



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

INTERNATIONAL DIALOGUE ON MIGRATION
INTERSESSIONAL WORKSHOP ON
MANAGING RETURN MIGRATION
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BACKGROUND PAPER

Return in the broader context of contemporary migration

Today, with the ease of communication and transportation, migrants hail from more countries and arrive in more locations around the globe than ever before. Virtually every country in the world is now simultaneously, albeit to varying extents, a country of origin, transit and destination. In addition, migratory behaviour is increasingly complex and diverse. Compared to the past, when migration tended to be unidirectional and permanent, many more migrants now engage in shorter-term movement, circular movement between two countries, or movement to multiple countries, making return an important element of the process for many types of migration.

Return migration takes place in a variety of situations. For example, return may be part of labour migration arrangements, such as at the end of a temporary period of work abroad. Return is also part of a strategy to address irregular migration and secure national borders, including in cases of unauthorized entry or overstay and migrants stranded in transit or at destination. Often in large numbers, return also takes place in post-conflict/crisis situations, including voluntary repatriation of refugees and/or prisoners of war. In addition, return is employed with respect to unsuccessful asylum-seekers. Furthermore, migrants may choose to return spontaneously, including for economic, social and/or family-related reasons. It is important to note that in many of these situations, potential returnees may belong to vulnerable groups. As discussed in more detail below, the return of vulnerable persons requires special attention and consideration.

There are no accurate global estimations of return migration, due to definitional differences among different data sets as well as lack of data generally. In fact, much return migration is initiated by the migrant and undertaken without the involvement of States or other national or international actors, and is not necessarily recorded.

Underpinning consideration of return migration is the sovereign prerogative of each State to determine which non-nationals enter and remain on its territory, for what purposes, and under what conditions.¹ This prerogative must, however, be exercised consistent with human rights standards enshrined in international, regional and national legal instruments and customary international law.² Return migration must also be considered in light of the right of each person to

¹ Of course, States may choose to enter into arrangements which limit this prerogative, such as legally binding free movement regimes.

² Certain human rights standards are applicable to all migrants, while other rights are targeted to specific groups and circumstances (e.g. refugees, victims of torture, victims of trafficking, etc.). For more information on relevant instruments, see *Compendium of International Migration Law Instruments*, Perruchoud, R and Tömölová, K., (eds.), (T.C.M. Asser Press, the Hague, 2007).

return to his/her own country.³ All agree that human rights are critical to return migration, yet involved stakeholders may have different perspectives on how best to ensure their protection. This workshop provides an opportunity to explore and discuss the means by which return can be managed in a safe, orderly, dignified and sustainable manner, including accompanying measures relating to the well-being and reintegration of returnees.

Managing return migration: principal policy issues and challenges

Much return occurs spontaneously, without government involvement. Accordingly, relevant policy measures often primarily focus on creating an environment in the country of origin which provides migrants with incentives to return spontaneously and reintegrate; overcoming barriers to temporary return such as potential loss of authorization to re-enter the host country; ensuring that longer-term return is sustainable; and empowering returnees to re-establish their lives and contribute to the development of their country of origin. These and similar types of policy measures will be addressed in greater detail at the IDM workshop *Enhancing the Role of Return Migration in Fostering Development* (7-8 July 2008). The July workshop will also explore in more depth policy measures relating to return in the contexts of temporary and circular migration.

Where entry or stay is not authorized, a range of policy measures is relevant. Transparent, fair, efficient and humane policies and practices for the return of unauthorized migrants – whether voluntary or forced – are essential in maintaining the integrity of migration management systems, including legal migration schemes and the institution of asylum.⁴

- ***Taking a comprehensive approach to return management***

Return migration is rarely approached in a holistic manner or analysed in the broader context of migration management. Yet return is an important element of the migration process for many types of migration. As such, it relates to its other stages, including preparation to migrate, transit, entry, stay, integration and reintegration. How can policy makers anticipate and prepare for return, even in early phases such as preparation to migrate and entry? How can they ensure that policies relating to each stage are complementary and mutually supportive? What barriers exist to successful incorporation of return migration into overall migration policy frameworks and practices?

Furthermore, like migration generally, return migration is impacted by and impacts on related policy domains such as human rights, development, trade and health. For instance, the temporary or permanent return of migrants who have acquired skills abroad can make an important contribution to the development of countries of origin. In the realm of health is the potential negative effect of return on the well-being of the returnee and the receiving community if not properly managed, including in the context of large scale post-emergency return. What is the nature of the linkages of return with other policy domains, and why is it important to take them into account when devising return policies?

³ The right to return is enshrined, *inter alia*, in the *Universal Declaration of Human Rights, 1948* (Article 13(2)) and the *International Covenant on Civil and Political Rights, 1966* (Article 12(2)). Furthermore, in the context of trafficking and smuggling, the Protocols supplementing the *UN Convention Against Organized Crime, 2000*, enjoin States to facilitate and accept the return of their nationals or permanent residents.

⁴ See “Refugee Protection and Migration Control: Perspectives from UNHCR and IOM”, developed for the Global Consultations on International Protection, UNHCR document EC/GC/01/11 (2001), and the Berne Initiative’s *International Agenda for Migration Management* (2005).

- *Advantages of voluntary over forced return*

Perspectives on return as well as its definition differ from country to country, often depending on historical migratory patterns and the specific priorities, requirements and legislation of each. The working definitions that follow are included in order to facilitate discussion:

Voluntary return is the return of an individual to the country of origin, transit or a third country based on the free will and well informed decision of the individual in the absence of coercive measures. Voluntary return can be subdivided into two categories: *spontaneous return*, whereby the individual initiates and implements the return without the involvement of States or other national or international actors; and *assisted voluntary return*, whereby the individual receives financial and/or logistical support (and in some cases also reintegration support) from a State or other national or international actors. Persons returning through assisted voluntary return schemes may or may not be authorized to remain in the territory of the country of transit/destination.⁵

Forced return, on the other hand, is return of an individual by government authorities, under national law enforcement procedures, to the country of origin, transit or a third country, if the person does not leave the country by his/her own means or with the assistance of a State or other national or international actor before the deadline for return established by an administrative or judicial act ordering the person to leave the country.

Voluntary return is the option with the greatest convergence of interests for returnees, returning governments and governments in countries of origin. It takes account of the person's decision, allows them to prepare for the return, helps ensure respect for their human rights and avoids the stigma of forced return and its negative repercussions for successful reintegration. In addition, where the return is assisted, migrants receive counselling as well as financial and/or logistical and in some cases reintegration support. For returning governments, voluntary return is generally more cost effective, administratively less cumbersome, and helps avoid friction with national and international partners. For countries of origin, voluntary return helps ensure the rights and dignity of their nationals, may include reintegration assistance for these individuals and/or their communities and may provide future opportunities for legal migration of their nationals. How can return policy give priority to voluntary return over forced return?

Targeted outreach to potential returnees combined with return counselling and provision of information on assisted voluntary return options play crucial roles in ensuring that voluntary return is based on the free will of the returnee and that he/she is better informed and prepared for his/her return. What specific and detailed information should potential returnees be provided in order to make an informed decision, and who should provide return counselling (e.g. State agencies, non-governmental organizations (NGOs), international organizations)? What additional measures can be taken to ensure that voluntary return is truly voluntary?

Rapid and dignified returns of irregular migrants combined with other measures can work as a deterrent to others contemplating irregular migration and provide a clear message to traffickers and smugglers that their activities will not succeed. Furthermore, rapid and dignified return of unsuccessful asylum seekers can help preserve the integrity of asylum systems. The existence of a link between forced return and voluntary return is broadly acknowledged: if forced return is not rapidly and successfully carried out, fewer people will choose to return voluntarily and thus voluntary return is less likely to be a viable alternative. States have a legitimate sovereign

⁵ Some people who are authorized to remain may choose virtual return rather than actual return (e.g. "return" via teleconference in order to teach a course).

prerogative to undertake forced returns in cases where continued presence is not authorized and the migrant does not consent to voluntary return.⁶ In these cases, what measures can be taken to ensure that the return is fully consistent with international, regional and national standards, including human rights law, and is undertaken in a safe, orderly and dignified manner? How can forced and voluntary return programmes be designed so that they are complementary and mutually supportive? Should return operations be monitored and, if so, by whom?

- *Sustainability of return; reintegration support*

Returning to the country of origin can be difficult for returnees. Where the structural factors that compelled people to emigrate in the first place are not addressed, a substantial number of returnees will continue to pursue options to emigrate again. What can be done to avoid the potential vicious circle of return of irregular migrants to a situation where returnees might once again be tempted to migrate through irregular channels? What interventions could help ensure that any future migration of returnees is both a matter of genuine choice and takes place under legal migration schemes?

Voluntary returns are generally considered to be more sustainable than forced returns. In order to help address sustainability of returns, many returning countries provide assistance for the economic, social and cultural reintegration of the returnee, including health care. Assistance may be provided directly to the migrants (e.g. cash grants, referrals to available services, vocational training, small business development) and/or in the form of assistance to the communities of return. Which stakeholders are best situated to provide reintegration assistance? What balance should be sought between cash assistance and in-kind assistance? What balance should be sought between assistance to the individual returnee and assistance to the community of return? What types of reintegration support can be effective in ensuring the sustainability of return without creating pull factors/incentives to migrate in an irregular manner? What degree of post-return monitoring is desirable, and who should do the monitoring? Given the limited data on the sustainability of returns, what additional research would be useful for policy makers?

- *Capacity issues*

Lack of capacity to manage return – and other migration matters which relate to return – poses persistent challenges. For example, countries of destination may lack capacity to implement voluntary return programmes, provide adequate accommodation pending removal, issue travel documents, execute expulsion orders, and bring national legislation relative to return into compliance with relevant international or regional standards. In addition, countries of origin and transit may face difficulties in receiving returnees, particularly in large numbers and/or in post-conflict situations or situations involving significant environmental degradation. Furthermore, countries of transit may face limitations in their ability to address adequately the situation of

⁶ IOM's role in return operations arises in situations where there is a special interest of States to involve an international organization for the provision of return arrangements. IOM's assistance in the physical return movement of such persons is limited to returnees who volunteer to accept return under IOM auspices. IOM considers that voluntariness exists when the migrants' free will is expressed at least through the absence of refusal to return, e.g. by not resisting boarding transportation or not otherwise manifesting disagreement. For more information on IOM's role in return, see IOM Council Documents MC/INF/236 "IOM Return Policy and Programmes: A Contribution to Combating Irregular Migration", 5 November 1997; MC/EX/INF/51, "IOM Policy Concerning Its Assistance to Unsuccessful Asylum Seekers and Irregular Migrants Returning To Their Country of Origin," 29 March 1996; and MC/INF/222 "Policies and Practices with Respect to Rejected Asylum Seekers", 3 November 1992.

intercepted irregular migrants as well as migrants stranded in their territories without means to pursue their journey onward or homeward. More generally, but with direct implications for management of return migration, countries of origin, transit and destination may lack capacity to manage their borders, ensure the security of identity and travel documents, establish identity where identity documents are missing or destroyed, and to adequately warn potential migrants of the risks of irregular migration. How can the capacities of countries of origin, transit and destination be built to manage better return migration?

- ***Tailoring return and reintegration assistance policies***

Considering that the socio-economic profiles and needs of returnees as well as conditions in origin countries differ widely, one-size-fits-all approaches to managing return migration are not the most effective. To what extent are country-specific return programmes needed to achieve sustainable returns? To what extent should reintegration assistance be tailored to the individual returnee?

What issues arise with respect to potential returnees belonging to vulnerable groups – including victims and potential victims of trafficking, victims and potential victims of torture, refugees, unaccompanied minors, women, elderly people and people with serious health conditions? What are the limitations on the ability of States to return these and other categories of vulnerable people? Assuming such persons may be returned, how should return and reintegration procedures be adapted to take into account their special needs? What types of special services and assistance might they need once they have returned?

Towards a cooperative approach to return migration

Engaging all relevant stakeholders at the national, regional and international levels, as appropriate, is essential if a broadened and more comprehensive understanding of return and effective return policies is to be achieved. The most successful return activities will be the most inclusive ones, which take into consideration the needs and concerns of countries of origin, transit and destination, as well as of the migrants themselves. What are the roles and possible contributions of these key stakeholders in return migration management? And those of other non-state actors? What forms of partnerships are desirable among these stakeholders in order to make the development of effective return policies and practices possible (e.g. bilateral cooperation between governments, active engagement of local communities, diasporas, and civil society)? At the national level, what inter-ministerial coordination is needed, and how can it be best achieved?

- ***Inter-state cooperation***

Countries of origin, transit and destination are impacted differently by return issues and accordingly have different perspectives and priorities. For example, for most destination and transit countries, the underlying issue is the integrity of their national migration management systems, including legal migration schemes and the institution of asylum. For many countries of origin and transit, large influxes of returning migrants may pose specific challenges to their capacity to “absorb” returnees in terms of reintegration and socio-economic stability. Furthermore, while countries of origin may re-gain talented nationals and those who acquired new skills abroad, they may also experience a reduction in remittances. These are but a few of the types of issues faced by countries of origin, transit and destination.

Informal consultation mechanisms such as the *5 + 5 Dialogue on Migration in the Western Mediterranean*, a *Cluster Process* initiative between the South Caucasus countries and several Western European countries, the *Regional Conference on Migration in the Americas* (RCM or Puebla Process), the *Migration Dialogue for Southern Africa* (MIDSA) and the *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime* have been useful in identifying common interests in the area of return migration for countries of transit, origin and destination, and have in some instances resulted in joint actions furthering these common interests.

Involving countries of origin and transit in decisions about when, where and how people will be returned can help facilitate the process and sustainability of return and reintegration. For example, how can bilateral or regional readmission agreements facilitate safe, orderly, dignified and sustainable returns? What sorts of cooperation between countries of origin, transit and destination can help overcome perhaps the most serious barrier to return: difficulty in establishing identity and obtaining travel documents? How can governments cooperate to build capacity and provide technical assistance? For example, how can returning governments help build the capacity of countries of origin and transit to receive returnees, particularly in large numbers? How can countries of transit be assisted in their efforts to return migrants to their countries of origin? What other types of support might be desirable, such as development assistance for education, health, infrastructure; visa facilitation for nationals of the country of origin?

- ***Partnerships with and between other stakeholders***

Other stakeholders such as civil society, particularly NGOs, international organizations and other institutions like the Red Cross and Red Crescent Movement have important roles to play in return policy and practice. For instance, in areas such as return counselling and information dissemination, non-governmental and inter-governmental organizations can be highly effective due to the relationship of confidence they often have with potential returnees. IOM cooperates with a number of countries of origin, transit and destination in facilitating the assisted voluntary return of migrants in need of return assistance as well as in enhancing the return capacity of States, in collaboration with a network of partners, including non-governmental and other inter-governmental organizations. Furthermore, engaging international organizations such as IOM and UNHCR in situations where migrants and refugees travel in mixed migration flows can help ensure that the special needs of vulnerable persons and persons in need of international refugee protection are adequately met.

More generally, non-governmental organizations help to ensure that the voice of migrants is heard in the development and implementation of return migration management policies. Migrants have their own perspectives on return – which will differ depending upon whether the return is spontaneous or assisted, voluntary or forced, among other factors – but generally all view safe, orderly and dignified return as a priority. How best to ensure that migrants actively participate in planning and managing their return and reintegration?

What role can and do other stakeholders play? For instance, what involvement of private sector actors such as airlines, contractors, etc. is desirable and appropriate, and what degree of accountability should they have?

The Way Forward

While return has been on international agendas for some time, the various and multifaceted aspects of return migration are just beginning to receive more focused attention. The view of the

international community on the issue of return is also shifting, due in part to reduced numbers of asylum seekers relative to recent years and a growing interest in temporary labour migration with its inherent return element. This workshop will provide an opportunity to identify and share policies and effective practices that provide for the greatest convergence of interests of countries of origin, transit and destination, as well as migrants themselves. With improved policy tools and enhanced multi-stakeholder cooperation, the international community will be better placed to address contemporary challenges of return migration and to ensure that return occurs in a safe, orderly, dignified and sustainable manner.