1) Context and background

The challenge of protecting the human rights of migrants has grown particularly with the feminization of labour migration, and the growth of irregular migration. Migrants at particular risk are children, domestic workers, those involved in forced labour and migrant smuggling, and victims of human trafficking. The recent global financial and economic crisis has also impacted on the rights of migrant workers; a good example of how a discussion on rights is directly relevant considering the links between migration and development.

There is a wide legal and normative framework for the protection of the rights of migrants, and a wide variety of international, regional, and national organizations and institutions dedicated to safeguarding these rights; and yet around the world migrant workers continue to experience violence, abuse, and exploitation. Four main explanations have been suggested. One is that the existing framework is insufficient: there is no single document consolidating the legal and normative framework on migration and no single UN agency responsible for safeguarding the legal and normative framework on international migration. A second explanation is that the most comprehensive legal instrument on the human rights of migrants – the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) – has not been widely ratified. A third explanation concerns an implementation gap – because of a lack of political will, capacity, and resources, some states do not deliver the rights contained in the legal instruments to which they are party. A final explanation is that the dynamics and dimensions of labour migration have changed since the main labour standards and conventions were adopted. (…)

Migrant smuggling and human trafficking expose migrants to special vulnerabilities, and there is wide consensus on the need to prevent and combat both processes. Very significant efforts have been made to develop a legal and normative framework and implement national laws and policies. Three sets of measures may be suggested to reinforce these efforts. First, measures need to be taken to ensure that the legal and normative framework is more effectively implemented. Second, national laws and policies can be strengthened, by addressing specific gaps and omission in national legislation, coordinating better data collection and sharing, supporting law enforcement, ensuring appropriate assistance for the victims of trafficking; promoting protection-sensitive border management; and enhancing national coordination and consultation mechanisms. Third, effective policies to combat migrant smuggling and

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1 The following section consists of excerpts taken from the background drafted to support preparatory round tables organized to help prepare Permanent Missions at United Nations (UN) Headquarters for the 3-4 October 2013 UN High Level Dialogue on International Migration and Development. The complete version of this paper is available at http://unobserver.iom.int/images/HLD_2013_Series_-_20_February_-_Background_Paper.pdf.
human trafficking require significant cooperation between origin, destination and transit states through which irregular migrants move, including the exchange of intelligence, information and data; joint criminal investigations; and specific agreements on return.

An overall challenge to protecting the human rights of migrants, promoting regular migration, and reducing migrant smuggling and human trafficking, is that the dynamics and dimensions of migration are changing rapidly, and in effect outpacing developments in the legal, normative, and institutional frameworks. There are four emerging issues of particular relevance in this context: mixed migratory flows, the prospect of migration induced by climate change, the situation of migrants caught up in crises, and the growth of the migration ‘business’.  

2) Guiding questions

   a) How could RCPs such as yours contribute to addressing policy gaps in the implementation of human rights of migrants agendas?

   b) What has been the experience of your RCP in addressing the human rights of migrants? Do you have examples of good practices/lessons learned to share?

2 Ibid., p.1f.