



**Human Rights Watch's Statement to
the IOM Governing Council
29 Nov – 2 Dec 2005 (90th Session)**

Human Rights Watch welcomes the opportunity to address the International Organization for Migration (IOM) and its Member States at the 2005 Governing Council meeting (90th Session).¹ As we have noted in the past, we continue to be committed to working with the Council and IOM to ensure that migrants' rights are protected and promoted in all IOM operations. We remain cognizant of the need to raise awareness about the human rights and refugee protection dimensions of global migration. In particular, we take the opportunity of the 2005 Governing Council to highlight our continuing general concerns regarding IOM's mandate and policies, as well as its specific practices.

IOM's Mandate and Policies

Since the early 1990s, Human Rights Watch has raised with IOM our concerns regarding IOM operations that have failed to meet fundamental human rights standards and for undertaking activities for which it has no formal mandate.² While we appreciate efforts IOM has made to respond to our concerns, we have often not found its explanations convincing. Our research continues to indicate that IOM activities do not always take adequate account of the rights of migrants.

While IOM recognizes that it lacks a formal protection or human rights mandate, it states that it is nonetheless committed to respect fundamental human rights, and that it provides de facto protection by virtue of its presence. While presence may be a prerequisite for protection, it is not sufficient to ensure protection. International humanitarian agencies that have specific protection mandates grounded in international instruments are equipped to provide protection both to citizens (in the case of internally displaced persons and returnees) and non-nationals (including,

¹ Human Rights Watch has held an observer status for IOM Governing Council meetings since 2002. Human Rights Watch has attended the 2002, 2003, and 2004 Governing Council meetings.

² See for example the papers submitted by Human Rights Watch at the 2003 and 2004 Governing Council meetings (86th and 88th Sessions) and the joint statement issued by Human Rights Watch together with Amnesty International during the December 2002 Governing Council meeting (84th Session). These documents are available from our website at www.hrw.org. In February 2004, IOM provided comments on the paper delivered at the 2003 Governing Council meeting. On September 23, 2004 Human Rights Watch wrote to IOM about its concerns about the Memorandum of Understanding between the Government of Sudan, the International Organization for Migration and the United Nations, and IOM responded by way of letter on 6 October 2004.

but not limited to, refugees and stateless persons). Lacking such a mandate, and operating as it does through significant bilateral funding from Member States for specific projects, IOM is inherently compromised in performing a protection role on behalf of migrants that at times necessarily requires a more confrontational response toward governments that are perpetrating or condoning abuses and other unfair or ill treatment of migrants and refugees.

Human Rights Watch remains concerned by the lack of adequate accountability mechanisms within IOM. We welcome the recommendation being presented under Item 9 of the agenda by the outgoing Chairman of the General Council for a "New Culture on Migration" to close the "governance gap" in the Organization so that IOM will "become less donor-driven and more responsive in a balanced way" to migrants as persons. The Governing Council has a responsibility to provide true, careful, and principled oversight, and we hope the Council makes real progress in this regard at the 90th session.

Governing Council oversight, including through improved governance structures, needs to evaluate IOM activities in several particular areas:

- the overlap of IOM activities with other international humanitarian organizations with more specific mandates and expertise;
- the lack of coherence and coordination of IOM projects with other humanitarian actors;
- the expansion of IOM into areas where it lacks competence and/or mandate;
- the engagement of IOM in return programs where direct or indirect coercion, insufficiency of informed consent, and/or the lack of follow-up monitoring of returnees suggests that the returns may not actually be voluntary.

Human Rights Watch has recently released several reports that illustrate some of these concerns. All the reports are available from our website.

IOM's Role in Zimbabwe

Our soon-to-published report, *Zimbabwe: Evicted and Forsaken: Internally Displaced Persons in the Aftermath of Operation Murambatsvina*, documents the collective failure of UN and non-UN agencies, including IOM, to provide adequate assistance and protection to hundreds of thousands of forcibly evicted persons in Zimbabwe. The report illustrates the problem of IOM's lack of a protection mandate and close relations with governments that abuse the rights of displaced people as compromising its ability to advocate for migrants' rights and provide protection in a context where protection is central to the displacement.

IOM is designated as the lead agency for provision of food and non-food items (including shelter) to the internally displaced in Zimbabwe, with more than 50 percent of the Common Response Plan budget directed to this agency.

Regarding food aid, in the vast majority of places visited by Human Rights Watch in Zimbabwe, internally displaced persons said that they had either received no food assistance whatsoever, or had received assistance once in July, and had received nothing since.

Representatives of IOM and a U.N. agency involved in food distribution told Human Rights Watch that they have faced serious problems in reaching the displaced with food assistance, as

the government has not wanted international agencies to target the people displaced by Operation Murambatsvina.

An IOM representative clarified that “two months ago [in August 2005] the Minister of Social Welfare requested that food distributions stop,” and the agency followed the order. According to the IOM representative, there was no further communication with the government on the issue of the suspension of food distribution.³

IOM provided Human Rights Watch with a datasheet which suggests that from June to September 2005, the food distribution program had reached 45,280 household, or 49 percent of households in need of assistance according to IOM’s estimates. The accuracy of the statistics is, however, questionable, as the monthly breakdown of figures does not make clear whether or not the same families receiving assistance on a monthly basis may have been counted several times in the calculation of the total or whether the total number refers to the number of packages distributed rather than families assisted.

With regard to shelter, six months into the crisis, IOM and other international agencies have been unable to overcome the resistance of the government and provide temporary shelter to any of the people displaced by the evictions, leaving hundreds of thousands of internally displaced people in appalling conditions--staying in the open; erecting rudimentary shacks with pieces of tin, wood or plastic they find in the rubble of the destroyed houses; or squeezed into tiny rooms with family members who have agreed to shelter them.

None of the shelter-related objectives set forth in July by the Interim Response Plan have been met by the U.N. country team or by IOM, leading the U.N. team to conclude in September that of people displaced by the evictions “the majority are still homeless in either a relative or absolute sense of the word.”⁴

On July 30, 2005, U.N. Habitat, UNDP and IOM launched a “pilot project” in Headlands, Manicaland, providing “shelter packages,” including tents and food “to some 123 families.”⁵ The U.N. Secretary-General’s spokesperson Stephane Dujarric welcomed the project, saying that the UNDP “plans to reach 40,000 households countrywide.”⁶ UNICEF spokesman James Elder said that the project was “in a way a case of U.N. best practice, with all U.N. agencies and IOM pushing in the same direction under difficult circumstances to help the people of Zimbabwe.”⁷

The pilot project, however, did not last long—on September 28, 2005, an IOM representative told Human Rights Watch that the tents in Headlands “had been put down by the police,” and that the government “said ‘no’ to any tents or plastic sheeting.”⁸ The IOM September newsletter, which describes the pilot project at length, contains a tiny footnote saying that “reports from the

³ Remarks by an IOM representative at the Human Rights Watch meeting with international agencies involved in humanitarian response in Zimbabwe, October 3, 2005, Harare.

⁴ “Common Response Plan for the Needs of Vulnerable Persons Affected by ‘Operation Murambatsvina/ Restore Order: September to December 2005,” Harare, September 5, 2005.

⁵ IOM Harare newsletter, No 2, September, 2005; “Zimbabwe: Pilot project provides shelter to cleanup victims,” IRINnews, August 17, 2005, [online] at <http://www.irinnews.org/report.asp?ReportID=48627> (retrieved on October 23, 2005).

⁶ Cited in: “Zimbabwe: Pilot project provides shelter to cleanup victims,” IRINnews, August 17, 2005, [online] at <http://www.irinnews.org/report.asp?ReportID=48627> (retrieved on October 23, 2005).

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⁸ Human Rights Watch interview with an IOM representative, September 28, 2005, Harare.

field indicate that the Headlands pilot project has been suspended.”⁹ The IOM representative interviewed by Human Rights Watch did not provide any details of the incident when asked about the project, but mentioned that the IOM “wrote a protest letter through the U.N. country team,” to which the government never responded.¹⁰

As far as Human Rights Watch could ascertain, the U.N. country team chose not to draw any attention to the failure of its shelter project, and did not further address the government’s deliberate disruption of its operations. Instead, the U.N. country team and the IOM proposed an alternative shelter project that was supposed to satisfy the government of Zimbabwe.

The new plan proposed by IOM to the government suggested providing temporary shelter in the form of wooden cabins to the people who had been allocated stands by the government through Operation Garikai, the government’s showcase shelter project, eligibility for which is highly restricted, and the operation of which is largely in the hands of the military.¹¹ During the first phase of the IOM plan, 2,500 cabins were supposed to be built. Although the plan was devised to fully accommodate the requests of the Zimbabwean government rather than to effectively address the needs of the displaced population, it was not until mid-November that the government reportedly finally accepted the UN offer to build 2,500 “units” for people made homeless by the evictions campaign.¹²

While the Zimbabwean government has indisputably refused to acknowledge the crisis and has deliberately obstructed international humanitarian assistance to this population, IOM and the UN agencies in Zimbabwe also bear responsibility for the continuing plight of the internally displaced. We acknowledge that IOM and all humanitarian actors in Zimbabwe operate in challenging circumstances and must choose carefully the means for advancing humanitarian objectives so as not to endanger their involvement in the country, but six months into the crisis precipitated by Operation Murambatsvina whatever strategies UN and non-UN agencies have pursued have not succeeded in providing basic assistance and protection for hundreds of thousands of people.

IOM’s other activities in Zimbabwe include a joint pilot project with the government to computerize the Harare International Airport to identify incoming and outgoing passengers, a project that will be expanded to other ports of entry.¹³ One must ask whether IOM’s close collaboration with the government of Zimbabwe on entry and exit control and on other migration management projects may, in fact, have contributed to the lack of success of its humanitarian assistance operation. When the government’s deliberate obstruction of IOM’s shelter and food delivery projects effectively paralyzed the humanitarian operation, the organization appears not to have addressed this blatant violation of the rights of the internally displaced through assertive advocacy with the government.

⁹ IOM Harare newsletter, No 2, September, 2005

¹⁰ Human Rights Watch interview with an IOM representative, September 28, 2005, Harare.

¹¹ Human Rights Watch interview with an IOM representative, September 28, 2005, Harare.

¹² “Zimbabwe Agrees to U.N. Aid for Demolition Victims,” *Mail and Guardian*, November 16, 2005.

¹³ IOM Briefing Notes, 21 October 2005, “Zimbabwe: Digital Immigration.”

IOM in Ukraine

This week, Human Rights Watch is publishing a report, *Ukraine: On the Margins: Rights Violations against Migrants and Asylum Seekers at the New Eastern Border of the European Union*.

The report documents the routine detention of migrants and asylum seekers in appalling conditions in Ukraine. It reports on pervasive corruption, and shows migrants and asylum seekers being subjected to violence, robbery, and extortion. The report demonstrates that Ukraine's asylum system is barely functioning. It shows that Chechen asylum seekers, in particular, are barred from access to protection and are regularly returned to the Russian Federation, raising concerns about refoulement.

The report notes that the E.U. is funding a € 4 million IOM project to develop two detention centers for migrants in northern Ukraine (Lutsk and Cernihiv). The future detention facilities are former military compounds in isolated areas, and were described in January by an IOM official as "sanatoriums."¹⁴ Work on this project was suspended because IOM did not have a counterpart in the government due to transition and institutional reforms.

Human Rights Watch has previously raised concerns about IOM operation of detention centers, particularly in its operation of the camps in Manus Island and Nauru, as part of the so-called Pacific Solution designed by the Australian government. Human Rights Watch concluded that these centers were, effectively, detention facilities, in which asylum seekers were being arbitrarily detained without access to legal assistance or an independent appeals body to review their asylum claims.¹⁵ Human Rights Watch is concerned that plans for new detention facilities in Ukraine are preceding the development of laws to regulate them, and, more generally, to regulate the detention of undocumented migrants and asylum seekers.

As part of an E.U. project entitled "Capacity Building in Migration Management: Ukraine," IOM commissioned studies on smuggling and trafficking, use of biometrics, and review of current migratory flows. When interviewed about the role of IOM on the asylum and migration scene in Ukraine, the head of the IOM office in Ukraine told Human Rights Watch that his role is limited to building detention facilities and contracting international experts to review Ukrainian legislation and assess local needs.¹⁶ His response to the concern that detention facilities are constructed in the absence of a proper legal framework and of effective remedies to allow the release of detainees was to suggest that such concerns are a matter for NGOs rather than IOM.

This response seems characteristic of IOM's current "culture on migration." We welcome a new culture whereby IOM will not serve as a means for states to bypass their obligations under human rights and refugee law.

¹⁴ Human Rights interview with Valery Danylin, Senior Program Officer, IOM Kyiv, January 17, 2005.

¹⁵ By Invitation Only: Australian Asylum Policy, Human Rights Watch report, December 2002, at <http://hrw.org/reports/2002/australia>.

¹⁶ Human Rights Watch interview with Jeff Labovitz, head of IOM Kyiv, Ukraine, April 4, 2005.

IOM in and around Colombia

In October, Human Rights Watch published a report, *Colombia: Displaced and Discarded: The Plight of Internally Displaced Persons in Bogotá and Cartagena*. The report shows that despite continuing insecurity in areas from which internally displaced people originate, the government's declared strategy with respect to internal displacement is return to home communities. To this end, it has offered housing subsidies to displaced families who return to their home communities. These subsidies are not available to families who choose not to return. The office of the UN High Commissioner for Refugees (UNHCR) has criticized this approach, saying, "The measure discriminates against those people who are unwilling to return and runs counter to the principle of voluntariness that should be present in returns."¹⁷

Many of the displaced with whom Human Rights Watch spoke in Colombia expressed serious doubts that they could return to their home communities safely. "It's a lie that things have improved," said one who had been uprooted for a second time after the government helped him and his family to relocate to his home area. "Things are worse. They're sending people to their deaths. Return means death.... What the government says? It's deceit, a lie, totally false."¹⁸

Despite these serious concerns, the government's policy favoring returns has support from the United States, by far Colombia's largest donor government. In interviews with Human Rights Watch, some U.S. officials echoed the official views of the Colombian government. A U.S. Agency for International Development (USAID) official in Colombia told Human Rights Watch, "We strongly support the policy of return."¹⁹

In October 2004, USAID entered into an agreement with IOM and the Pan American Development Foundation (PADF) under which USAID will provide \$100 million over the next five years to fund a joint IOM/PADF project to provide assistance to internally displaced persons and other vulnerable groups. Human Rights Watch urges the IOM Governing Council to be vigilant to ensure that this project does not support government initiatives that do not comply with international standards relating to returns.

With respect to Colombian refugees in the states neighboring Colombia, Human Rights Watch notes with concern a November 15 IOM press briefing note that alludes to IOM assistance to a group of more than 600 "displaced" Colombians who had fled to the northern Ecuador district of San Lorenzo in the province of Esmeraldas. The briefing note says that they fled "to escape fighting between the Colombian army and an illegal armed group, the Autodefensas Unidas de Colombia (AUC)." The press briefing note studiously avoids calling these people what on a prima facie basis they clearly appear to be: refugees.

Why does IOM prefer to use the term "displaced" to characterize people who cross an international border to escape fighting? The same press briefing note says, "IOM's Northern Border Development Programme is funded by the United States Agency for International Development (USAID) in coordination with the Ecuadorian government." In fact, IOM has also recently received \$2 million in funding from the U.S. State Department's Bureau for Population,

¹⁷ ACNUR, *Balance de la política pública*, p. 37.

¹⁸ Human Rights Watch interview, Ciudad Bolívar, Santafé de Bogotá, August 4, 2004.

¹⁹ Human Rights Watch interview with Kenneth Weigand, USAID, Santafé de Bogotá, August 17, 2004.

Refugees, and Migration for what, in effect, is refugee assistance work in the Colombia border regions of Ecuador, Venezuela, and Panama.

Human Rights Watch questions the obvious overlap of IOM activities with UNHCR in a situation where UNHCR has a specific refugee mandate and expertise. We question why the United State's Bureau for Population, Refugees, and Migration and USAID would both fund IOM to do refugee work in a place where UNHCR has an established presence. Is it specifically because IOM does not have a protection mandate? Does the U.S. government prefer to provide assistance without protection for Colombian refugees or through its funding to suggest that these are somehow "externally displaced persons" who ought not to be treated as refugees? By IOM's choice of the term "displaced" to describe them, is it also failing to accord them their full rights to protection as refugees?

Conclusion

Human Rights Watch urges the Governing Council to take a much more active and critical role in evaluating IOM activities in countries where the asylum system and/or immigration policy and practice routinely deny the right to seek asylum and violate refugees' and migrants' rights. IOM cannot be guided disproportionately by the dictates of individual Member States that are willing to fund projects that promote their particular state interests, but which do not necessarily take fully into account the rights of migrant and refugee populations.

We urge the Governing Council to establish policies to ensure that IOM does not engage in any activities that have the effect, either directly or indirectly, of obstructing enjoyment of basic human rights by migrants, refugees and asylum seekers. In particular, we urge the Governing Council to ensure that IOM does not assume responsibility for protection activities for which it does not have the mandate or the expertise. The Governing Council should establish independent and transparent accountability mechanisms and should provide that evaluations of IOM activities are easily accessible to all interested stakeholders, including NGOs.

In coming to this Council meeting Member States cannot leave their own obligations at the door. Member States bring with them their international obligations to protect the human rights of migrants, refugees and the internally displaced. Each state is responsible for ensuring that its own relations with IOM are not used to circumvent the rights of migrants, refugees, and other vulnerable groups and individuals.

We hope that IOM and the governments that make up its Governing Council will take these concerns into consideration when developing, implementing and evaluating IOM's policies, strategies, programs and operations.

Thank you.