
Check against delivery

Unmixing Migration

to fill Gaps in Protection and bring Order to Mixed Migration Flows

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Introduction

“Migration matters” was a key phrase in the presentation at the opening session of the excellent IOM World Migration Report 2008. Migration indeed matters *because it is mainly about people*. And that is more than a simple incentive to develop the mechanisms and procedures that are today needed to organise mobility. It also calls us to accompany people in their decision to migrate or NOT to migrate as well as to improve the capacity to receive and integrate migrants.

In that spirit, Ambassador Swing asked exactly the right question in his own report to the Council: “how do we manage the *human* component of globalisation—migration—*constructively*?”

To start with, ICMC believes there are two essential components to formulate an answer to this question:

1. Migration is a shared responsibility which involves various societal actors. Migration is not only about the mobility of 200 million people but about the mobility of societies and this involves many more actors.
2. Whether at international, regional or national levels, going this road together begins with acknowledging the facts and the gaps in discourse and action; gaps that are deeply affecting the lives of millions.

A few weeks ago, we invited all of our ICMC members in Asia, from Pakistan to Japan, from the Republic of Korea to Malaysia, to the first of a series of high level regional consultations to identify gaps and recommendations regarding refugees and migrants, and their families, in this age of mobility. Directly engaged in migration services and in development work, our members looked at gaps and made recommendations in six areas of international migration: family unity, forced migrants, labour migration, human trafficking, migration and development, and policy-building—gaps and recommendations that are relevant not only in Asia but across the globe. We have summarized those gaps and recommendations in a new publication Dignity Across Borders, copies of which are available for you in the back of the room.

It is one of the major qualities of faith-based organisations and other civil societal actors that we actually work in the gaps. The result is distinct voices from the field that are very often good

translators of the essentials of a problem statement, if not useful indicators of the solutions to be developed.

The pre-requisite of un-mixing migration

While ICMC has long been and continues to be among the strong supporters to preserve the special protection for refugees, we know that there are other groups of migrants whose vulnerabilities and suffering also cry out for protection, urgent care and assistance. We have all witnessed that when only one group in distress receives protection, others in comparable straits naturally look to enter those protection mechanisms and procedures, precisely because they may be the only security offered.

The image of “mixed migration” is therefore a compound, and to some extent also an obscuring picture. It is becoming increasingly apparent that if we want to come to solutions it is necessary, and time, to unpack —*un-mix*— the concept of “mixed migration”, because the *real* challenge of addressing mixed migration is to acknowledge the specific groups within those mixed migration flows. The gaps in protection and the broader legal mechanisms that affect them are not the same, and the ways to fill these gaps may likewise need to be diversified.

That is fortunately to some extent already happening: a growing body of national, regional and international law is expanding recognition of those broader categories of migrants as victims or otherwise singularly vulnerable, and therefore entitled to their *own* protection and/or services; for example, victims of trafficking, and unaccompanied minors. ICMC believes that such broader protection responses to any migrants arriving in distress not only facilitate the delivery of assistance but also dramatically improves identification and protection of the refugees among them.

Four Gaps:

Drawing from our last consultation with the ICMC members and pointing at the need to identify the various groups in the mixed migration, I would mention four principal gaps in migration today:

- Gaps in **point-of-arrival access to protection not only for refugees, but for other migrants arriving in distress;**
- Gaps in organising **safe and fair labour migration;**
- Gaps in preserving **family unity** in migration policy; and
- *Yawning* gaps in **solutions-oriented approaches to reducing forced and irregular migration.**

First gap: access to protection by refugees and other migrant victims arriving in distress

As we were turning to our debate here last Tuesday, there was a report of 115 more migrants from Africa forced overboard by smugglers in the Gulf of Aden. At least 22 of them drowned. Our members tell us, and UNHCR, IOM and various enforcement programs confirm that, like countless others trying to cross sea and land borders all over the world in dangerous ways, many in these movements are victims of trafficking, victims of torture, of violence, in many cases of serial brutalization at every step of their migration. The vast majority are victims of trauma, including witnesses of assault, of death by starvation or thirst or strangulation or suffocation, of provoked drownings. A number are women, many raped, and unaccompanied children.

Here the gaps are not so much in normative rights (for which a good number of frameworks already exist), but more in guidelines and the animation of rights: gaps in assuring first aid first, then assistance for recovery, careful differentiation, and referral to specialised agencies for protection or return. Of course, UNHCR, IOM, the Red Cross/Red Crescent societies, Churches and other faith-based and non-government groups actually work in *many* of these gaps in different places, often in partnership and with support from States, the EU as well as international organisations. Clearly Lampedusa, as has been mentioned, offers considerable inspiration, but responses *beyond* Lampedusa and on other sea and land borders of Europe, in the Caribbean, in the Americas, Africa and Asia are too ad hoc, inconsistent and under-resourced.

There is real momentum in addressing such gaps in protection, and we welcome that. We welcome in particular the new spirit of collaboration among UNHCR, IOM, and the Red Cross-Red Crescent societies. The High Commissioner's Dialogue on Protection last year sharpened the focus especially with respect to refugees and migrant victims of violence or trauma crossing borders, and we want to commend High Commissioner Guterres and UNHCR for that. Moreover, UNHCR's 10 Point Plan is exactly right—points 3, 4, 5 and 6 explicitly so—in calling for consistent mechanisms to respond to the gaps.

In the same spirit, ICMC has assembled a partnership of 23 NGOs and international organisations—including UNHCR and IOM—on a proposal to survey and exchange current best practices in these areas in the Africa-Europe-Gulf regions, and recommend policies for consistent first aid, recovery and referral responses, not only for refugees and asylum seekers, but also for these others, *entitled to or manifestly in need of protection upon arrival*: victims of trafficking, torture, trauma and violence in transit, especially women and children, regardless of their status. To date we have only received a funding commitment from the Council of Europe, and we are looking to the EU and/or individual States to make this urgent research and policy work possible.

Second gap: organising safe and fair labour migration

This is a gap in safe and ordered migration, or what IOM refers to as “front door” migration policies. Our consultation with members and separately the World Migration Report 2008 point to an overriding imperative to organise labour migration with laws, procedures and mechanisms:

- that better match supply and demand for workers in countries of origin and destination, which in turn will significantly reduce irregular and other dangerous forms of migration, in particular human trafficking and smuggling
- that provide appropriate information and cultural orientation, orderly departure, safe travel and legal working and residency status for migrant workers and close members of their family
- that do not discriminate with respect to types of work or workers (e.g., limiting rights and protections for domestic workers; restricting lower-skilled workers to temporary residency only)
- that support standards of living in countries of destination as well as origin
- that promote social cohesion, given that experience and research demonstrate unequivocally that decent employment is the principal driver of integration in any society

What may be an engine of cooperation and coherence in better organising safe and fair labour migration? Considering *preferences* in labour migration slots for forced migrants, among them perhaps *refugees first*, in protection-sensitive labour migration processes.

Next week's High Commissioner's Dialogue on Protracted Refugee Situations presents an opportunity to carefully explore the possibilities of some kind of *temporary legal status* under national or even regional immigration regimes as an interim, "endurable" if not truly "durable" solution, particularly for refugees in longstanding periods of exile, whose eventual resettlement, local integration or repatriation as well as time of displacement will be greatly enhanced by the work, skills-building and income generation that legal status would facilitate.

Third gap: preserving family unity in migration policy

Our members around the world and the migrants and refugees with whom we work tell us that families are actually being *de-unified*—systematically—more and more, due to ever-higher quotas that countries of origin are setting for the out-migration of workers (and inflow of remittances), the increasing adoption of DNA methods to limit family reunification, or by the new priorities for business and skills-based admissions. Over and above the fact that respect for families is itself a value and the right to family *unity* fundamental, experience and research also demonstrate that family unity is a *cornerstone* of social stability, in countries both of destination and of origin.

Fourth gap: solution-oriented approaches to reducing both forced and irregular migration

We probably are all familiar with the 3 durable solutions for *refugee* flows: resettlement in 3rd countries, local integration in countries of refuge, and repatriation. These solutions focus the world's efforts—and substantial financial resources—on solutions for *refugees*, in practical, organised ways.

We also need a solutions approach for migrants in *irregular* status. In our experience, there are also three solutions—*viable* if not durable, if you will—that help to manage irregular migration by actually *reducing* it:

- # 1. the organisation of safe and legal avenues of migration that match on the one hand, imperatives (and the irrepressible drive) to family unity, and on the other, the supply-demand realities of labour demographics in countries of origin and destination, e.g., IOM programming; an ICMC model for labour matching; European Commission job centers in Africa; Spanish and Canadian labour training and placement programs
- # 2. a reality-based integration of irregular migrants already present, including sensible and fair regularisation programs, e.g., Argentina, Spain and Thailand these past two years.
- # 3. development of decent jobs and other opportunities at home so that migrants can exercise the fundamental *right to not migrate*.

Like durable solutions for refugees, these will not solve *all* problems, but rather help to manage migration—and the challenge of irregular migration—far better, far more effectively than the current over-emphasis on enforcement and return.

Taking the road of a rights-based, solution-oriented approach

With all eyes on the suffering of so many men, women and children in international migration, ICMC has long advocated a rights-based approach to these gaps.

From time to time, we hear the suggestion that rights-based is not practical; that it is not "concrete" enough. May we say most clearly, that in our experience, the rights-based approach is not only solution oriented; it is a factory of solutions. We appreciate and believe fruitful the focus on rights in this year's International Dialogue on Migration.

In his address to the second Global Forum on Migration and Development in Manila two months ago, UN Secretary General Ban ki Moon noted that migrant workers were part of the solution (not problem) even to the global financial crisis. This is the final point I'd raise, and again with appreciation to the IOM World Migration Report: there is a structural need for migrants and their labour, low-skilled as well as high skilled, permanent as well as temporary, and worldwide, even in times of economic stress.

As has been noted, migrants and refugees are in this together. So are all of our organisations: mandates, competencies, resources. Mandate paralysis—either “not yours” or “not mine”—is simply not an option in these matters.

International cooperation, as my three colleagues at IOM, UNHCR and Federation of the Red Cross-Red Crescent have emphasised here, is essential, and may I add, you may continue to count on a full and constructive role in that cooperation by NGOs, faith-based and other civil society organisations like ICMC. But beyond this cooperation, coherence is an even bigger challenge. The European Union is taking important steps towards harmonisation, especially with respect to asylum and refugee resettlement policy, even if some of the recent harmonisation in enforcement matters clearly needs to be re-thought.

As Ambassador Swing has emphasised, at the Global Forum and again here to the whole Council, we, especially, need to be vigilant, and proactive, in this period of global finance crisis. History has taught us, and sadly continues to teach us that xenophobia in such situations is just around the corner. For the sake not only of migrants but of social cohesion—and even the national and regional security of countries of destination as well as origin, *that* road we need to avoid, and can.

May I suggest again doing this in shared responsibility and to better include and collaborate with those who work in the gaps.

Thank you.