

“Managing Return Migration”

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Return: to Solutions for a Change

Looking to Viable Solutions to Reduce Enforcement-related Returns and Irregular Migration

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I. Introduction

It's good to be a non-government organisation on this panel, which both recognises *and appeals to* our common interests in migration management:

- interests that States, international organisations and civil society actually *share* in reducing irregular migration;
- shared interests among an increasing number of countries with nationals abroad in *irregular* as well as regular immigration status; and
- without allocating blame, we can surely all agree: there is much MISERY in enforcement-related return of irregular migrants.

It's good also to share the panel with representatives of Cambodia, Germany and Libya. May I offer a special “*Sous'dai ch'nahm t'mai*” to the Womens' Minister of Cambodia (where it was just New Year's.) In the 80's and 90's I worked in refugee camps in Thailand, and was there for the return of 300,000 Cambodians. I was lucky enough to go back with them, and to work with reintegration and education programs in Cambodia another four years. I saw the careful—even ambitious—planning, and overall success of what was then an unprecedented repatriation program.

But at the outset may I say for ICMC and probably many other NGOs: **out of all issues in migration, enforcement-related return of irregular migrants may well be the hardest of the issues.** Maybe the way that I received the invitation to participate on this panel was a *warning*: it arrived at the office in a sealed plastic bag, with the corners ripped off all of the pages... Hmmm. It's also worth noting that *the European Union has been working on a “Returns Directive” for almost three years.*

The aim of these two days of workshops is: MANAGING MIGRATION. This morning I would like to do two things:

- emphasise that managing *migration* of irregular migrants does not require *managing* return, but rather **minimising** return by *reducing irregular migration; and*.
- re-focus our thinking on **practical, concrete durable solutions** that do precisely that.

II. ICMC Experience and Field-based Perspectives

I work for ICMC, which is a **global network** with 130 members engaged in every part of the world. ICMC members work with return in all forms, including receiving irregular migrants post-return.

ICMC itself has direct operations and staff in 40 countries, working on durable solutions and rights-based policies with refugees, internally displaced persons and migrants regardless of their faith, race, ethnicity or national origin. Some 3/4s of our programs are in direct partnership and funded with States, international organisations and Church partners at the international and local levels (*there are pamphlets out front.*)

ICMC partners with international organisations and States in multiple forms of **return programming**, most of it in post-conflict situations. Our work in the past 5 years has included:

- return of 70,000 Afghani *refugees*, managing transit camps and special programs for extremely vulnerable individuals among them;
- return of displaced *communities* following religious-ethnic conflict in Indonesia
- return and reintegration of *minorities* in the Balkans, often alongside IOM; and
- return of exploited *domestic workers and trafficked persons* from the Middle East.

Like IOM, we work hard at these return programs; among our big worries: Are the returns really voluntary? dignified? sustainable? And how do we honestly evaluate this work??

On more than one occasion, we have struggled in recent years with the question of working with States on enforcement-related return of *irregular* migrants; specifically regarding programs for intra-European return (one involving *unaccompanied minors*.)

- **We struggle with ethical questions:** our starting and central point is always: migrants are human beings. *Human dignity is not based on a passport or legal paper.* Regarding rights: on the one hand, every human being has a universal right to leave his or her own country (and many *objectively need* to in order for them or their family to survive.) On the other hand, each nation has a sovereign right to control its own borders. As this conflict of rights plays out across the planet, there is indeed much misery in enforcement-related return of irregular migrants.
- **We struggle with practical questions,** especially because our member Churches and partners in the countries to which migrants are returned ask us to help them. And we will.

There are **lots of difficult questions:** who is returned, and how; is the process fair; what about fundamental rights and reintegration, so we are grateful for the focus on these questions at this workshop.

But perhaps they are really secondary questions. Perhaps the first question is: isn't there a better way to manage migration than with such an emphasis on enforcement-related returns? That is: aren't there better, more reasonable and concrete policy *alternatives* to such return?

III. Analysis. *May I offer just 2 quick statements of context, then 3 propositions for consideration.*

I'd like to say most clearly, as context:

States have a sovereign right to control their own borders—to decide who can come in, and who must go out; who will have legal residence and working status, and who will not.

But that right is not an *absolute* right—even for migrants arriving or falling in irregular status.

- In particular, international law prohibits unequivocally the return of refugees, asylum seekers and targets of torture to countries where they are subject to serious rights violations

- for unaccompanied minors—*best interest determinations* are required as a minimum
- we would say: States should also not return
 - close family members, especially of long term residents
 - migrants who have no reasonable opportunities for survival/dignity at home.

Looking at the “record” of return programs worldwide, may I submit 3 propositions:

First: No matter how we look at it or structure it, other than situations of real rescue, such as of victims of human trafficking and stranded migrants, **most enforcement-related return of irregular migrants is in fact quite ugly**: *neither* States nor migrants would do it unless they had to.

- so though rights are critical to *any* return process, and meaningful assistance is of the essence—*absolutely* essential—for sustainable reintegration, we need to be careful not to *simply* try to *put a pretty dress on an ugly process*.
- more often than not, the ugliness endures post-return...
- at times return is violent (in one country, authorities have recently authorised the use of tasers specifically for removal of irregular migrants.)

So, the first proposition: *We need to work harder together, not so much to make such returns better, but to avoid them as much as possible.*

Second: Again, with the exception of rescues of victims of trafficking and others, **more and more, enforcement-related returns of irregular migrants fail**—typically part of a *fabric* of failures.

- of course such return is a **failure by the migrants themselves**, and in many cases also of migrant families and communities, in achieving the goal of that migration.
- in countries of destination/employment, return programs—even such threats—**drive other irregular migrants deeper underground, where they are only more vulnerable, more exploited**: in employment, housing, health and education—with all the negative implications for social stability and cohesion; while driving ever larger numbers of people into the worst forms of migration, including trafficking and dangerous border crossings.
- but in our experience on the ground all over the world, enforcement-related return most commonly fails because it **defies concrete, obvious realities**.
 - There is less and less coherence with demographic and economic needs, especially where returns are performed despite labour gaps and recruitment in the *same* countries doing the returning, and despite the value of migrant contributions to countries both of destination and origin.
 - *and on top of it all*: large numbers of returned migrants simply **re-return**. I believe IOM calls them the “double-hits.” In our experience, too, it’s at least double—in many cases, six times, *twelve* times that migrants try to enter, even across the deserts and on death boats. (That is, 6 times and 12 times *for those who are already caught and returned 5 and 11 times!* Manifestly, this is *temporary* return. Talk about “circular migration!”) As Global Forum Director Ambassador Régine de Clerq put it: **research tells us that people who are returned home do not stay if the conditions that made them migrate in the first place are not changed.**
- Yet regional and international communities spend **enormous resources, time and energy on this!**

So the second proposition: Given chronic failure at this, it is time for a *different* approach to irregular migration: a *solutions-based* approach.

Third, then: what works?

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 financial resources—on solutions for *refugees*, in practical, organised ways.

We need a solutions approach for those in *irregular* status. In our experience, there are in fact **THREE DURABLE SOLUTIONS—viable solutions—that help to manage irregular migration by actually *reducing* it**, with the result that “return” is no longer an issue of such prevalence. The 3 viable solutions:

1. The organisation of safe and legal avenues of migration that match the mutual need of destination countries and migrants

- e.g., IOM efforts; our ICMC model for labour matching; European Commission 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 for migrants to stay at home-- in particular, to exercise *the fundamental right to not migrate*.

- evoking targeted development programs;
- building on the practical and principled global “decent work” campaign of the International Labour Organization;
- the work of the new Global Forum on Migration and Development; and
- genuine reintegration support, like that described in IOM's publication Stories of Return.

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 return. They do so by bringing responses by States, international organisations and civil society *closer to today's migration realities*, and *measurably* reducing irregular migration.

IV. Close with 3 questions for us to address

1. **Isn't it time to *honestly evaluate* return programs?** Are returns *really* effective? Sustainable? Comprehensive evaluation—and research—is desperately needed.

2. **Given global structural realities and needs**, especially the economic needs of both destination and origin countries; the mutual need of employers and workers worldwide; the need and right of families to be together; the imperative of social cohesion; and the need of laws to match realities: ***is it possible that it is the law—not the migrants—that is most irregular?***

3. And finally: **isn't it indeed time for countries and the international system to refocus on *alternatives*** to irregular migration—real, viable solutions; knowing from experience that increased legal avenues, increased integration, and improved development in countries of origin are the surest ways to decrease irregular migration and manage migration overall?

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