct populations⁷ whose ancestors had been forcibly deported to Central Asia during the Soviet era to the home countries of their ancestors, the departure of the Slavic elite from Central Asia, and the return of ethnic Kazakh and Kyrgyz, encouraged by favorable immigration policies for members of the same ethnic group.

Most of these movements were thus direct legacies of the former Soviet Union. Newly-created borders were based on the old administrative borders of the Soviet republics drawn by central authorities in Moscow, with little or

⁵ International Centre for Migration Policy Development: *Overview of the Migration Systems in the CIS Countries*, Vienna, September 2005.

⁶ It is estimated that 9 million people were on the move during the decade following the break-up of the former Soviet Union, the second largest population movement in the region after the displacement caused by World War II. Commission on Human Security; *Final Report - Human Security Now*, Chapter 3: People on the Move, New York, 2003. www.humansecurity-chs.org/finalreport/English/FinalReport.pdf.

⁷ In particular of Crimean Tatars and Meskhetian Turks.

no respect for the ethnic, cultural or religious composition of the local populations. Inter-ethnic conflicts, political instability, as well as crumbling social structures and economic difficulties were also factors that drove the population movements of the transition period.

These movements created considerable challenges for the newly-independent Central Asian republics, which lacked experience in managing movements of this scale and complexity, after the long period of isolation imposed by the former Soviet Union, with its closed borders and carefully designed and regulated migration policies.

Significant cross-border movements of people that followed the lifting of restrictions imposed by the former Soviet Union, included that of hundreds of thousands of ethnic Germans who have returned to Germany since 1993;⁸ some 250,000 Crimean Tatars who returned to Ukraine between 1989 and 1999, and hundreds of thousands more who moved within the region or returned to the homes of their ancestors.⁹ An estimated 3.1 million Russians and 300,000 Ukrainians left the Central Asian republics and the Caucasus and moved back to the Russian Federation and Ukraine respectively.¹⁰

After the break-up of the former Soviet Union, all five Central Asian republics suffered major economic difficulties. Many Soviet-era industries had to scale back or shut down entirely. Moving to the Russian Federation, Belarus or Ukraine was often seen as the only choice for many people seeking to escape impoverishment. Due to the economic instability and fear of

⁸ More than 200,000 ethnic German repatriates returned back to Germany from the former Soviet Union and Warsaw Pact countries annually in 1993, 1994 and 1995. Federal Ministry of the Interior (Germany); *Migration and Integration: Residence Law and Policy on Migration and Integration in Germany*, Berlin, April 2008.

⁹ UNHCR; *The State of The World's Refugees 2000*, Chapter 8: Displacement in the former Soviet region, Oxford University Press, January 2000. <http://www.unhcr.org/3ebf9bb30.html>.

¹⁰ Ibid; p.199.

increasing ethnic tensions, most of the economically active and well educated Russian-speaking Slavs, who had dominated the professional elites in most of Central Asia, decided to leave. This large-scale exodus of skilled professionals led to a brain drain and further disruption of local economies.

Kazakhstan in particular, faced a significant loss of population, mainly due to the large-scale outflow of ethnic Russians and Germans. In order to address the decline in population, and to strengthen national identity and stability, the Government employed a set of policies aimed to encourage the return of ethnic Kazakhs, based on specific repatriation quotas. The ethnic immigration policies¹¹ employed by Kazakhstan¹² and to a certain extent also by Kyrgyzstan,¹³ motivated the return of ethnic Kazakh (*Oralman*)¹⁴ and ethnic Kyrgyz (*Kairylman*) from other countries of Central Asia, China, Mongolia and Turkey. It is estimated that more than 464,000 persons have returned to Kazakhstan since the 1990s.¹⁵ However, as many ethnic Kazakhs have returned outside these quotas, for example from Uzbekistan following the severe environmental degradation in the Aral Sea region, the overall number of returned persons is yet to be assessed.

The core legal framework regulating the integration of the *Oralmans* is based on the 1997 Law on Population Migration, complemented by several other

¹¹ These policies seek to preserve national identity by providing incentives for repatriation of selected ethnic groups. Such incentives may range from access to simplified nationality procedures to allocation of land, etc. Gibney, Matthew G., Hansen, Randall; *Immigration and Asylum: From 1900 to the Present*. ABC-CLIO, Inc. Santa Barbara, California, 2005.

¹² Relevant laws include: 1992 Law on Immigration; 1997 Law on Population Migration (with amendments as of 2001, 2002, 2004).

¹³ Programme *Kairylman* adopted by the Kyrgyz government to facilitate the return of ethnic Kyrgyz. 2006 Decree of Government No.737; and 2007 Law on State Guarantees to Ethnic Kyrgyz Returning to Historical Motherland No.175.

¹⁴ “The term ‘Oralmans’ means foreign citizens or stateless persons of the Kazakh ethnicity, who permanently resided outside Kazakhstan on the date of gaining sovereignty by the Republic of Kazakhstan and arrived in Kazakhstan for the purpose of permanent residence.” Article 1 of the 1997 Law on Population Migration, available at <http://legislationline.org/topics/country/21/topic/10>.

¹⁵ UNDP; Report on the Status of Oralmans in Kazakhstan, 2006.

legal instruments. This framework provides for a set of integration measures that include the payment of special allowances and compensations, guaranteed free medical service, access to free secondary education, and the provision of social assistance. However, the overall success of integration depends also on the linguistic, psychological and cultural adaptation capacities of the *Oralmans*. Persons returning from outside the Commonwealth of Independent States (CIS) region in particular, faced significant linguistic difficulties. Despite the efforts of the Government, the subsequent movements of *Oralmans*, especially those resettled in rural areas, is seemingly frequent.¹⁶

Central Asia has also experienced forced displacement caused by conflicts arising from political instability and tensions over water and energy resources, coupled with ethnic tensions. Ferghana Valley¹⁷ has been a traditional hot spot and scene of many conflicts that took place in the region since the dissolution of the former Soviet Union, and shortly before, forcing relatively large-scale groups to flee, including across borders.

The inter-ethnic tensions of June 1989 in the Uzbekistani part of the valley, for example, caused the flight of about 90,000 Meskhetians¹⁸ to other parts of the CIS region, in particular Azerbaijan. These events were followed by a conflict over access to land and water on the Kyrgyz side of the borders in

¹⁶ An estimated 60,000 *Oralmans* returned to Mongolia between 1992-1996. See *Eurasian Geography and Economics: Problematic Integration of Mongolian – Kazakh Return Migrants in Kazakhstan*, Volume 46, Number 6, September 2005.

¹⁷ Ferghana Valley is a densely populated area encompassing the borders of Kyrgyzstan, Tajikistan and Uzbekistan. As home to approximately 11 million people, it is characterized by high concentrations of more than a hundred different ethnic groups.

¹⁸ An ethnic group deported to Central Asia in the 1940s from Meskhetia, a region in southern Georgia bordering with Turkey. Ayşegül Aydıngün, Çigğdem Balm Harding, Hoover Matthew, Kuznetsov Igor, and Swerdlow Steve; *Meskhetian Turks: An Introduction to their History, Culture and Resettlement Experiences*, Center for Applied Linguistics, Washington, 2006. <http://www.cal.org/co/pdf/mturks.pdf>.

1990 resulting in several days of fighting between the Kyrgyz and Uzbek inhabitants in the south of Kyrgyzstan.

The outbreak of civil war in Tajikistan¹⁹ in May 1992 resulted in the internal displacement of about 600,000 persons and the outflow of an estimated 60,000 refugees to Afghanistan and tens of thousands to Kyrgyzstan, Turkmenistan, Uzbekistan and other parts of the CIS.²⁰ It is estimated that during the civil war every seventh citizen of Tajikistan became either a refugee or an internally displaced person. In addition, non-Tajik minorities decided to leave the country to avoid post-war instability and economic downfall. Nearly all the internally displaced persons and a major portion of Tajik refugees in Afghanistan had returned home by the end of 1995 – an important example of a successful repatriation in the region. However, due to the unfavourable economic situation in the country devastated by war, many returning refugees have not been able to find employment opportunities. This in turn has prompted a huge increase in labour migration from Tajikistan.

Further internal and external displacement occurred as a result of territorial disputes between communities in areas along borders established during the Soviet era with little or no respect for the ethnic composition of affected border areas nor the overall economic and geographical context.²¹

¹⁹ The civil war in Tajikistan had a complex political, religious, clan and ideological background. The conflict arose between the traditional ruling elites established during the Soviet era and previously marginalized clans promoting pro-Islamic, nationalist and anti-communist agenda.

²⁰ UNHCR; *UNHCR Global Appeal 1999* – Regional Overview: Central Asia, December 1998.

²¹ Borders established after the dissolution of the former Soviet Union have not yet been fully demarcated and are under discussion. There are about 100 disputed points between Uzbekistan and Kyrgyzstan, and consensus on many areas along the Kyrgyz-Tajik borders has not been reached to date. There are several enclaves in the valley, with disputed areas with fertile land and strategic access to water. International Crisis Group; *Central Asia: Border Disputes and Conflict Potential*, Osh/Brussels, April 2002.

Following the Batken events of 1999-2000, when armed guerillas believed to belong to the Islamic Movement of Uzbekistan invaded Kyrgyzstan,²² large border areas between Uzbekistan, Tajikistan and Kyrgyzstan, as well as areas along the region's borders with Afghanistan have been mined. Although several demarcation commissions have been established over the years, the demarcation and delimitation processes are still far from finalized, often due to lack of cooperation of the parties involved, and inadequate implementation of the agreements already reached.

²² In August 1999, armed guerillas believed to belong to the Islamic Movement of Uzbekistan (IMU) invaded the Batken Oblast in Kyrgyzstan and seized several hostages, demanding free passage to Uzbekistan. A second invasion in 2000 caused several months of fighting with numerous casualties. The IMU is currently reportedly active mainly in Tajikistan, Uzbekistan, Kyrgyzstan and Afghanistan. It has cooperated with the Tajik United Opposition and supposedly also with Taliban and Al-Qaeda. It is widely believed that the primary aim of this radical movement is to establish an Islamic Caliphate in Central Asia. See Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) (Analysis Research Consulting); *Analysis of Peace and Conflict Potential in Batken Oblast, Kyrgyzstan*, April 2004. <http://www.arc-berlin.com/pdf/ARC%20GTZ-Report-Kyrgyzstan.pdf>.

3. Current migratory patterns



Map of Central Asia, UNHCR, as of November 2010.

Between 2000 and 2009 the return of individuals to the homelands of their ancestors, which had defined the early transition period of 1990s, decreased significantly. Most of the mobile and active elements of the population had already left, and those remaining faced less tension and fear of inter-ethnic strife.

With the dissolution of the former Soviet Union, the elaborate systems of subsidies aimed at equalizing incomes and wealth distribution among social groups and regions were dismantled, resulting in growing disparities in economic and social development among the five Central Asian republics, and within their borders. Demographic imbalances and efforts to integrate the

newly-emerged market economies into wider markets further exacerbated differences in wealth distribution and development. Economic motivations became the key motive for migratory movements within and from the region. Geographical proximity, relatively cheap travel, visa-free regimes, common language and historical legacies have also facilitated these movements within the CIS region.

Although the number of forced migratory movements in the region was highest in the late 1990s following the dissolution of the former Soviet Union, and the civil war in Tajikistan, the recent increase of extremist movements and terrorist threats could well induce new waves of forced displacement. Political instability, inter-ethnic tensions and environmental degradation are likewise some of the reasons underlying current forced migration within the wider region.

(i) Labour migration

Within Central Asia, most labour migrants move from south to north - from countries deprived of natural resources and with a labour surplus, to resource richer countries where labour is in short supply. The main destination countries are the Russian Federation and Kazakhstan. Kazakhstan is the world's fifteenth largest recipient of labor migrants (as of 2010), the Russian Federation ranks second after the United States of America. Kazakhstan is also the eleventh largest migrant sending country in the world.²³ Combined, the Russian Federation, Kazakhstan, Uzbekistan, Armenia, Tajikistan and Azerbaijan hosted approximately 17.4 million migrants in 2009.²⁴ The

²³ *Migration and Remittances Factbook 2011*, Development Prospects Group, World Bank, UNDP 2009. <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Top10.pdf>.

²⁴ IOM; World Migration Report 2010, *The Future of Migration: Building Capacities for Change*. p 190.

Kazakhstan – Russian Federation corridor is the sixth largest migration corridor in the world, accounting for 2.6 million migrants in 2010.²⁵ Major destinations outside the CIS region are Western Europe, Middle East (UAE, Israel) and Turkey. Newly-emerging destination countries attracting labour migrants from Central Asia include South Korea and Japan.

Migrants contribute significantly to the economies of the region, in particular through remittances sent home. Tajikistan and Kyrgyzstan are countries where remittances represent exceptionally high ratios of Gross Domestic Product (GDP), and are thus acutely dependent on money transfers from their labour migrants abroad.²⁶

In general, people move from and within the region to improve their economic situations and prospects, and to escape social and political tensions, extreme poverty or marginalization of their communities. Despite increasingly restrictive regulations in some of the host countries, hopes of better social welfare, education opportunities, healthcare, working conditions, higher wages, while maintaining family relations, tend to prevail over the difficulties they face.

The removal of restrictions and growing liberalization of small and medium enterprises (SMEs) has led to a wide-spread growth in spontaneous, cash-in-hand, street trade, leading in turn to the emergence of large numbers of short-term migrants – so called “*chelnoki*” or shuttle-traders. These persons usually travel for short periods of time, ranging from days to months, buying

²⁵ *Migration and Remittances Factbook 2011*, Development Prospects Group, World Bank, UNDP 2009. <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Top10.pdf>.

²⁶ Tajikistan ranks first (35%) and Kyrgyzstan twelfth (15%). *Migration and Remittances Factbook 2011*, Development Prospects Group, World Bank, UNDP 2009. <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Top10.pdf>.

consumer products at wholesale markets at discount prices in CIS countries, Turkey, China or UAE, and then selling them in small quantities in bazaars or streets in areas of short supply. Most shuttle-traders are women originating from rural areas.

Many migrants cross the borders legally, and become irregular only at a later stage, either by working without legal permissions or by violating their terms of stay abroad. This irregular migration is largely the result of diverging labour laws applied by sending and receiving countries, combined with a low level of legal literacy and lack of information among migrants about legal migration channels. Many migrants resort to irregular channels because they are unable to obtain the necessary documentation, because of limited legal employment opportunities, or to avoid costs associated with excessively bureaucratic, lengthy and confusing migration regulations and procedures.

In the largest labour migrant hosting countries of the region - Kazakhstan and the Russian Federation - the number of migrants in irregular situations is estimated to be several times higher than the number of registered migrants.²⁷ According to IOM, in 2002 the number of legal migrants from Tajikistan in the Russian Federation was 16,800, while the actual number of undocumented labour migrants was estimated to be more than 600,000.²⁸ Similarly, Uzbekistan officially recorded around 16,100 legal labour migrants abroad, while total emigration from the country was estimated to be much higher.²⁹

²⁷ Mansoor, Ali; Quillin, Bryce; *Migration and Remittances: Eastern Europe and the Former Soviet Union*, World Bank, 2006, p. 104.

²⁸ Ibid.

²⁹ Ibid.

(ii) Female migrants

Gender policies promoting the equality of women, as applied in the former Soviet Union, were largely abandoned after 1991 in many of the former Soviet Union republics. The new environment of political, economic and social changes forced many women to explore new opportunities elsewhere, and migration became a tool for their gradual empowerment.

Migration has enabled women to achieve a new degree of economic independence and a higher economic status. Due to pressing economic challenges and inability to compete for employment at home, women were among the first to start experimenting with private entrepreneurship and SMEs, largely dominating the shuttle-trading business “*chelnoki*.” Financial returns have enabled them to buy land and properties, a development of significant importance for the Central Asian region, where traditions of male patriarchal domination still prevail in the ownership of land and inheritance rights. Migration has thus empowered women in overcoming some of the persisting patriarchal social and cultural norms, and family roles. Moreover, migration is often a way to escape domestic violence and forced marriages, still widespread in the region.

On the negative side, migration can render women vulnerable to various forms of discrimination and abuse, notably human trafficking, in particular for the purpose of sexual exploitation. According to a recent UNDP report, up to 10,000 people, mostly women, have been trafficked from the Central Asian republics to countries outside of the CIS, predominantly to the Russian Federation and Gulf States.³⁰

³⁰ UNDP; Central Asia Human Development Report, *Bringing Down Barriers: Regional Cooperation for Human Development and Human Security*, 2005. p.160.
http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_36.pdf.

(iii) Urban concentration of migrants

A pattern clearly observed in all countries of the region is a growing urbanization of migration, both internally and across borders. Internal migrants move from less developed rural to more developed urban areas, while both rural and urban migrants move across borders to booming urban areas. In Kyrgyzstan, for example, some 65% of migrants are in urban areas, whereas only one third of the country's population is urban.³¹ Drastic out-migration from rural areas puts additional strains on employment and social conditions in the cities, and results in changes in the labour force structure (shortage of skilled labour) and demographic imbalances in rural areas.

4. Displacement caused by natural disasters and environmental degradation

Catastrophes of this kind, especially when combined, are key driving forces behind internal displacement in Central Asia. Major environmental problems, such as desertification, soil degradation and deforestation, are man-made, resulting from ecologically unsustainable human activity, and create a heightened risk of natural disasters in this region,³² already prone to droughts, floods, landslides and mudslides. Indeed, the European Commission Humanitarian Aid Office (ECHO) estimates that natural disasters have affected some 5.5 million people in Central Asia (almost 10 percent of entire population) over the last decade.³³

³¹ Hajimuratova, Natalya; *International Migration in Kyrgyzstan*, analytical report, p.103. <http://unesdoc.unesco.org/images/0015/001579/157974eo.pdf>.

³² The European Commission's Disaster Preparedness Programme (DIPECHO) defines Central Asia as one of the world's most disaster-prone regions due to the high incidence of natural disasters, including intense seismic activity, frequent floods, mud and landslides. The European Commission; *Disaster Preparedness in Central Asia*, ECHO Regional Support Office, Amman, September 2010. http://ec.europa.eu/echo/files/aid/countries/Info_sheet_DIPECHO_CA_Sept2010_en.pdf.

³³ European Commission Humanitarian Aid Office Disaster Preparedness Programme (DIPECHO), Central Asia; <http://www.reliefweb.int/rw/rwb.nsf/db900SID/SNAO-5ZEJ8F?OpenDocument>.

Wide areas of Central Asia were seriously affected by the nuclear, industrial and agricultural practices of the Soviet era. In particular, intensive farming and irrigation practices to support the monoculture of cotton in the region, has changed the ecosystem in certain areas, and led to environmental degradation with a severe impact on the climate and on the economic, social and human development of the entire region. The lack of coordinated environmental policies, notably cross-border management of water and natural resources in the region, have tended to further aggravate risks, with negative impacts on local economies and on the overall socio-economic context in which displacement takes place.³⁴

Over half of Central Asia is prone to desertification, salinization,³⁵ pollution and a lack of arable land and drinking water, as well as a loss of biological diversity and adverse climatic conditions. As a result, entire communities find themselves deprived of traditional means of subsistence, leading to situations when ecological factors can trigger population movements. But the scope of such forced displacement resulting from environmental degradation is difficult to quantify, as those affected often move alongside those migrating in search of better economic and social opportunities.

One of the most seriously affected areas of the region is the Aral Sea basin. As a consequence of intensive farming and irrigation practices dating back to the 1960s, the Aral Sea has lost more than three-quarters of its volume. The diversion of water from the Amu Darya and Syr Darya rivers into the cotton fields of Central Asia resulted in pollution, salinization and the extinction of fish stocks. Pollution caused by fertilizers, pesticides and industrial waste has had a considerable impact on the change of climate in the entire region.

³⁴ IOM; *Internal Displacement in Central Asia: Underlying Reasons and Response Strategies*, final report, Vienna, May 2005.

³⁵ Ibid.

An estimated 2.5 to 3 million people live in the most affected areas of Kazakhstan, Uzbekistan and Turkmenistan.³⁶ Although the total number of displaced persons is not known, estimates indicate that it exceeds 100,000.³⁷ So far in Kazakhstan alone, at least 42,000 people have moved from the Aral Sea either further inside the country or abroad.³⁸ The continued deterioration of social, economic and environmental conditions in this ethnically complex region is likely to induce further internal and external migration.

The presence of former nuclear testing sites (notably Semipalatinsk area in Kazakhstan) and extensive nuclear waste disposal and tailing sites in Kyrgyzstan, represent other major environmental threats, with serious ecological, security and human development implications for the entire region.

Annual floods and land/mudslides in the mountainous areas of Tajikistan and Kyrgyzstan require prompt relocation of affected population, often with limited ability to provide integration assistance. The natural dam on Lake Sarez in Tajikistan had been repeatedly singled out as an area with a high risk of a large-scale disaster.

5. Refugees

Countries of Central Asian host about 10,000 refugees and asylum-seekers, of whom Afghans, Chechens and ethnic Uighurs from China constitute the largest groups. There is also a small number of refugees from the Islamic Republic of Iran and Iraq. The largest refugee hosting country of the region is

³⁶ UNHCR publication for CIS Conference (Displacement in the CIS) - *Ecological disasters: the human cost*, Refugees Magazine, May 1996.

<http://www.unhcr.org/publ/PUBL/3b5584c24.html>.

³⁷ Ibid.

³⁸ Ibid.

Kazakhstan, followed by Tajikistan.³⁹ Most of the refugees in the region reside in urban areas.

Most of the Afghan refugees in the region are long-staying, with slim prospects of repatriation. In some regions Afghan refugees are of the same ethnic background as the host country's population. Even if not the case, their former Soviet education, prolonged stay in the receiving countries, and knowledge of the local language and customs, have facilitated their social, and sometimes economic integration. Since 2007, the number of newly-arriving Afghan asylum-seekers increased in Tajikistan, Kyrgyzstan and Kazakhstan. These Afghans face greater integration challenges since most do not share the same ethnicity as local communities, and are less well educated.

Central Asia hosts a relatively large population of refugees *sur place* – mostly Afghan nationals who arrived in the region spontaneously or as a result of bilateral agreements between their host country and the country of origin, but who were subsequently unable to return as a result of political changes in the home country.

Recent intra-regional refugee flights were mostly triggered by the Andijan events in Uzbekistan in 2005⁴⁰ and by the violent clashes in southern Kyrgyzstan in June 2010.⁴¹

³⁹ According to UNHCR, Kazakhstan currently hosts 4, 340 refugees, Tajikistan hosts 2, 679 refugees. <http://www.unhcr.org/pages/49e45afd6.html#>.

⁴⁰ On 12-13 May 2005 the Uzbek authorities used military force to suppress a demonstration. According to official information, 176 people were killed. Unofficial sources suggest that up to 750 people died, including children, women and elderly. (International Crisis Group; *Uzbekistan: The Andijon Uprising*. Briefing No 38, Bishkek/Brussels, May, 25/2005.) Almost 500 refugees fled the country to neighbouring Kyrgyzstan, from where they were later resettled by UNHCR in Romania.

⁴¹ In early April 2010, a violent uprising in Bishkek led to the ousting of President Bakiyev and several members of his administration. The following period of political instability allowed inter-ethnic tensions between ethnic Kyrgyz and ethnic Uzbeks to resurface,

The latter resulted in the internal displacement of thousands of people, while an additional 75,000 refugees fled to neighbouring Uzbekistan. Most of these refugees returned back to Kyrgyzstan within several weeks after the conflict. Humanitarian efforts by the international community, including UNHCR and IOM focused primarily on providing emergency aid, protection and transitional shelter to returnees and to internally displaced persons in the south of the country.

6. Statelessness and migration

The dissolution of the former Soviet Union in 1991 left more than 287 million people in need of a new nationality.⁴² The newly-independent states of Central Asia faced complex issues of state succession and demarcation of territory, leading to internal and external migration on an unprecedented scale. Tens of thousands of people became stateless or at risk of becoming stateless, due to difficulties in acquiring or confirming the nationality of the country where they had once resided, or where they were living at the time of the break-up of the former Soviet Union.

The extent of statelessness in the region is not fully known. Many cases of statelessness dating back to the early independence years of 1990s have yet to be addressed, owing to legal gaps, complex procedures for obtaining or confirming nationality, or the incompatibility of national legislations with international standards aimed at the prevention of statelessness. Recent statistics suggest that there were over 30,000 stateless persons in Central Asia at the end of 2009, including 24,615 in Kyrgyzstan, 7,649 in

particularly in the south of the country. An outbreak of violence between these groups on 10 June in the southern city of Osh caused numerous casualties and the massive displacement of some 375,000 persons, of whom 75,000 persons fled to neighbouring Uzbekistan, and 300,000 were displaced within Kyrgyzstan.

⁴² Tan, Vivian; *Chasing the Propiska*, UNHCR's Refugees Magazine No.147, Issue 3, 2007. <http://www.unhcr.org/46d2e8dc2.pdf>.

Kazakhstan, and 2,626 in Tajikistan.⁴³ Turkmenistan does not provide statistics for stateless persons, but some 12,000 adults with documentation problems are reportedly registered with the Government.⁴⁴ The actual number of stateless persons and those at risk of becoming stateless may be considerably higher in all countries of the region.

Most stateless persons in Central Asia were citizens of the former Soviet Union, and have become stateless in the process of state succession. A number of stateless persons, and persons with undetermined nationality, did not follow the administrative procedures required to exchange identity documents within the assigned period of time following the independence of their respective countries of origin and now face problems confirming their nationality. Persons who moved back to the countries from which their ancestors had been forcibly deported during the Soviet era, constitute another group of stateless persons. Some children born on the territories of Central Asian states (including those born to foreign citizens or stateless persons) or to nationals residing abroad may be at risk of statelessness due to the lack of adequate legal safeguards to prevent statelessness at birth. Asylum-seekers and refugees arriving in the region may also be at risk of becoming stateless if unable to present to the authorities of the country of asylum a written confirmation of their previous place of residence. If this happens, they are neither formally recognized as stateless, nor able to have access to procedures allowing them to obtain citizenship.

⁴³ The figure for Tajikistan is based on data from last population census in 2000, and includes 326 persons officially registered by the Government of Tajikistan as being stateless. UNHCR: *2009 Global Trends. Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*, Geneva, June 2010. <http://www.unhcr.org/4c11f0be9.html>.

⁴⁴ Ibid.

The nationality laws of Central Asian republics define a stateless person as a non-citizen who has no proof of affiliation to citizenship of another state.⁴⁵ The proof of non-affiliation is provided by means of a formal written confirmation (*spravka*) issued by the person's country of former residence, stating that the concerned person is not the citizen of that country. An individual unable to obtain such confirmation (a time-consuming and costly procedure often hampered by the slow response of the relevant authorities) is not formally recognized as a stateless person, and may not therefore initiate nationality procedures.

The duration and effectivity of the process of registration of stateless persons varies widely across the region. Many applicants may be left in legal limbo for several years with no indication as to a potential outcome. The associated costs, including fees for residence permits, further exacerbate the dire economic and social situation of those concerned, who find themselves with no means of basic subsistence or social support.

International migration may also lead to new cases of statelessness owing to legal and administrative loopholes. People on the move, spending long periods of time outside their country of nationality, may lose their citizenship if unable to comply with certain administrative obligations, such as timely registration with their respective consulates abroad. Conversely, (protracted) statelessness may lead to migration, especially when stateless persons lack any prospects of gaining citizenship in a given country. The inability to exercise even the most basic rights and to secure livelihoods for themselves and their families may be another cause of cross-border migration of stateless persons.

⁴⁵ Article 6, Citizenship Law of Turkmenistan; Article 14(f), 2008 Citizenship Law of Tajikistan; Article 3, 2007 Citizenship Law of Kyrgyzstan; Article 1(c), Regulation on Citizenship No 3120, 1996, as amended in 2000; Article 2, 1995 Law on the Status of Aliens in Kazakhstan, No 2337; and Article 11, Citizenship Law of Uzbekistan.

7. Trafficking in persons

Its location between Europe and Asia, combined with the complex economic and social challenges of the transition period that followed independence, have made the Central Asian region fertile ground for trafficking in persons.

The deep-rooted habits of centralized economies and authoritarian rule, and the difficulties that followed the dissolution of the former Soviet Union, resulted in a decline in living standards. This in turn gave rise to the expansion of informal markets, and the formation of irregular migration channels, increasing the potential for trafficking in persons. Women were the most at risk. With the return to patriarchal traditions, their loss of social status, and the difficulties of the transition period, women were among the first to lose their employment, while the social welfare and support systems collapsed, with dire impact on their families.

Many victims of trafficking are recruited through their own networks of friends or relatives. The absence of transparent visa systems and relatively cheap and easily available flight connections within the region serve as significant enabling factors.

Difficult economic and social situations in some parts of the region require that all family members, including children, contribute to the family income. This pressure is all the greater in countries where requirements for school attendance are less strict, and where there is limited access to secondary education. The growth of informal markets and the re-emergence of child labour have made children increasingly vulnerable to abuse, exploitation and trafficking. Due to the difficulties posed by cross-border trafficking, children are generally more at risk of falling victim to internal trafficking.

The limited capacity of governments to manage migratory flows, and growing disparities in economic and social development among the countries of the region, further added to the development of human trafficking. Widespread irregular migration and limited available data make the identification of victims and monitoring of trafficking extremely difficult. More information is available on trafficking routes leading out of the region, than those leading into it.

Internal trafficking is believed to be widespread in the countries of the Central Asian region, due to its relative cost-effectiveness, lesser risk of detection, and fewer logistical difficulties as compared to cross-border trafficking. It takes place mostly from rural to urban areas where there is a high demand for cheap labour force. But it can also target seasonal work on plantations of cotton and tobacco, or construction sites, reaching its peak during the warm seasons of the year.

All countries of the Central Asian region are also considered to be countries of origin of cross-border trafficking in human beings. Kazakhstan and to certain extent also Kyrgyzstan and Uzbekistan are at the same time also countries of destination.⁴⁶ Due to their strategic location at the crossroads between Europe and Asia, most of the Central Asian republics are also used by traffickers as transit countries. Major destination countries outside of the region are the Russian Federation, Turkey and United Arab Emirates (Western Europe, Middle East, East and South Asia in general).

While trafficking for the purpose of sexual exploitation remains prevalent, trafficking for labour exploitation continues to be on the rise, often overlapping with drug trafficking. Turkey and countries of Western Europe are major destinations of trafficking for the purpose of sexual exploitation.

⁴⁶ IOM; *Fertile Fields: Trafficking in Persons in Central Asia*; Vienna, April 2005.

Kazakhstan and the Russian Federation are the main destinations of labour trafficking. Common destinations for both forms of trafficking are Israel, United Arab Emirates and South Korea. Some trafficking routes and destinations overlap with those used for labour migration (in construction or extractive industrial sites), indicating that trafficking for sexual exploitation also supplies sexual services for the growing pool of labour migrants.

II. Protection Challenges and Responses

A range of protection issues face people involved in movements during the travel and/or in host countries within or through Central Asia. Some are common to all, while others concern specific groups. The chapters that follow seek to identify the most pressing issues, as well as the responses being sought by countries or origin, transit and destination, and by the international community. The recommendations that conclude this paper serve to highlight further action that needs to be taken.

1. Some common challenges

Due to their geographical location between Europe and Asia, as well as their long, porous borders, countries of Central Asia are increasingly attracting migrants and refugees from Afghanistan, Iraq, China and Iran hoping to proceed further to countries of Western Europe or North America.⁴⁷ As Western countries tighten their migration policies and impose stricter visa and passport controls, many of those in transit end up stranded in Central Asia, often vulnerable to smugglers and people traffickers.

⁴⁷ Turkmenistan appears to be an exception due to its strict visa policy. Migration to the country is minimal and no asylum-seekers have been registered since 2005.

States in the region have acceded to most of the major international human rights treaties (see Annex 2) and their domestic legal frameworks provide for the direct application of international law. However due to a lack of experience, or to priority being given to bilateral or regional commitments, there have been occasions when the authorities have chosen to apply domestic law rather than international obligations of the state in question.

(i) Identification and assessment of urgent needs

Authorities may not always have the means to identify and address urgent protection needs of persons on the move, including asylum-seekers, unaccompanied children, victims of trafficking or victims of violence (including SGBV). Indeed, data on specific needs such as these are not always collected and analyzed in a consistent manner. Effective reporting mechanisms and channels for the referral of such cases to competent authorities are often inadequate or inexistent. It is therefore difficult for them to assess the scope of the problem, and ensure that the protection needs of all persons on the move are adequately addressed.

The absence of regularly updated and centralized electronic databases compiling information on migrants seriously hampers the exchange of information between countries, and among governmental bodies at national level. This detracts from the effectiveness of the referral mechanisms between competent authorities, and from the ability of these bodies to fully address specific needs of various groups of persons on the move, notably women, children, elderly persons, asylum-seekers and victims of trafficking or violence.

(ii) Freedom of movement, arbitrary arrest and detention

The right to freedom of movement for nationals is still not fully respected in some countries of the region, where exit visas are required for citizens in order to leave the country, or where “*propiska*” (registration documents) are denied to nationals arriving from rural to urban areas in search of better opportunities. Persons wishing to move, but who are unable to obtain required documentation, often opt for irregular migration. In such situations, they may be exposed to risks of human trafficking and smuggling.

In general, individuals attempting to enter the territory without proper documentation are detained at the border. Conditions in detention facilities are often poor and minimum standards of treatment are not always ensured. Once inside the country of destination, persons on the move may face difficulties in obtaining proper documentation or residence registration and permits, and find themselves at risk of administrative fines, detention or deportation.

(iii) Child protection needs

Most of the countries of the region have relatively strong child protection systems, but these do not always extend sufficient protection to refugee children, mostly due to a lack of awareness or absence of registration and profiling mechanisms that identify their particular needs.

Child labour in the region may be partially attributed to the legacy of the Soviet era, when it was regarded as part of the collective duties and vocational experience of adolescents. Despite intense efforts by the Central Asian governments to combat this phenomenon, child labour is reported to remain widespread, and to a certain extent socially accepted. Closely linked

to the social and economic situations of their families, children are perceived as having duties, and thus expected to share in family labour as from an early age. This is often manifest within migrant families engaged in temporary employment in seasonal agricultural work on cotton and tobacco plantations.

2. Protecting refugees and asylum-seekers

With the exception of Uzbekistan, all Central Asian republics have ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and have adopted national legislation to facilitate their implementation. Kazakhstan adopted a new law on refugees in December 2009. Turkmenistan is currently considering a revision of its law that dates back to 1997.

However, the absence of refugee camps and of large-scale cross-border movements have contributed to a low awareness of and interest in refugee and asylum related matters. The perception generally shared by the public and by some authorities, is that there are no longer refugees and asylum-seekers in the region. Meanwhile, increasing irregular migration and trafficking in persons have made refugee protection less of a priority for national governments. Too often, host communities and media do not understand the difference between migrants and refugees, the latter being equated with irregular migration, and viewed negatively by the general public.

(i) Access to territory and the asylum procedure

Strict border and migration control is one of the strongest features of the region, with a particular focus on the external borders of the former Soviet Union, particularly those with China, Afghanistan, Pakistan and Iran. Such

controls are mainly directed at containing the rising tide of irregular migration and trafficking in persons. Although states having ratified the 1951 Convention generally observe the principle of *non-refoulement*, also enshrined in their national asylum legislation, there have been some reports in recent years of problems of admission at the border, or of requests for the extradition of politically sensitive cases or of persons prosecuted on charges of religious extremism and terrorism.

Despite existing legal provisions against *refoulement*, prevailing administrative procedures thus do not always ensure that this principle is adhered to in practice. In particular, the lack of guaranteed access of all asylum-seekers to the asylum systems, as well as a lack of adequate documentation, increase the risk of arrest and removal. Admission practices tend to vary from country to country, often dependent on the nationality of the applicant: Persons not admitted to the asylum procedures run the greatest risk of *refoulement*.

Most countries of the region have not put in place regulations to facilitate cooperation between border guards and asylum authorities which would ensure that asylum-seekers arriving at the border are referred to relevant authorities for consideration of their asylum claim. Even in those countries where such regulations exist, they are often disregarded due to insufficient coordination between the relevant authorities.

The tight migration policies and fear of being denied access to a territory, induce a number of asylum-seekers to opt for illegal entry, rather than through officially designated entry points. This can render them vulnerable to abuse by expanding smuggling networks.

There are also some reported cases of asylum-seekers and refugees arriving or staying in the countries of the region with documentation of which the

validity has expired, or with no documentation at all. Some asylum-seekers intentionally conceal their identities for fear of being reported to the authorities of their countries of origin. The principle of non-penalization of illegal entry is not reflected in national legislations of all the countries of the region. Undocumented asylum-seekers in these countries therefore risk detention and *refoulement*. Even in those countries that have inscribed the principle of non-penalization into their legal provisions, undocumented asylum-seekers and refugees may face difficulties in registering their asylum claims, gaining access to the courts or fully exercising their rights.

Although recognized refugees are provided with identity documents, the latter are not always in full compliance with international standards. The issuance of Convention Travel Documents (under article 28 of the 1951 Convention) is yet to be implemented by all countries in the region.

Throughout the region, there is a tendency to register only those asylum-seekers who meet certain admissibility criteria. Some countries specify that an asylum claim must be submitted within a certain period of time following entry to the territory. Persons who apply for asylum after this deadline has expired might be denied registration, and thus at risk of *refoulement*.

Of particular concern is the risk of arbitrary extradition, which may occur as a result of legislative loopholes, when the authorities implement an administrative expulsion, or do not take measures to prevent the removal of a concerned person even though the extradition request has not been approved by the competent bodies. Extraditions may also occur as a result of insufficient knowledge of international refugee law or in cases when authorities give preference to bilateral or regional treaties relating to extradition over international refugee law.

The Border Management Programme in Central Asia (BOMCA) and the OSCE Border Management Staff College based in Tajikistan are conducting a series of trainings and seminars for border management staff. These trainings incorporate elements of human rights and refugee protection. The recently drafted Border Management Strategy and its Implementation Plan of the Republic of Tajikistan⁴⁸ offers a good example of cooperation between a government and regional and international organizations. This strategy notably prescribes important safeguards relating to human rights and the protection of refugees and asylum-seekers.

(ii) Reception facilities

Only two reception facilities for asylum-seekers and refugees currently exist in the region – one in Kyrgyzstan and one in Turkmenistan. The latter one is not operational since there have been no new asylum-seekers in the country since 2005. Although governments have manifested an interest in establishing of reception centres on their territories, there has as yet been no follow-up, due to financial and human resource constraints.

There are no refugee camps in the region. Most refugees reside in urban areas, enjoying relative freedom of movement. In Tajikistan, the authorities restrict the settlement of refugees in two urban areas, including the capital city.⁴⁹ As a result, refugees tend to settle in less developed areas, where employment opportunities are likely to be inadequate for self-reliance and basic livelihoods. Moreover, application of these restrictions may result in rejection of registration of asylum claims, refusal to issue or extend documents, and eventually in detention or *refoulement*.

⁴⁸ Drafted by the Government of Tajikistan with input from international organizations, including UNHCR.

⁴⁹ Resolutions 325 and 328.

In an effort to propose a comprehensive response to the needs and challenges faced by refugees residing in urban areas, UNHCR released in September 2009, a revised policy on refugee protection and solutions in urban areas. Tajikistan is among the countries selected for pilot implementation of this policy in practice.

(iii) Registration and profiling

Despite some progress, governments in the region have not yet developed a centralized and regularly updated electronic database of individual asylum-applications. The practice of sharing sensitive information on individual cases between the authorities in the region remains of particular concern, since it is essential to maintain the confidentiality of refugee claims.

(iv) Application of refugee status determination procedures

Most governments in the region have made efforts to bring their national legal frameworks in line with international standards. Refugee definitions under national refugee legislations generally comply with the definition set out in the 1951 Convention. That of the Kyrgyz asylum law specifies, moreover, that persons in real danger of being persecuted in armed and inter-ethnic conflicts can qualify for refugee status.

The Central Asian countries which are parties to the 1951 Convention have also established administrative bodies responsible for national asylum procedures. Remaining challenges relate to the influence of security concerns (see below) and political considerations into the process and the quality of the asylum procedure. While those originating from outside the CIS region generally enjoy access to national asylum procedures, asylum-seekers of some other nationalities can find themselves excluded from registration and state

asylum procedures. The reasons for the exclusion of certain groups of asylum-seekers are linked to bilateral political considerations, strategic relations and the general perception of asylum as a political, rather than humanitarian concept. These excluded groups of asylum-seekers, as well as those arriving illegally are thus often left in a legal limbo. The largest group of unregistered persons in need of international protection are Chechens who fled armed conflicts in the Chechen Republic of the Russian Federation.

National asylum procedures also tend to lack sufficient gender-sensitive components, while arrangements put in place to deal with child applicants are also inadequate.

No specialized country of origin (COI) research structures have yet been established by governments or civil society in the region, thereby limiting the access of national RSD authorities to up-to-date information. Many sources of such information are not available in Russian. Persons in need of international protection may not therefore be identified, or at least not in a timely manner. In order to help to bridge this gap, UNHCR has developed and put in place a regularly updated Russian language website compiling information necessary for status determination.⁵⁰

The refugee definition is often interpreted restrictively, and in general the rate of acceptance of asylum applications is very low throughout the region. Although, in principle, unsuccessful applicants have the right to appeal and to challenge decisions in court, in practice appeal procedures are difficult to access.

⁵⁰ Available at <http://www.isp-rus.info/>.

(v) Security concerns

Bilateral and regional agreements on extradition, rising national security concerns, and internal political instability as reflected in the continued turnover of authorities in some countries, constitute some of the key challenges to the protection of refugees and asylum-seekers in the region.

The 1993 Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (Minsk Convention) is one example of a regional instrument taking precedence over broader international commitments. This Convention (see chapter 7 below) provides for legal assistance between member states in criminal matters, such as extradition, including that of individuals at potential risk of persecution in their home countries. An individual included on a “wanted list”, and alleged by any of the member states to have committed criminal acts, is prevented from registering or applying for refugee status in any CIS state. Such provisions are not compatible with internationally recognized principles of refugee protection, including the principle of *non-refoulement*.

The protection of refugees can thus take second place to concerns over increasing irregular migration and human trafficking, which tend to occupy centre stage in public debates. Moreover, their rising security concerns tend to induce the authorities to put emphasis on refugee status determination, allocating less resources to assisting refugees or implementing durable solutions.

Asylum laws of some countries of the region contain exclusion grounds in addition to those laid down in the 1951 Convention. They include provisions that exclude applicants from asylum procedures on the basis of illegal entry

or stay, or on the basis of mere suspicion of terrorism, or membership of an extremist or of a banned religious organization.

(vi) Physical safety

While recognized refugees are generally treated in accordance with the law of the host country, there are occasional reports of harassment, extortion, detention or other threats to their physical safety.

SGBV suffered by refugee women and children is mainly domestic, and is often under-reported and even condoned by the refugee communities themselves, on the basis of accepted cultural norms and values of the group. This attitude hampers the effectiveness of prevention and response mechanisms.

(vii) Attaining self-reliance and other durable solutions

Attaining economic self-reliance constitutes one of the most intractable challenges for refugees in the region. Administrative procedures to obtain documentation, licensing and taxation can be prohibitive. Employers are often reluctant to engage refugees, who thus resort to undeclared self-employment in petty trade (green bazaars/local markets, retail) or to unregistered employment. The latter renders persons of concern vulnerable to exploitation and abuse by employers, to human trafficking, and to an increased risk of harassment, detention or deportation by the authorities.

Although access to primary and secondary education is generally ensured in all Central Asian countries, refugee children frequently drop out of school, mostly as a result of economic difficulties or language barriers.

For most refugees in the region, repatriation is not expected to become a viable solution in the foreseeable future. Good examples of social and legal integration of refugees have included large-scale naturalization programmes implemented by Kyrgyzstan⁵¹ and by Turkmenistan⁵² following the displacement caused by the civil war in Tajikistan.⁵³

On the other hand, the prospects for the local integration and naturalization of long-staying Afghan refugees, are less certain. Yet many of these refugees are already well integrated into their host communities. Like other groups, many Afghan refugees are well-educated and skilled, offering a considerable potential to the development of their host countries.

3. Preventing and reducing statelessness

Although none of the five Central Asian republics is party to the 1954 Convention relating to the Status of Stateless Persons, nor to the 1961 Convention on the Reduction of Statelessness, all have ratified core human rights instruments, such as the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights or the International Convention on the Elimination of All Forms of Racial Discrimination that affirm the right to a nationality and the enjoyment of human rights.

The laws on the legal status of foreign citizens, of most Central Asian countries, grant stateless persons the same rights as foreigners, or in some areas, as nationals. However, enjoyment of these rights is limited to persons

⁵¹ Kyrgyzstan naturalized around 9,310 Tajik refugees by the end of 2006. Source: UNHCR.

⁵² In Turkmenistan more than 10,000 Tajik refugees of Turkmen ethnicity received Turkmen citizenship, another 2,341 Tajik refugees of other ethnicities were granted residence permits in 2005. See UNHCR; Tajik Refugees to Become Citizens in Turkmenistan, August 2005. <http://www.unhcr.org/42fa23954.html>.

⁵³ In 2006 UNHCR gradually reduced its assistance to this group following the announcement of the cessation clause based on changed circumstances.

recognized as stateless by the governments. Stateless persons who have not been recognized as such, and therefore not granted legal residence, fall outside the scope of their application and face greater difficulties with access to education, healthcare, social welfare, legal employment opportunities, or with obtaining marriage and birth certificates. Their lack of documentation can also lead to detention and risk of abuse by the authorities.

Situations where statelessness is combined with other factors (such as poverty, conflict, inter-ethnic tensions or human rights violations) are of particular concern and may result in displacement. With no legal protection many stateless persons from Central Asia may opt for movement elsewhere, only to find themselves in situations of protracted displacement.

Problems associated with statelessness in the region are complex and challenging (see Part I, Chapter 6). But progress is underway. A significant number of stateless people have already been granted citizenship by the five Central Asian republics, and concrete steps taken by the governments to resolve the difficult issues involved.

In Kyrgyzstan, a major reform of nationality legislation has been undertaken. Under the recent nationality law, all citizens of the former Soviet Union permanently residing in Kyrgyzstan for the last five years are recognized as Kyrgyz citizens.⁵⁴ The new law, passed in 2007, also contains safeguards aimed at preventing statelessness caused by the renunciation of citizenship, and cancels previously set deadlines for the handover of 1974 Soviet passports. This action alone is expected to decrease the number of stateless persons in Kyrgyzstan by half.⁵⁵

⁵⁴ Article 5, Law of the Kyrgyz Republic on Citizenship of the Kyrgyz Republic (2007).

⁵⁵ UNHCR, *A Place to Call Home – The Situation of Stateless Persons in the Kyrgyz Republic*, Findings of Surveys Commissioned by UNHCR, Bishkek, 2009.

To encourage the repatriation of *Oralmans* (ethnic Kazakhs) the Government of Kazakhstan introduced special conditions for the acquisition of nationality by this group. They include an exemption from the rule on duration of permanent residence in the country and waiver of the requirement to renounce other nationalities before applying for Kazakh nationality.⁵⁶ About 76 percent of all *Oralmans* who have arrived in Kazakhstan since 1992 have reportedly obtained citizenship.⁵⁷

Other good practices in the region include multilateral and bilateral agreements on simplified procedures for the acquisition of citizenship. Particularly commendable in this regard are bilateral agreements between Tajikistan and Kyrgyzstan.⁵⁸ These agreements have allowed many Tajik citizens, including refugees, to obtain Kyrgyz citizenship.

Censuses have been conducted or are planned to take place in Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan between 2008 and 2012, and will help determine the extent of statelessness in the region, and identify persons at risk of becoming stateless.

The Regional Conference on Prevention and Reduction of Statelessness and Protection of Stateless Persons in Central Asia, organized in 2009 by UNHCR, OSCE and the Government of Turkmenistan, succeeded in enhancing common understanding of the issue of statelessness in the region,

⁵⁶ Articles 15 and 29, 1997 Law on Population Migration. Article 16 (1) Law of the Republic of Kazakhstan on Citizenship of the Republic of Kazakhstan.

⁵⁷ UNDP, *Status of Oralmans in Kazakhstan*; Almaty, 2006.

http://www.undp.kz/library_of_publications/files/6838-29587.pdf.

⁵⁸ Agreement Between the Kyrgyz Republic and the Republic of Tajikistan on Granting Citizens of the Republic of Tajikistan the Right of Renunciation of the Citizenship of the Republic of Tajikistan Through a Simplified Procedure and Acquisition of the Citizenship of the Kyrgyz Republic Through a Simplified Procedure (27 August 2003)

<http://www.unhcr.org/refworld/docid/40fe33804.html> and Provision on Simplified Procedure of Acquisition of Citizenship of the Kyrgyz Republic by the Citizens of the Republic of Tajikistan (25 May 2004) <http://www.unhcr.org/refworld/docid/40fe4c434.html>.

and plan for future cooperation to address remaining gaps. The conference was preceded by a series of national workshops in Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, some of which resulted in concrete action plans to address statelessness.

4. Combating trafficking in persons

Challenges related to trafficking in persons and to refugee protection are closely linked. Because of their vulnerable situation, refugees may fall victim to trafficking, while individuals who have been trafficked may be in need of international protection and access to asylum procedures if they have a well-founded fear of persecution if returned to their country of origin.

All five Central Asian republics have ratified or acceded to the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime.⁵⁹ Specific measures to protect trafficked persons have been put in place by some countries, including provisions for the temporary stay of such victims in the country.⁶⁰

Most countries of the region have enacted national counter-trafficking laws, developed action plans aimed at combating trafficking in persons, and established national coordination mechanisms. Existing initiatives are not, however, always fully implemented due to a lack of institutional and operational capacity or of financial and/or human resources. Mechanisms to identify and assist victims of trafficking are relatively sparse and do not always effectively respond to the specific protection needs of concerned

⁵⁹ Available at www.unodc.org/documents/treaties/UNTOC/Publications/TOC_Convention/Tocebook-e.pdf

⁶⁰ 2004 Law on Fight Against Human Trafficking of Tajikistan (article 20), 2005 Law on Trafficking in Turkmenistan, (article 16).

persons. The efforts of governments to prosecute and convict trafficking offenders are not always sufficient. Only a few prosecutions of suspected traffickers take place in any given country of the region, and the conviction rates remain very low.⁶¹

One of the most efficient forms of prevention and protection are hotlines operated by local NGOs. Shelters for victims of human trafficking have been established in almost all of the countries of the region. Counter-trafficking workshops and round tables, such as those organized recently in Uzbekistan, are an example of emerging good practices.⁶² Tajikistan has made significant progress in creating mechanisms for systematic and disaggregated data collection. However, due to the cross-border nature of trafficking in the region, without coherent and coordinated regional efforts, the problem is likely to escalate.

In addition to their national anti-trafficking legislation, all Central Asian states have ratified/acceded to the UN Convention on the Rights of the Child, and its Optional Protocol on the sale of children, child prostitution and child pornography. However, in most cases, specific measures for child victims are yet to be incorporated into national action plans and anti-trafficking policies.

Despite the commitment manifested by Central Asian governments to address child trafficking,⁶³ the extent of this phenomenon remains largely unassessed. This may be attributed to the lack of a common understanding of the concept of child trafficking, as well as to the fact that definitions

⁶¹ United States of America, Department of State; *Trafficking in Persons Report*, 10th Edition, June 2010.

⁶² A three-day workshop for capacity building of law enforcement personnel to combat human trafficking was organized by OSCE, and the embassies of France and USA, with the support of the Uzbek authorities in Tashkent in May 2010.

⁶³ One of the recent initiatives in this regard was convening of the Child Protection Forum of Central Asian Countries in 2006 in Astana with the support of UNICEF.
http://www.unicef.org/ceecis/media_5728.html.

contained in national legislations are narrower than those of international law. As a result, some of the situations of child exploitation may be either socially acceptable or not accounted for. Different age limits for minors set under national laws, may also lead to controversy over the identification of victims. The 2002 CIS Agreement on the Cooperation of States Parties on the Return of Minors to their State of Permanent Residence regulates procedures for the return of unaccompanied/separated children from one state to another.

5. Addressing the needs of persons displaced due to natural disasters and environmental degradation

There are a number of good examples of effective disaster risk reduction and responses, based on collaborative strategies that involve the participation of national authorities, civil society and international community. In Kyrgyzstan, for example, effective mechanisms were put in place after the 2003 landslide in Kara-Taryk.⁶⁴ Similar arrangements were made in Kazakhstan following the 2003 Zhambyl earthquake.⁶⁵

Of particular significance in this regard is Kazakhstan's 1992 Law on the Social Protection of the Populations Suffering from the Consequence of the Ecological Disaster in the Aral Zone, which outlines privileges and compensation awarded to victims of this disaster, as well as an action plan to mitigate the situation. Although other countries in the region have

⁶⁴ The Government provided persons affected by the disaster with land for relocation and interest-free loans for reconstruction.

⁶⁵ Government officials declared a national emergency and established an emergency committee to design adequate response strategies. The Government then quickly mobilized rescue teams and equipment. necessary for the evacuation of victims, prompt construction of temporary housing and provision of basic services. IOM; *Internal Displacement in Central Asia: Underlying Reasons and Response Strategies*, IOM Technical Cooperation Centre for Europe and Central Asia, Vienna, Austria, May 2005.

incorporated similar provisions into their own legal frameworks, financial and human resource constraints often hinder their full implementation.

Both Tajikistan and Kyrgyzstan have adopted state-sponsored internal migration policies, aimed at the relocation of persons from disaster-affected areas, using this approach as a disaster management tool.⁶⁶ Relocation within this framework may imply obligatory residence in designated areas, often with little or no assistance in terms of integration. In such situations, and if legal alternatives for resettlement or return do not exist, irregular onward movements to large urban areas or across the borders are often seen by the affected persons as the only solution.

In urban slums, the displaced blend with economic migrants. Owing to their irregular status and lack of registration and residence permits, they risk marginalization, lacking access to social services, healthcare, education and job opportunities. Bishkek, the capital city of Kyrgyzstan is an example of dense urban migration, with unregistered migrants and displaced persons living without adequate shelter and sanitation. As a result, a city originally designed for 500,000 is now hosting a population of more than 1 million.⁶⁷ Poor living conditions in such urban areas then motivate those affected to opt for further onward movement to abroad.

This onward migration of persons affected by man-made and natural disasters demonstrates the close link between displacement and migration. When integration becomes impossible, for lack of means to develop sustainable livelihoods, which is particularly frequent in the context of rural

⁶⁶ Tajikistan 2005 Voluntary Resettlement Plan to relocate 7,200 households between 2005 and 2010. Ibid.

⁶⁷ IOM; *Internal Displacement in Central Asia: Underlying Reasons and Response Strategies*, IOM Technical Cooperation Centre for Europe and Central Asia, Vienna, Austria, May 2005.

to urban migration, irregular international migration becomes the only option.

6. Protecting migrant workers

Only two countries in the region - Tajikistan and Kyrgyzstan - have so far ratified the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 1990, and the ILO Convention No. 97 on Migrant Workers of 1949. Tajikistan ratified also the ILO Convention No. 143 of 1975.⁶⁸ It is important to encourage more ratifications and implementations of these and other instruments.

(i) Increased harmonization of migration policies, avoiding over-regulation

Many countries of the region have developed extensive legislation on migration, with a proliferation of, at times, contradictory laws, by-laws and regulations.⁶⁹ Legal migration has tended to become a lengthy and difficult bureaucratic process for foreign workers and national employers alike, opening the door to illegal/undocumented and potentially exploitative working relations.

(ii) Alleviating the restrictive policies of destination countries

Restrictive policies and administrative requirements applied by some destination countries include quotas of employment opportunities for foreign migrants, thus compelling them to opt for risky, irregular migration. Moreover, migrants in irregular situations are likely to accept even the

⁶⁸ ILO Convention No.143 is complementary to No.97. It sets out specific guidelines for the integration of migrants into the host society and deals with issues of irregular migration.

⁶⁹ IOM analysis revealed that there were 232 laws, by-laws and regulations related to migration in Kazakhstan.

lowest paid jobs, potentially creating competition for local workers. Quota systems can thus have the reverse effect of damaging rather than protecting domestic labour markets. The exposure of migrants to abuse and exploitation is even greater when the authorities issue licenses and work permits only to employers. Migrants then become fully dependent on their employers and at risk of practices such as confiscation of identity documents, forced labour, violence or refusal to pay wages. Measures to alleviate current restrictive policies employed by destination countries are therefore vital.

(iii) Enhancing legal literacy and awareness among migrants

According to IOM, many migrants find themselves in situations of vulnerability and at risk of abuse due to their lack of knowledge of relevant legislation, including both their rights and responsibilities in the host country. Very often migrants rely only on their social networks in countries of destination, without sufficient awareness of legal requirements regarding registration or work permits.⁷⁰ Enhanced knowledge and awareness would help migrants avoid finding themselves unwittingly in dangerous, undocumented situations. As an example of a measure to address the legal illiteracy of migrants, a range of “Information and Resource Centres for Labour Migrants” has been established in Tajikistan to provide information, legal advice and other services to migrants prior to departure and upon their return.⁷¹

⁷⁰ International Federation for Human Rights (FIDH); *Regional Seminar Report on International Migration: Migrant workers, asylum-seekers and refugees in Eastern Europe, Central Asia and the South Caucasus*, Almaty, Kazakhstan, 28-30 November 2009.

⁷¹ IOM; Migration Research Series No. 40 *Migrant Resource Centres: An Initial Assessment*. (2009) The Centres are run by IOM in collaboration with local NGO and are financed by OSCE, the European Commission and the United Nations Development Programme. See also <http://www.migrant.tj/>.

(iv) Addressing challenges in migrants' countries of origin

Large-scale migration of young and economically active members of the population has a significant impact on national economies and on the demographic balance in the countries of origin.

The situation of migrants' families is of particular concern, especially the wives who are left behind, often in situations of extreme poverty and vulnerability. Measures to facilitate efficient and secure remittance transfer systems are essential in attempting to address this problem by enabling migrants to contribute to development and poverty reduction in their home countries.

Another issue of concern is the insufficient capacity of sending countries to facilitate the reintegration of returning migrants into local economies, offering limited options for employment or opportunities to invest foreign earnings.

7. Strengthening regional cooperation⁷²

This chapter provides an overview of regional specific structures put in place, and agreements concluded within their frameworks that have a significant impact on migration policies and practices of the Central Asian states. Most of these initiatives focus on facilitating intergovernmental cooperation on economic and national security issues. Some also include human rights safeguards, but these are not always implemented in practice. This is especially true of agreements to further the fight against terrorism. Most of the regional agreements on migration concluded in the 1990s reflect the

⁷² More detailed information on ratification by states of relevant regional instruments, as well as on their membership in selected regional organizations can be found in Tables 4 and 5 of the Annexes.

extensive migratory movements that followed the dissolution of the former Soviet Union, and focus in particular on facilitating free movement to enable deported people to return to their original homelands. The decrease in this type of migration and steady increase in economically motivated movements is mirrored in the subsequent shift of focus of regional initiatives to combating irregular migration and trafficking in persons.

(i) Commonwealth of Independent States (CIS)

Agreements adopted by CIS member states have included several that relate to labour migration, irregular migration, anti-terrorism and human rights. Of particular importance are the 1993 Agreement on Aid to Refugees and Forced Migrants,⁷³ the 1995 Convention on Human Rights and Fundamental Freedoms, and the 1993 Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters, known also as the ‘Minsk Convention’. The latter is of specific relevance to refugees and asylum-seekers, since it provides for legal assistance between member states on criminal matters such as extradition, including that of individuals at potential risk of persecution in their home countries. An individual appearing on a “wanted list” of persons alleged by any of the member states to have committed criminal acts, is prevented from registering or applying for refugee status in any CIS state. The 2002 Chisinau Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, which was signed by some CIS countries, adopts a more cautious approach than the Minsk Convention, refusing extradition in cases “where there are serious reasons to believe that

⁷³ Signed by Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan. Article 1 of the Agreement defines refugees as non-citizens of the receiving countries, who have been forced to leave their permanent place of residence on the territory of another country that is party to the Agreement. This agreement is therefore not applicable to refugees arriving from outside of the CIS.

extradition request is related to persecution for reasons of race, gender, religion, nationality or political beliefs.”⁷⁴

Particularly worth mentioning is the CIS conference process⁷⁵ of 1996 – 2005 aimed at addressing the challenges of population displacement and refugee problems in the CIS countries following the dissolution of the former Soviet Union. This process created a forum which allowed for analysis of population displacement and refugee problems in a humanitarian and non-political way, identified the main categories of concern and elaborated a non-binding Programme of Action for the CIS countries, incorporating a set of principles and practical measures for future management of all forms of voluntary and involuntary migration in the region. UNHCR, IOM and OSCE/ODHIR acted as joint secretariat for the Conference and provided technical support to the Follow-up Process. One of the outcomes of the conference process was an agreement of all stakeholders that a comprehensive regional approach was needed to address the challenges posed by both old and new situations of displacement and migration.

(ii) Eurasian Economic Community (EurAsEC)

The agreement to create EurAsEC was signed in 2000 by Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, and Uzbekistan. One of the main aims of this regional organization is to ensure the coordination of migration policies and facilitate the freedom of movement of

⁷⁴ Article 89 (f).

⁷⁵ Full name: “Regional conference to address the problems of refugees, displaced persons, other forms of involuntary displacement and returnees in the countries of the Commonwealth of Independent States and relevant neighbouring countries.” A joint assessment report of the Conference Process (1996-2000) prepared by UNHCR and IOM, in cooperation with OSCE/ODIHR is available at <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=3b0a29c75&query=CIS%20conference>.

citizens of its member states.⁷⁶ This includes efforts to harmonize the legislation of its member states, for which a Model Law on Migration and a Law on Inner Migration have been drafted.

(iii) Common Economic Space (CES)

The Working Group on Movement of Labour of the CES has drafted a series of documents, widely considered as the most comprehensive legislation on labour migration of the post-Soviet region. They include a draft Agreement on Free Movement of Citizens of the CES Members, a draft Agreement on Legal Status of Migrant Workers – Citizens of the CES and their Families,⁷⁷ and a draft Agreement on Cooperation between the CES Members in the Area of Protection of their Markets from Illegal Labour Migration from Third Countries.

(iv) Shanghai Cooperation Organization (SCO)

The SCO was established in 2001 by Kazakhstan, Kyrgyzstan, Tajikistan, China, Uzbekistan and the Russian Federation. The 2001 Shanghai Convention on Combating Terrorism, Separatism and Extremism⁷⁸ calls upon SCO member states to take measures against terrorism, separatism and extremism. Such measures include cooperation on border control and the extradition of individuals suspected of the above-mentioned activities. Through their 2005 Declaration of Heads of SCO Member States in Astana,

⁷⁶ To this effect, in November 2000 the five member states signed an Agreement on Visa-free Movement of Citizens of the EurAsEC Members within the Community. The visa-free regime ceases to exist in periods of increased security concerns on the territories of the member states.

⁷⁷ Includes a condition that implementation of this agreement shall not worsen the domestic market situation of the given country, which allows for possible domestic limitations to the admission of foreign labour migrants force.

⁷⁸ The Shanghai Convention on Combating Terrorism, Separatism and Extremism, 15 June 2001, available at www.unhcr.org/refworld/docid/49f5d9f92.html.

participating states have committed to denying asylum to all individuals accused or suspected of terrorism, extremism or separatism. The Astana Declaration makes no reference to international obligations of the member states, including the principle of *non-refoulement* enshrined in the 1951 Refugee Convention.

(v) Collective Security Treaty Organization (CSTO)

The CSTO was established in 2002 as a collective defence structure of the Russian Federation, Tajikistan, Uzbekistan, Kazakhstan, Kyrgyzstan, Armenia and Belarus. Under its 2002 Charter, the member states are obliged to “coordinate and harmonize their efforts in combating international terrorism and extremism...illegal migration and other threats to security.” CSTO has also elaborated its own list of terrorist and extremist organizations, including religious groups. One of the most recent developments has been the creation of a Working group on Asylum.

Conclusions

This study shows that mixed migratory movements to, from and within Central Asia are a complex phenomenon. They raise a number of challenges for all countries along a migratory route - be they countries of origin, transit or destination – especially when the movements take place in an irregular manner, as tends to be the case with increasing frequency. As highlighted in the study, people involved in these movements can face serious protection risks, which need to be better addressed. Moreover, unmanaged movements can result in wider negative repercussions for societies of origin, transit and destination, in social, economic and political terms. These problems cannot be resolved in isolation. They require a constructive, comprehensive and cooperative approach by all stakeholders at national, regional and international levels.

An analysis of past and current population movements to, from and within the region, reveals a number of unresolved problems arising from past displacements and the failure of states to integrate returnees or new arrivals, or to address their needs and provide them with appropriate protection. Such problems may result in further movements, often in an unregulated manner.

There is also an acute shortage of information on the nature and scope of mixed movements in the region. The absence of mechanisms for consistent collection of such data makes it hard to differentiate and analyse the different categories of persons moving within mixed migratory movements, as basis for the elaboration of adequate policies to address the specific protection needs of those concerned.

National, bilateral and regional initiatives put in place by states and regional organizations, mostly focus on labour migration, on combating irregular

migration, and on issues relating to national security. But there is no regional platform for a broader, structured dialogue on the challenges arising from mixed migration, in which all relevant stakeholders could participate, including countries of origin, transit and destination, civil society and the international community.

It is anticipated that the conference for which this paper has been written will provide a useful forum in which relevant actors can exchange information, undertake analyses, and formulate strategy. It will also be essential to envisage how this dialogue can be continued at national and regional levels, and translate into concrete action plans.

Recommendations

Following are some recommendations which could assist in addressing the protection and assistance gaps identified in this study. They are not exhaustive, and focus on actions for the short to medium term.

Collecting and analysing data on the protection and assistance needs of different groups of persons involved in mixed movements

- Governments in the region often have little information on the numbers, profile and needs of people arriving in their territories as part of mixed movements. The creation of national mechanisms for the systematic collection of data on persons involved in mixed movements would help governments to assess the scope of these movements more accurately, to develop tools to differentiate between various categories of people, and to address their needs.

Improving in-country cooperation and referral

- Establishing effective reporting mechanisms and referral channels between border management officials and migration and asylum authorities would facilitate prompt exchange of information, and ensure that persons who may be in need of international protection are identified in a timely manner, and that their claims are referred to the appropriate authorities for examination and further action. Joint training programmes and capacity-building activities that include border management as well as asylum and migration authorities would help ensure that such mechanisms function effectively.
- The establishment of joint task forces on mixed migration would also facilitate broader cooperation at the national level between border

management officials, migration and asylum authorities and other relevant actors.

Providing documentation

- Difficulties in obtaining exit visas, which are required by some countries for citizens wishing to leave, can result in recourse to irregular channels of migration. Lifting such requirements would therefore help to reduce irregular migration, and diminish the associated risks of human trafficking and smuggling. Similar considerations apply to restrictions on movement or settlement within certain countries.
- Provision of adequate documentation to asylum-seekers and refugees is essential to ensure that they are not detained or forcibly returned to countries where they would be at risk. Undocumented asylum-seekers and refugees can find themselves in a legal limbo, unable to register their claims, gain access to the courts, or exercise their rights.
- Issuance of Convention Travel Documents (CTDs), as provided by Article 28 of the 1951 Convention relating to the Status of Refugees, enables refugees to travel outside the territory of the country of asylum. Such documents are particularly important for refugees who wish to take up labour migration opportunities abroad.
- Simplified administrative procedures for registration of migrant workers and timely issuance of residence and work permits would enable countries in the region to further protect migrants from exploitation, abuse, unlawful detention and other human rights violations.

Protecting asylum-seekers and refugees

- Accession to and effective implementation of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (“1951 Convention”) is a key first step towards protecting refugees and asylum-seekers.
- The principle of *non-refoulement* is a cornerstone of the refugee protection regime, and also forms part of international human rights law. In addition to being embodied in Article 33 of the 1951 Convention, it is contained in certain human rights conventions, including the 1984 Convention against Torture.⁷⁹ It also forms part of customary international law. Measures to ensure that all asylum-seekers, regardless of their nationality, are registered and provided with access to national asylum procedures will assist to ensure that the principle of *non-refoulement* is respected.
- In Central Asia, as elsewhere, refugees are often forced to flee without proper documentation. This reality is reflected in Article 31 of the 1951 Convention (non-penalization of illegal entry), which states that refugees are not to be punished, detained or *refouled* because of illegal entry, or because they lack documentation.
- In line with the good practice demonstrated by Kyrgyzstan, the establishment of reception facilities for asylum-seekers and refugees will help to ensure that new arrivals are provided with all necessary assistance to meet their needs.
- It is important that commitments made under bilateral or regional agreements, in particular in relation to extradition, take the protection needs

⁷⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), available at: <http://www2.ohchr.org/english/law/pdf/cat.pdf>

of refugees into account, and do not detract from State obligations under international human rights and refugee law. The granting of asylum is always a non-political and humanitarian act.

- Clear specification in national and regional border management strategies that measures to combat terrorism are based on respect for human rights and the rule of law can be helpful in order to mainstream these principles into national practice.
- The establishment and regular updating of databases in Russian on country of origin information would enhance the capacity of national authorities responsible for refugee status determination to identify persons in need of international protection in a timely manner and to comprehensively assess their asylum claims.

Protecting children

- More frequent awareness-raising campaigns and the development of registration and profiling mechanisms focused on the specific needs of refugee children would complement existing child protection systems. Such systems, though frequently well-developed, do not always provide explicit protection safeguards for refugee children.
- National child protection systems may be further enhanced, in particular by monitoring implementation of legislation prohibiting child labour, and ensuring access of migrant and refugee children to primary and secondary education. The latter is particularly important in cases of a high drop-out of children due to the difficult economic situation of their families. Provision of language courses would help refugee children to overcome the language barrier.

Finding solutions for refugees

- Consideration may be given to establishing mechanisms to support the local integration of many refugees in the region, for whom voluntary repatriation is not feasible - notably for long-staying Afghan refugees, many of whom are already well-integrated into their host communities. Since many refugees are well-educated and skilled, they have the potential to contribute to the economic development of their host countries.
- Simplified administrative procedures to obtain documentation and necessary licenses could help refugees to become self-reliant, make a productive contribution to the host society and minimize their need to resort to illegal employment to ensure the basic survival of their families. If assisted to take up legal employment opportunities, refugees are at less risk of harassment, exploitation, abuse or human trafficking.

Preventing and reducing statelessness and addressing the needs of stateless persons

- The accession of all countries of the region to the 1954 Convention relating to Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness would be a major step forward in preventing and reducing statelessness, as well as in addressing the challenges that face stateless persons and those at risk of becoming stateless.
- Efforts to identify stateless persons and to gain a better understanding of the root causes and extent of statelessness, which is still largely unassessed in the region, could be enhanced by launching statelessness mapping exercises and establishing or improving existing procedures for determining whether a person is stateless.

- Efforts to prevent and reduce statelessness can be further strengthened by revision of certain legal provisions and administrative practices. These include provisions allowing citizens to renounce their citizenship without possessing the citizenship (or assurances of obtaining the citizenship) of another State, provisions mandating the loss of citizenship due to prolonged residence abroad without consular registration within a set period of time, or provisions under which stateless persons applying for residence permits or citizenship are required to submit a certificate to confirm that they do not possess the nationality of other States with which they have links, without providing for exceptions for situations where the States concerned fail to reply. An important step in order to prevent statelessness at birth is to ensure that all children are registered at birth by relevant state authorities.
- There are certain situations where (protracted) statelessness can result in further displacement, including movements across borders. Such situations may be avoided by allowing stateless persons to acquire nationality through simplified procedures, including through reduced residency and documentation requirements and waiving of fees. The granting of legal status, identity documentation and access to basic rights could help alleviate the difficult situation of persons waiting for the outcomes of the procedures.

Preventing human trafficking and addressing the needs of trafficked persons

- Prevention is an integral part of any effort to effectively address human trafficking. Programmes and campaigns providing relevant information to communities in both countries of origin and destination can help to empower those who may be at risk.
- Counter-trafficking initiatives by countries in the region could be further strengthened in particular with respect to identifying victims of trafficking

among labour migrants, refugees and asylum-seekers and providing them with the necessary protection and assistance, including legal advice and access to compensation. In order to facilitate an effective response to this transnational threat, targeted and coordinated action by all relevant stakeholders is to be encouraged, in addition to the considerable efforts already being deployed by local NGOs.

- An important element of efforts to provide protection to victims is ensuring that individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, and whose claim to international protection falls within the refugee definition contained in the 1951 Convention and/or its 1967 Protocol are recognized as refugees and afforded corresponding international protection.
- Counter-trafficking initiatives may also benefit from further efforts to assess the extent of child trafficking, in cooperation with international and local organizations with relevant expertise in this field. To ensure that child victims of trafficking receiving necessary protection and assistance, specific measures for child victims of trafficking may be incorporated into national counter-trafficking action plans and policies, with due regard to the best interests of the child. Increased efforts to harmonize the definitions of child trafficking under national legislation with those contained in international legal instruments, such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, would be an important step forward.⁸⁰

⁸⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), available at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

Protecting and assisting migrant workers in countries of origin and destination

- Ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families⁸¹ would constitute an important step towards the protection of the human rights of migrants.
- Efforts to provide protection and assistance to migrants can be further enhanced by ensuring effective implementation of existing regional agreements governing the movement of people.
- The collection of relevant migration data is an important tool to facilitate policy making. Developing mechanisms for cooperation among relevant stakeholders to share and compare migration data can be useful in order to formulate more effective migration management policies and practices.
- Precise assessment of labour market demand in both highly skilled and lower skilled sectors could help relevant authorities to tailor migration policies to better respond to the realities of the labour market.
- Issuance of work permits directly to migrant workers, instead of to their employers, can assist to prevent situations of risk and vulnerability, including labour exploitation and abuse.
- Gender-sensitive policies and initiatives are particularly important in light of the large proportion of female migrant workers participating in the “*chelnoki*” cross-border trade in the region. Protection of female migrant workers can be

⁸¹ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), available at: <http://www2.ohchr.org/english/law/pdf/cmw.pdf>

strengthened by developing a more comprehensive understanding of the demand for female labour migrants and the type of work and sectors they are engaged in, and then establishing legal migration channels to better meet this demand.

- The positive impact of migration on poverty reduction and development can be reinforced through adoption of further measures to facilitate the flow of remittances and to ensure that remittances and savings are used productively. Such measures could include programmes for families of migrant workers in countries of origin, or programmes for returned migrants focusing on skill-development and self-reliance.

Preventing irregular subsequent movements

- Efforts to integrate displaced persons and address their specific needs can assist to prevent further irregular movements, including across international borders. Such efforts could include provision of timely assistance and/or legal opportunities to migrate to other countries if return to their places of origin is not viable.

Raising awareness

- Awareness-raising campaigns for labour migrants, asylum-seekers and refugees involved in mixed movements can be used to provide them with information on their rights and obligations, as well as on overall situation and assistance available in host countries. This may diminish their risk of becoming undocumented and/or at risk of abuse.
- Awareness-raising campaigns can also assist to counter racism, xenophobia and hate crimes, and to reduce negative public perceptions of asylum-seekers, refugees and migrant workers amongst host communities and in the media.

It is helpful if awareness-raising campaigns explain the underlying causes of refugee movements, and highlight the actual and potential contribution of refugees and migrant workers to host countries.

Enhancing regional cooperation

- Regional organizations provide a useful platform for inter-State cooperation on issues of common interest and concern. The recent establishment of a Working Group on asylum within the Collective Security Treaty Organization structure is a good example of such cooperation. Other regional organizations, such as the Eurasian Economic Community and the Economic Cooperation Organization, are likewise active in the field of migration management. Cooperation within existing regional frameworks can be better coordinated with the aim of avoiding duplication and maximizing outcomes. These platforms could likewise be better utilized for dialogue on cross-cutting issues related to asylum and migration.
- Regional cooperation is an important element in developing and implementing efficient mechanisms to combat human trafficking, prosecute offenders and protect victims. Harmonization of respective national legal frameworks, adoption of common standards for the provision of protection and assistance to victims, as well as establishment of channels for information sharing, can create a basis for coordinated joint action to address this phenomenon.
- Creation of a regional cooperation framework involving all relevant stakeholders - including countries of origin, transit and destination, international organizations and civil society - could provide a useful platform for further dialogue on issues of common interest and concern in the area of mixed movements. UNHCR's 10-Point Plan of Action on Refugee Protection

and Mixed Migration and the IOM Strategy⁸² adopted in 2007 could provide guidance for the development of such a framework.

⁸² Available at <http://www.iom.int/jahia/Jahia/about-iom/lang/en>.

Annexes

Table 1: Estimated number and ratio of immigrants in Central Asian countries (2005 - 2010)
(in thousands of persons)

Country	Total Population		Immigrants		Percentage of country's population	
	2005	2010	2005	2010	2005	2010
Kazakhstan	15,194	15,754	2,973.6	3,079.5	19.6	19.5
Kyrgyzstan	5,221	5,550	288.0	222.7	5.5	4
Tajikistan	6,536	7,075	306.4	284.3	4.7	4
Turkmenistan	4,843	5,177	223.7	207.7	4.6	4
Uzbekistan	26,320	27,794	1267.8	1,175.9	4.8	4.2

Source: United Nations, Department of Economic and Social Affairs, Population Division (2009). *Trends in International Migrant Stock: The 2008 Revision* (United Nations database, POP/DB/MIG/Stock/Rev.2008), available at: <http://esa.un.org/migration/>.

Table 2: Number of refugees originating from and residing in Central Asian countries
(data as of January 2010)

Country	Refugees from	Refugees in
Kazakhstan	3,744	4,340
Kyrgyzstan	2,612	423
Tajikistan	562	2,679
Turkmenistan	743	60
Uzbekistan	6,669	555

Source: UNHCR, Statistical Snapshot; available at: <http://www.unhcr.org/pages/49e45afd6.html>.

Table 3: Status of ratifications of selected international treaties related to refugee protection and migration

Country	1951 Convention and 1967 Protocol	ICERD	ICCPR	ICESCR	CEDAW	CAT	CRC	OPSC	PTP	PSM	VCCR	ICRMW	ILO MEC	ILO MWC	ILO WFCL
	Refugee protection	Human Rights							TP	SM	CR	Migrant Workers			Child labor
Kazakhstan	1999a	1998a	2006r	2006r	1998a	1998a	1994r	2001r	2008a	2008a	1994a	x	x	x	2003r
Kyrgyzstan	1996a	1997a	1994a	1994a	1997a	1997a	1994a	2003a	2003r	2003r	1994a	2003a	2008r	x	2004r
Tajikistan	1993a	1995a	1999a	1999a	1993a	1995a	1993a	2002a	2002a	2002a	1996a	2002r	2007r	2007r	2005r
Turkmenistan	1998a	1994a	1997a	1997a	1997a	1999a	1993a	2005a	2005a	2005a	1996a	x	x	x	2010r
Uzbekistan	x	1995a	1995a	1995a	1995a	1995a	1994a	2008a	2008r	2001 s	1992a	x	x	x	2008r

r: ratification; a: accession; s: signature

1951 Convention and 1967 Protocol: Convention and Protocol relating to the Status of Refugees (United Nations, Treaty Series, vol.189, p.137.); **ICERD:** International Convention on the Elimination of All Forms of Racial Discrimination (1965)(United Nations, Treaty Series, vol.660, p.195.); **ICCPR:** International Covenant on Civil and Political Rights (1966)(United Nations, Treaty Series, vol.999, p.171 and vol.1057, p.407.); **ICESCR:** International Covenant on Economic, Social and Cultural Rights (1966)(United Nations, Treaty Series, vol.993, p.3.); **CEDAW:** Convention on the Elimination of All Forms of Discrimination against Women (1979)(United Nations, Treaty Series, vol.1249, p.13.); **CAT:** Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)(United Nations, Treaty Series, vol.1465, p.85.); **CRC:** Convention on the Rights of the Child (1989)(United Nations, Treaty Series, vol.1577, p.3.); **OPSC:** Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)(United Nations, Treaty Series, vol.2171, p.227.);

PTP: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)(United Nations, Treaty Series, vol.2237, p.319.); **PSM:** Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)(United Nations, Treaty Series, vol.2241, p.507.); **VCCR:** Vienna Convention on Consular Relations (1963)(United Nations, Treaty Series, vol.596, p.261.); **ICRMW:** International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)(United Nations, Treaty Series, vol.2220, p.3.); **ILO MEC:** ILO Convention No.97 concerning Migration for Employment (1949)(United Nations, Treaty Series, vol.120, p70.); **ILO MWC:** ILO Convention No.143 concerning Migrant Workers (1975)(United Nations, Treaty Series, vol.1120, p.323.); **ILO WFCL:** ILO Convention No.182 concerning Worst Forms of Child Labour (1999)(United Nations, Treaty Series, vol.2133, p.161.)

Table 4: Status of ratifications of selected regional treaties related to refugees

Country	CIS CHRFF	CIS AARFM	CIS AARFM (Protocol)	CIS Minsk Convention	CIS Chisinau Convention	SCO Shanghai Convention
Regional						
Kazakhstan	x	x	x	1994	2004	2001
Kyrgyzstan	2003	1996	2004	1996	2004	2001
Tajikistan	1998	1994	2004	1994	2005	2001
Turkmenistan	x	x	x	1998	x	x
Uzbekistan	x	1994	x	1994	x	2001

CIS CHRFF: CIS Convention on Human Rights and Fundamental Freedoms (1995); **CIS AARFM:** CIS Agreement on Aid to Refugees and Forced Migrants (1993); **CIS AARFM (Protocol):** Protocol to the CIS Agreement on Aid to Refugees and Forced Migrants (1995); **CIS Minsk Convention:** Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (1993); **CIS Chisinau Convention:** Chisinau Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases (2002); **SCO Shanghai Convention:** The Shanghai Convention on Combating Terrorism, Separatism and Extremism (2001)

Table 5: Membership of Central Asian countries in selected regional organizations

	CIS	CSTO	SCO	EurAsEC	CICA	ECO
Kazakhstan	✓	✓	✓	✓	✓	✓
Kyrgyzstan	✓	✓	✓	✓	✓	✓
Tajikistan	✓	✓	✓	✓	✓	✓
Turkmenistan	✓*	✗	✗	✗	✗	✓
Uzbekistan	✓	✓	✓	✓**	✓	✓

Notes: * Turkmenistan changed its status to associate member in August 2005, in accordance with its UN recognized international neutrality status. ** In 2008 Uzbekistan temporarily suspended its membership.

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List of Acronyms

BOMCA	Border Management Programme in Central Asia
CES	Common Economic Space
CIS	Commonwealth of Independent States
COI	Country of Origin
CSTO	Collective Security Treaty Organization
ECHO	European Commission Humanitarian Aid Office
EurAsEC	Eurasian Economic Community
GDP	Gross Domestic Product
ILO	International Labour Organization
IMU	Islamic Movement of Uzbekistan
IOM	International Organization for Migration
NGO	Non-Governmental Organization
OSCE	Organization for Security and Co-Operation in Europe
RSD	Refugee Status Determination
SCO	Shanghai Cooperation Organization
SGBV	Sexual and Gender-Based Violence
UAE	United Arab Emirates
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees