

# BACKGROUND PAPER WMR 2010

## Irregular Migration and Mixed Flows



IOM International Organization for Migration

The opinions expressed in the report are those of the authors and do not necessarily reflect the views of the International Organization for Migration (IOM). The designations employed and the presentation of material throughout the report do not imply the expression of any opinion whatsoever on the part of IOM concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

Publisher: International Organization for Migration

17 route des Morillons

1211 Geneva 19

Switzerland

Tel: +41.22.717 91 11

Fax: +41.22.798 61 50

E-mail: [hq@iom.int](mailto:hq@iom.int)

Internet: <http://www.iom.int>

---

© 2010 International Organization for Migration (IOM)

---

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without the prior written permission of the publisher.

# BACKGROUND PAPER WMR 2010

## Irregular Migration and Mixed Flows

RYSZARD CHOLEWINSKI\*  
INTERNATIONAL LABOUR ORGANIZATION (ILO)  
[CHOLEWINSKI@ILO.ORG](mailto:CHOLEWINSKI@ILO.ORG)

\* Formerly of the Migration Policy and Research Department, International Organization for Migration (IOM), Geneva. While this background paper builds on a discussion paper prepared for the Ninety-Eighth Session of the IOM Council in November 2009 (IOM, 2009a), the views expressed here do not necessarily reflect those of IOM.



IOM International Organization for Migration



# FOREWORD

This paper is one of 19 background papers which have been prepared for the IOM, 2010 World Migration Report which is entitled the “Future of Migration: Building Capacities for Change”. The 2010 report focuses on likely future trends in migration and the capacities that will be required by States, regional and international organizations, civil society and the private sector to manage migration successfully over the coming decades.

Over the next few decades, international migration is likely to transform in scale, reach and complexity, due to growing demographic disparities, the effects of environmental change, new global political and economic dynamics, technological revolutions and social networks.

The 2010 World Migration Report focuses on capacity-building, first because it is good governance to plan for the future, especially during a period of economic downturn when the tendency is to focus on immediate impacts and the short-term period of recovery. Second, capacity-building is widely acknowledged to be an essential component of effective migration management, helping to ensure the orderly and humane management of migration.

Part A of the World Migration Report 2010 focuses on identifying core capacities in key areas of migration management. The aim is not to recommend “one size fits all” policies and practices, but to suggest objectives of migration management policies in each area, to stimulate thinking and provide examples of what States and other actors can do.

Part B of the World Migration Report 2010, provides an overview of the latest global and regional trends in migration. In recognition of the importance of the largest global economic recession since the 1930s, this section has a particular focus on the effects of this crisis on migrants, migration and remittances.

Frank Laczko  
Head of the Research and Publications Division  
IOM Headquarters  
Geneva, Switzerland  
Email: [flaczko@iom.int](mailto:flaczko@iom.int)



## INTRODUCTION

Mixed migratory movements are an everyday reality. Each commercial plane that arrives at an international airport is likely to contain a mix of passengers of different nationalities who have different reasons for making the trip, ranging from tourists, business visitors, students, incoming or returning family members and migrants coming to work temporarily as well as those arriving for permanent settlement. It may also contain refugees or persons seeking asylum or some other form of protection. Many of these passengers are likely to possess the appropriate documentation for admission to the territory of the State in question. However, it is more difficult to imagine a scenario at an international airport – at least, in a developed country – where no one on the aircraft has the correct travel documents or can easily be identified. Yet such scenarios are also an everyday reality, more often than not at the borders, or in certain parts, of the developing world or on the land or sea borders of developed countries – such as the southern shores or external eastern land borders of the European Union (EU), the Mexican–United States border, and the northern coastline of Australia. The governance of migration is piecemeal, at best, when confronted with challenges that fall “outside the box”. One of the greatest ongoing challenges States face to their sovereign integrity is the irregular and unauthorized movement of people. These challenges are likely to be amplified in the future, particularly with the spectre of climate change and the unpredictability of its impact on international migration. While it is conceivable that the “open borders” experiment in Europe, as reflected in the Schengen zone currently operating between 25 European countries,<sup>1</sup> in which internal border controls have been abolished, may well be replicated in other parts of the world where regional integration projects are taking hold, it is difficult to imagine governments, in the near future, relinquishing their sovereign prerogative to determine who may be admitted to their territory.

This background paper provides a preliminary assessment of the concept of mixed migratory movements in the context of irregular migration and the current capacities to manage them. Recent responses in this area have been largely motivated by actors in the international community and State capacities have been generally weak or ambivalent, including in those developed parts of the world experiencing mixed flows. The paper also attempts to gauge future scenarios and the capacities that will be required to respond to them. It contends that, absent the adoption and implementation of a clear normative framework regulating this field, responses to irregular migration and mixed flows need to be delivered in the context of a comprehensive approach to migration management, simultaneously taking account of the legitimate sovereign authority of States and the fundamental human rights of all migrants. Indeed, finding the political will to close the widely recognized gap between the universal human rights proclaimed at the international and regional level, and their effective practical application to all persons, irrespective of their nationality or immigration status (GMG, 2008; Amnesty International, 2006), is an important aspect of this approach. It is also essential to consider the whole “migratory life cycle” from pre-departure, transit and arrival, to post-arrival and return. Indeed, proactive measures initiated at the pre-departure phase can help minimize many of the abusive elements of mixed migratory movements. Examples of such responses are provided, drawing on the experience, work and activities of the International Organization for Migration (IOM).

---

<sup>1</sup> The Schengen zone comprises 22 out of 27 EU Member States (excepting Bulgaria, Cyprus, Ireland, Romania and the United Kingdom) plus Iceland, Norway and Switzerland.

## UNDERSTANDING MIXED FLOWS

IOM defines mixed flows as “complex population movements including refugees, asylum-seekers, economic migrants and other migrants” (IOM, 2004: 42). In essence, mixed flows concern irregular movements, frequently involving transit migration, where persons move without the requisite documentation, crossing borders and arriving at their destination in an unauthorized manner. Such movements occur in all parts of the world and also attract considerable public attention, especially when tragedies occur because of the dangerous conditions migrants face while in transit, at sea or in border areas. Irregular mixed migration presents particular challenges to States not only because it infringes on their sovereign prerogative to determine which non-nationals may enter their territory and under what conditions, but also because the persons involved in such movements are more likely to be subject to hardship, human rights violations and discrimination, and thus require special and individualized assistance.

The concept of “mixed migration” is essentially a construct of the Office of the United Nations High Commissioner for Refugees (UNHCR), which, in accordance with its mandate, is primarily concerned with the presence of asylum-seekers and refugees in such movements due to the established international legal principles of non-refoulement and refugee protection (Feller, 2006; Crisp, 2008), but it is important to understand the concept in a broader context. Mixed flows also comprise diverse groups of other migrants who may be particularly vulnerable: victims of trafficking, smuggled migrants, stranded migrants,<sup>2</sup> unaccompanied (and separated) minors, those subject to violence (including gender-based violence) and psychological distress and trauma during the migration process, vulnerable individuals such as pregnant women, children, the elderly and those in need of medical treatment, and migrants detained in transit or upon arrival. In addition, mixed flows may include migrant workers, cross-border traders and migrants moving for environmental reasons. While this paper discusses irregular migration and mixed flows, irregularity is not necessarily the defining feature of all of the above-mentioned categories of vulnerable migrants. For example, many victims of trafficking enter a country lawfully, as do men and women migrant workers and cross-border traders. Furthermore, many migrants may also simultaneously fall into two or more of these categories. Often, mixed flows include mixed motivations for the movement, which may also change in the course of migration, or involve onward or secondary movement, such as when refugees who have secured protection in the first country of asylum move on to another country, sometimes for economic or life-betterment reasons (Crisp, 2008; Van Hear et al., 2009).

---

<sup>2</sup> A working definition of stranded migrants has been provided by Dowd (2008: 4): “those who leave their own country for reasons unrelated to refugee status, but who become destitute and/or vulnerable to human rights abuses in the course of their journey. With some possible exceptions, they are unable or unwilling to return to their country of origin, are unable to regularize their status in the country where they are to be found, and do not have access to legal migration opportunities that would enable them to move on to another state.” Grant (2007: 30–31) has given a more extensive working definition: “The term ‘stranded migrant’ has no generally accepted definition. In practice, migrants become legally stranded where they are caught between removal from the state in which they are physically present, inability to return to their state of nationality or former residence, and refusal by any other state to grant entry. They may also be stranded where there are practical or humanitarian reasons [that] prevent them from returning home. Many of those who become stranded – including rejected asylum seekers, migrant workers, or other economic migrants – entered a country illegally, assisted by smugglers or transported at the hands of traffickers. Some are legally stateless.”



## CURRENT CAPACITIES TO MANAGE IRREGULAR MIGRATION AND MIXED FLOWS

Irregular migration is a phenomenon occurring in all parts of the world (Battistella, 2008). States have sought to manage it in a variety of ways, largely through control-oriented measures aimed at its prevention or reduction. Border controls, visa policies, forced or mandatory return, internal checks and labour inspections to detect unauthorized employment are just a few examples of such measures. In addition, less restrictive measures have also been pursued, including programmes for the regularization of migrants in irregular situations and the creation of more regular (legal) migration channels, especially for nationals from countries that generate irregular migration to the destination country concerned.<sup>3</sup> While it is widely recognized that unilateral measures by States are insufficient alone to successfully manage migration, this is especially true of irregular migration where the rationale is to avoid legitimate channels of entry or to stay beyond the permitted timeframe. In this regard, cooperation with countries of origin and transit has been pursued, especially by destination countries, often through formal readmission or return agreements. Less formal cooperation on preventing irregular migration also occurs within intergovernmental cooperation processes, organized on a regional basis or across regions. Examples of two processes in which the prevention of irregular migration features prominently include the Bali Process, focusing on the Asia-Pacific region,<sup>4</sup> and the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), which brings together like-minded States from the developed world.<sup>5</sup>

The abolition of border controls among the Schengen (and most EU) States in Europe and the advent of free movement of persons has been complemented by the emergence of a comprehensive policy to address irregular migration (European Commission, 2006 and 2008a), with the adoption of numerous measures such as controls on the external borders of the EU; visa policy; the production of uniform and secure travel and identity documents; measures to combat trafficking in human beings and the facilitation of irregular migration, including unauthorized employment; and a common policy on return, exemplified in EU-wide readmission agreements with third (i.e. non-EU) countries as well as the Returns Directive,<sup>6</sup> which has generated controversy in various parts of the world and particularly in Latin America (Acosta Arcarazo, 2009). Preventing irregular migration in the context of cooperation with third countries is an integral part of the external dimension of EU migration policy articulated in the Global Approach to Migration (European Commission, 2008b). The EU is also developing a common asylum policy comprising measures such as the establishment of criteria and mechanisms for determining the Member State responsible for examining an asylum application, reception conditions for asylum-seekers, the qualification and status of third-country nationals as refugees or as persons who otherwise need international protection, minimum standards on asylum procedures, and temporary protection. To date, however, no specific EU measures have been adopted to protect the rights of irregular migrants, despite statements that fundamental rights, such as access to education for

---

<sup>3</sup> For example, Italy has reserved a number of places in its annual labour migration quota for nationals of non-EU countries with which it has readmission agreements or with which it cooperates on irregular migration.

<sup>4</sup> Regional Ministerial Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. See <http://www.baliprocess.net/>

<sup>5</sup> IGC is an informal, non-decision-making forum for intergovernmental information exchange and policy debate on the management of migratory flows. It brings together 17 participating States (Australia, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, the United Kingdom and the United States), UNHCR, IOM and the European Commission. See <http://www.igc.ch/>

<sup>6</sup> See European Parliament, 2008: Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally-staying third-country nationals.

children or basic health care, need to be protected (European Commission, 2006: 3 and 2008a: 13), or to establish a holistic framework addressing situations of mixed flows.<sup>7</sup>

Initiatives responding to mixed migratory movements have largely been taken by various international organizations with different mandates regarding mobile populations, in collaboration with some governments. As discussed in section 3 below, a number of specific initiatives are mainly concerned with capacity-building activities. The UNHCR adopted a 10-point Plan of Action on Refugee Protection and Mixed Migration, which it revised in January 2007. The Plan identifies “protection gaps” in respect of refugees and “other persons of concern” to UNHCR at various stages of the mixed migratory movement (UNHCR, 2007). However, the proportion of asylum-seekers and refugees (including those in so-called “secondary movements” who move from the first country of asylum to another country) varies depending on the mixed flow in question, across regions and also within the same region. For example, according to UNHCR, considerably more asylum-seekers and refugees have been identified among the “boat people” crossing the Mediterranean to Malta and the Italian island of Lampedusa than among those arriving on the shores of the Canary Islands.<sup>8</sup> Interestingly, even those who obtain the official status of asylum-seeker granted by the authorities of some destination countries do not necessarily conduct themselves as such. For example, an April 2009 IOM assessment of Zimbabweans crossing the border into South Africa found that persons granted “asylum permits” by the authorities nonetheless continued to travel back and forth freely across the border between South Africa and Zimbabwe (IOM, 2009b).

After the Thirtieth International Conference of the Red Cross and Red Crescent in November 2007, the International Federation of Red Cross and Red Crescent Societies (IFRC) embarked on a strategic initiative in humanitarian assistance and protection for migrants, irrespective of their legal status, with a view to adopting a global policy on migration for its National Societies. In July 2008, it established a new office of the Special Representative for Migration.<sup>9</sup> Vulnerable migrants in mixed flows have also attracted the concern of regional organizations, such as the African Union and the Council of Europe, as well as of non-governmental organizations (NGOs).<sup>10</sup>

---

<sup>7</sup> The European Commission recognizes, however, that mixed flows present a number of challenges to EU Member States: “Mixed migratory flows where there are a plethora of reasons for individuals’ attempts to enter the EU, including for international protection, present Member States with an array of challenges. For this reason, an effective policy on illegal immigration has to respond to different areas of concern and, at the same time, ensure that international human rights obligations are fully respected, including the right to seek asylum” (European Commission, 2006: 3). The Stockholm Programme, which sets the agenda for the next five years of EU policymaking in the area of Freedom, Security and Justice, including asylum and immigration, contains wording urging the newly established European Asylum Support Office to develop methods to better identify those persons who are in need of international protection in mixed flows. See “The Stockholm Programme – An open and secure Europe serving and protecting the citizens”, OJ 2010 C 115/1.

<sup>8</sup> See, respectively, Mediterranean Sea arrivals: UNHCR calls for access to protection, UNHCR Briefing Notes, 9 January 2009, <http://www.unhcr.org/print/4967386e4.html>, and Gallagher et al. (2009: 9).

<sup>9</sup> Migration and protection issues – speech by Thomas Linde, Special Representative of the IFRC Secretary-General on Migration, to the UNHCR Executive Committee, Geneva, 8 October 2008.

<sup>10</sup> See, respectively, The Migration Policy Framework for Africa, AU Doc. EX.CL/276 (IX) (June 2006), pp13–14; Council of Europe Parliamentary Assembly Resolution 1637 (2008) of 28 November 2008, Europe’s boat people: mixed migration flows by sea into southern Europe, <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta08/ERES1637.htm>; and Unmixing Migration – presentation by John Ketelers, Secretary-General of the International Catholic Migration Commission (ICMC) to the Ninety-sixth Session of the IOM Council, 5 December 2008, <http://www.icmc.net/article/importance-unmixing-migration>

## THE FUTURE OF IRREGULAR MIGRATION AND MIXED FLOWS

What are the future prospects for irregular migration and for mixed flows, in particular? Predictions are largely futile. Irregular migration flows are impossible to estimate with any accuracy, although there is recent evidence demonstrating that irregular *labour* migration fluctuates in accordance with economic conditions. For example, estimates of undocumented migration across the Mexican–US border have decreased considerably since 2007 (Passel and Cohn, 2008), which is seen as a response to the decrease in employment opportunities as a result of the current global economic crisis and the role of migration networks in transmitting relevant labour market information to migrants. In Europe, detections of unauthorized crossings of the EU’s external land and sea borders during the first six months of 2009 dropped by 17 per cent compared to the same period in 2008, with Italy and Spain recording the sharpest reductions, according to the EU External Borders Agency, FRONTEX.<sup>11</sup> Moreover, movements of refugees and asylum-seekers are bound up with questions of good governance in certain parts of the world, whether these are viewed in terms of the impact of political developments at a country or regional level or the existence of protracted internally displaced populations with the risk of spillover across international borders.

Perhaps the single most indeterminable factor in attempting to gauge the future extent of irregular migration and mixed flows is the impact of climate change and environmental degradation (IOM, 2009c). While estimates of the number of persons who may move in the future due to climate change differ markedly,<sup>12</sup> according to which climate change scenario is advanced, considerable strains are likely to be placed on the capacities of States and the international community to respond to such movements.

### Is there a need for a “soft law” framework?

It has been contended that the international community is lacking coherent legal architecture to address irregular migration and mixed flows effectively and that steps should be taken to develop or consolidate existing applicable norms in a single authoritative document, or to initiate serious discussions on whether a more structured response is called for, at the global or regional level. Indeed, such a “soft law” framework has been advanced to better articulate and fill the perceived gaps concerning the protection of migrants’ human rights (Grant, 2005; Aleinikoff, 2007), akin to that formulated in the Guiding Principles on Internal Displacement addressing the situation of internally displaced persons.<sup>13</sup>

Pertinent to this discussion is the recent proposal calling for the formulation of a “soft law” framework to protect vulnerable groups of irregular migrants such as so-called “survival migrants”, including a mechanism to respond adequately to their needs and coordinate collaboration among relevant international agencies and other stakeholders (Betts, 2008; Betts and Kaytaz, 2009).

---

<sup>11</sup> Economy slows illegal migrants, *News 24.com*, 29 October 2009. See also FRONTEX, 2009.

<sup>12</sup> Such estimates range from 200 million to one billion (UNDP, 2009).

<sup>13</sup> For the text of the Guiding Principles on Internal Displacement, see <http://www.idpguidingprinciples.org/>

## ADDRESSING IRREGULAR MIGRATION AND MIXED FLOWS WITHIN A COMPREHENSIVE FRAMEWORK OF MIGRATION MANAGEMENT

Short of adopting and effectively implementing a comprehensive normative framework to respond to and address mixed flows in irregular migration, the capacity of States to manage such movements is arguably best addressed in the short-to-medium term through the lens of comprehensive migration management. This section of the paper considers some of the capacity-building measures and activities that can be foreseen at all stages of the migration process, with reference to practical examples from IOM's operational and policy experience.

IOM's mandate to address irregular migration and mixed flows is grounded in its Constitution and the IOM strategy adopted by the membership in 2007. As IOM observed in a 2008 Discussion Note (IOM, 2008a), the Constitution recognizes in its Preamble that: "international migration also includes that of refugees, displaced persons and other individuals compelled to leave their homelands, and who are in need of international migration services".<sup>14</sup> The IOM strategy underlines the need to support "States, migrants and communities in addressing the challenges of irregular migration" and "to provide migration services in other emergency or post-crisis situations as appropriate and as relates to the needs of individuals, thereby contributing to their protection".<sup>15</sup> Given this normative framework, IOM, in collaboration with its partners (1) directly assists particularly vulnerable migrants in situations of mixed flows and (2) provides support and services to governments and other relevant actors in their response to the challenges posed by such movements. In doing so, IOM endeavours to ensure that the support and services provided conform with a comprehensive approach to migration management, which, while addressing immediate needs, also takes into account the imperative to move towards more holistic solutions.

### Directly assisting vulnerable migrants

IOM develops and implements a wide range of programmes and projects to identify the specific needs of vulnerable migrants and provide them with individualized assistance and protection in accordance with fundamental human rights principles. For example, IOM's Global Assistance Fund provides assistance, on a case-by-case basis, to trafficked men, women and children stranded outside their home countries and in need of immediate assistance for voluntary return. Assistance includes the provision of a range of services (e.g. shelter, counselling, medical care, facilitating health referrals) in the country of destination and thus contributes to the migrants' immediate protection, as well as voluntary return and reintegration in the country of origin.<sup>16</sup>

Facilitating appropriate health care for individual migrants (primarily those in detention) as a fundamental human right at the EU's external Eastern European border was one of the objectives of the PHBLM (Public Health Safety Alongside the New Eastern European Border Line) project (2007–2009), implemented by IOM in collaboration with governments in the region and partners. The project also aimed to build the capacity of border management and public health staff, and to minimize public health risks.<sup>17</sup> With regard to providing assistance to migrants in detention, IOM

---

<sup>14</sup> IOM Constitution, <http://www.iom.int/jahia/Jahia/about-iom/constitution/lang/en>, preambular paragraph 3.

<sup>15</sup> IOM strategy (2007), <http://www.iom.int/jahia/Jahia/about-iom/mission/lang/en>, activities 5 and 9, respectively.

<sup>16</sup> For more information, see

<http://www.iom.int/unitedstates/ct/PDFs/Global%20Fund/GAF%20for%20Website.pdf>

<sup>17</sup> For a summary of the PHBLM project, see

[http://www.iom.pl/Shared%20Documents/PHBLM%20Project%20Summary\\_Brief\\_011209.pdf](http://www.iom.pl/Shared%20Documents/PHBLM%20Project%20Summary_Brief_011209.pdf)

Lisbon collaborates with the Government of Portugal and the Jesuit Refugee Service to monitor conditions in closed detention centres in which arriving undocumented migrants may also be temporarily held until their situation is verified.

## Helping to develop policy, legislation and programmes

It is vital that the provision of assistance and protection to migrants in accordance with their specific needs take place within a rule of law framework under which coherent policy, legislation and programmes can be formulated. Whereas international and regional human rights, refugee, criminal and labour law<sup>18</sup> provide a sound base for the development, establishment and strengthening of existing legal frameworks at the national (and regional) level,<sup>19</sup> important challenges nonetheless remain in effectively applying these standards in practice to the complex migration management situations posed by irregular migration and mixed flows. Equality and non-discrimination are the linchpins of any rule of law framework; IOM works with governments and other stakeholders in various parts of the world to counter discrimination and xenophobia against migrants. For example, in Ukraine, the Diversity Initiative has succeeded in fostering more positive attitudes towards the migrant community and supports the government, together with its counterparts, in its activities, encouraging intercultural dialogue and in developing policies and legislation.<sup>20</sup> Furthermore, IOM's Regional Office in Pretoria manages the project Counter-xenophobia Initiative for South Africa: Tolerance, Integration, Diversity, which, inter alia, resulted in the publication of an independent research study investigating the triggers and factors that led to existing xenophobic attitudes being transformed into actual violence against migrants in that country in May 2008 (Misago et al., 2009).

With a view to placing the mixed flows phenomenon in the broader context of comprehensive migration management, policy initiatives are also needed to support programmes facilitating and securing more avenues for safe and regular migration in all skill categories. IOM's 2008 *World Migration Report* highlights the fact that, in many parts of the world, the demand for low- and semi-skilled workers is frequently being met in practice by undocumented migrants, and that national labour migration policies need to take account of this demand and find ways of addressing it through regular channels (IOM, 2008b: ch. 3). Particularly with regard to some protracted refugee situations in the context of mixed migration, which may also give rise to secondary movements in the quest for better life opportunities, it has been advanced that (temporary) labour migration could be considered a form of "transnational durable solution", in addition to the three established durable solutions for refugees—local integration in the country

---

<sup>18</sup> See, respectively, the eight core international human rights instruments in force (1966 International Covenant on Civil and Political Rights, 1966 International Covenant on Economic, Social and Cultural Rights, 1965 International Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention on the Elimination of All Forms of Discrimination against Women, 1984 Convention against Torture, 1989 Convention on the Rights of the Child, 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2006 Convention on the Rights of Persons with Disabilities), available at <http://www2.ohchr.org/english/law/>; the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol; the two Protocols on People Smuggling and Trafficking supplementing the 2000 Convention against Transnational Organized Crime, and ILO labour standards, including the eight core ILO conventions addressing abolition of forced labour, elimination of child labour, trade union rights and non-discrimination in employment and occupation as well as the two specific instruments protecting migrant workers – the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). At the regional level, the 1969 American Convention on Human Rights, the 1981 African Charter on Human and Peoples' Rights, the 1950 European Convention on Human Rights, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the 1984 Cartagena Declaration on Refugees, and the 2005 Council of Europe Convention on Action against Trafficking in Human Beings are of particular relevance.

<sup>19</sup> For example, in Mozambique, Zambia and South Africa, IOM supported government efforts to develop comprehensive legislation to address trafficking in persons, with the result that such legislation has been enacted in the first two countries and draft legislation is awaiting approval by Parliament in South Africa.

<sup>20</sup> For more information, see <http://www.iom.int/jahia/Jahia/pid/2026>

of first asylum, resettlement in a third country, or voluntary repatriation to the country of origin (Van Hear et al., 2009).

## Training government officials and other pertinent stakeholders

The formulation of coherent policies and the development of appropriate legislation and programmes, however laudable and innovative, cannot succeed alone. Complementary capacity-building activities are essential. In particular, government officials have to be trained so that they become aware of the complexity of mixed migratory movements and can identify not only possible asylum-seekers and refugees through, for example, protection-sensitive border procedures, but also the needs of particularly vulnerable migrants such as victims of trafficking, unaccompanied (and separated) minors and those who have been subjected to gender-based violence. IOM carries out training activities in various parts of the world in the fields of border management, international migration law and counter-trafficking,<sup>21</sup> in the context of which the complexities and challenges posed by mixed migratory movements are addressed and the human rights and needs of migrants can be properly identified. IOM's capacity-building activities (which include) training, also target other stakeholders, such as the private sector and civil society groups. In India, for example, IOM Hyderabad engages private-sector companies to train and create opportunities for trafficked persons, while, in the Libyan Arab Jamahiriya, such activities are aimed at civil society and address counter-trafficking, mixed flows and the provision of first assistance.

In addition to capacity-building activities focused on particularly vulnerable groups of migrants, IOM's commitment to a comprehensive migration management approach is evident in the development, in collaboration with the Organization for Security and Co-operation in Europe (OSCE), of comprehensive training modules on labour migration that aim to help policymakers develop coherent policies, including those relating to more regular modes of migration for employment.

The recent establishment of research and training centres at the request of, and in collaboration with, the Governments of the United Republic of Tanzania (the African Capacity-building Centre in Moshi) and the Republic of Korea (the Migration Research and Training Centre in Seoul) are examples of institutionalized initiatives in this area that have the added value of providing training to officials from the relevant region, thus enabling them to learn from each other's experiences and share good practices.

## Disseminating information to migrants and host communities

Another important response to mixed flows is information dissemination targeting potential migrants who might be contemplating hazardous journeys, and information campaigns aimed at host communities. IOM has extensive experience in this field. For example, in September 2009, in partnership with the other members of the Mixed Migration Task Force (MMTF) (see section 5 below for more information on the MMTF), IOM launched a radio campaign to prevent mixed migratory movements through Somalia, help migrants make informed decisions and improve the capacities of host communities to receive migrants and to assist and protect them.<sup>22</sup> In West

---

<sup>21</sup> For example, the Southern African Counter-trafficking Assistance Programme (SACTAP) has trained over 3,000 government officials (mainly law enforcement agents) in the region. In South Africa alone, over the last year, 1,290 officials representing the five client institutions – Departments of Home Affairs, Social Development, Health, Justice and Constitutional Development (National Prosecuting Authority and the Lower Courts' Magistrates Commission) and the South African Police Service – have been trained. Most civil society and faith-based organizations in Mozambique, South Africa, Zambia and Zimbabwe have also received training and continue to consult IOM on a regular basis, as a result.

<sup>22</sup> The radio campaign is implemented by the BBC World Service Trust under the auspices of the broader Somali Lifeline Programme.

Africa, in areas of high emigration pressure where unemployed youth are most likely to seek better economic opportunities via irregular migration routes to Europe or the Maghreb, IOM has set up targeted youth-employment projects that include training and access to micro-credit, and carries out information and awareness campaigns on the dangers of irregular migration. With regard to counter-trafficking, IOM works in the countries of the South Caucasus to develop and introduce modules on trafficking in persons (aimed at older schoolchildren) into the national education curricula. Information dissemination initiatives on counter-trafficking also include collaboration with the international advertising company Saatchi & Saatchi on a campaign urging consumers and businesses to “buy responsibly”; the campaign was launched on the third EU Anti-trafficking Day on 18 October 2009.

In collaboration with the governments concerned, IOM supports the establishment and operation of migrant resource centres in countries of origin. The centres perform the dual task of providing impartial, accurate, reliable advice and information to prospective migrants about regular migration opportunities, the labour market and living conditions in destination countries, as well as alerting them to the risks of irregular migration (IOM, 2010). One example is the network of centres recently established in Western Balkan countries under the auspices of a European Commission AENEAS project and implemented by IOM in partnership with the International Labour Organization (ILO) and local employment offices.<sup>23</sup>

## COOPERATION

In addition to the provision of direct assistance to vulnerable persons in situations of mixed flows and the capacity-building activities described in section 4 above (undertaken in collaboration with partners that include national and local NGOs), cooperation at the macro level, both between and among States and agencies, is critical to reinforcing the understandings forged at the grass-roots level and sharing good practices across countries and regions. At the inter-State level, given the complex migration management questions associated with mixed flows, regional consultative processes provide an important platform for dialogue and cooperation, particularly in regions where mixed migration movements are especially prevalent.<sup>24</sup> For example, in August 2008, a Regional Conference on Migration workshop in Costa Rica was specifically devoted to Protection and Durable Solutions within Mixed Migratory Flows, while a number of workshops held under the auspices of the Migration Dialogue for Southern Africa (MIDSA), involving 15 countries in that region, have addressed irregular migration, migrant smuggling and trafficking in persons.<sup>25</sup> IOM is also working with States and other agencies to address the needs of specific groups of vulnerable migrants, including those involved in irregular migration and mixed flows. In June and September 2009, in partnership with the Caribbean Community (CARICOM) Secretariat and the United Nations Children’s Fund (UNICEF), it convened two working group sessions, bringing together nine CARICOM Member States to discuss child migration in the Caribbean. The objectives of the sessions were to exchange practical experiences, identify national strengths and weaknesses, and develop a comprehensive framework and set of substantive recommendations relating to several

---

<sup>23</sup> See EC AENEAS 2006: Capacity Building, Information and Awareness Raising – Towards Promoting Orderly Migration in the Western Balkans.

<sup>24</sup> Such processes include the Intergovernmental Authority on Development – Regional Consultative Process on Migration (IGAD-RCP), the Migration Dialogue for Southern Africa (MIDSA) and the Migration Dialogue for West Africa (MIDWA) in Africa; the Migration Dialogue in the Western Mediterranean (5+5 Process); the Regional Conference on Migration, or Puebla Process, in the Americas; the Bali Process in the Asia-Pacific region; and the Söderköping Process in Eastern Europe, which is specifically concerned with cross-border cooperation. For more information, see the IOM website at <http://www.iom.int/jahia/Jahia/policy-research/regional-consultative-processes>

<sup>25</sup> See, respectively, the Puebla Process website at <http://www.rcmvs.org/> and the website of the Southern African Migration Project (SAMP) at <http://www.queensu.ca/samp/midsa/#activities>



migrant children categories, including children who have migrated unaccompanied to a CARICOM country.<sup>26</sup>

At the inter-agency level, the Praesidium Project constitutes a model response whereby, at the request of, and in collaboration with, the Government of Italy, IOM worked together with UNHCR and the Italian Red Cross to provide information and counselling to the large numbers of migrants arriving by boat on Lampedusa and at other locations in Sicily. The three agencies also pre-screened the arrivals to identify persons in need of special assistance and to ensure that they were referred to the appropriate structures or forms of assistance, based on their specific needs.<sup>27</sup>

Similarly, since 2007, IOM has been working with UNHCR and other agencies in the context of MMTF Somalia, which is co-chaired by IOM and UNHCR, and under the auspices of the Protection Cluster of the Inter-Agency Standing Committee (IASC), to address the humanitarian and protection needs of migrants and asylum-seekers transiting through that country (MMTF Somalia, 2008).<sup>28</sup> In Angola, IOM and UNHCR, in cooperation with the Department of Immigration (SME),<sup>29</sup> are implementing a capacity-building project comprising, inter alia, targeted assessments of border operations and training of SME officials in the identification and treatment of various categories of migrants. The training includes HIV awareness and training-of-trainers workshops to ensure project sustainability. In February 2009, IOM brought together representatives of 10 origin, transit and destination countries and a number of observers (including UNHCR, OHCHR and the United Nations Office on Drugs and Crime (UNODC)) for a workshop on Irregular Migration Flows from East Africa and the Horn of Africa Toward Southern Africa, a previously lesser known migratory route. The participants adopted a series of conclusions and recommendations, and a follow-up meeting is planned.<sup>30</sup>

IOM and UNHCR have finalized a joint framework document for developing standard operating procedures to facilitate the protection of, trafficked persons.<sup>31</sup> The objective of this document is to clearly lay out the responsibilities of each agency in situations where an assessment is required to identify whether a person is a victim of trafficking and, if so, whether she or he is in need of protection and/or assistance (i.e. eligibility for asylum or other forms of support, including resettlement in a third country or voluntary return). Assistance can be provided to identified victims of trafficking, on a case-by-case basis, through IOM's Global Assistance Fund (see section 4 above). IOM has also been one of the key partners in a two-year project to develop

---

<sup>26</sup> The framework and recommendations have been submitted to CARICOM's Council for Human and Social Development (COHSOD).

<sup>27</sup> See the IOM and UNHCR presentations on the project at the International Dialogue on Migration (IDM) Intersessional Workshop on Managing Return Migration, Geneva, 21–22 April 2008, available at <http://www.iom.int/jahia/policy-research/international-dialogue-migration/intersessional-workshops/managing-return-migration-2008>

<sup>28</sup> IOM and UNHCR have also prepared a joint study on *Mixed Migration and Yemen as a Transit Country* (February–July 2009), which aims to understand the movement of the mixed influx of migrants and refugees after their arrival in Yemen. In addition to IOM and UNHCR, the other MMTF members are the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the United Nations Development Programme (UNDP), UNICEF, OHCHR and the Danish and Norwegian Refugee Councils.

<sup>29</sup> SME – *Serviço de Migração e Estrangeiros*.

<sup>30</sup> Shortly after this meeting, IOM also published the study prepared by C. Horwood: *In Pursuit of the Southern Dream: Victims of Necessity*, IOM, April 2009 (available from IOM Pretoria's website at <http://www.iom.org.za>), which describes the smuggling of male migrants from East Africa and the Horn to South Africa.

<sup>31</sup> IOM–UNHCR Framework Document for Developing Standard Operating Procedures to Facilitate the Protection of Trafficked Persons. See also the joint IOM–UNHCR presentation at the IOM IDM Intersessional Workshop on Trafficking in Persons and Exploitation of Migrants: Ensuring Protection of Human Rights, Geneva, 9–10 July 2009, available at [http://www.iom.int/jahia/webdav/shared/shared/mainsite/microsites/IDM/workshops/ensuring\\_protection\\_070909/res\\_martensklug.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/microsites/IDM/workshops/ensuring_protection_070909/res_martensklug.pdf)



implementation strategies for the UNHCR 10-Point Plan of Action in different regions,<sup>32</sup> including the holding of regional stakeholder conferences on refugee protection and international migration in the Gulf of Aden, West Africa and the Americas.<sup>33</sup> These conferences have resulted in important collaborative follow-up activities, such as the regional follow-up group of UNHCR, IOM and OHCHR experts set up after the conference in Dakar, Senegal. The group was established for the purpose of: 1) establishing a framework for informal exchanges on activities, programmes and policies to support West African countries in the protection of refugees and migrants; 2) presenting, sharing and discussing the strategic plans of action of each participating agency in this field, with a view to creating synergies or formulating joint actions; 3) adopting common policies and strategies of intervention; 4) defining and conceptualizing common tools; 5) and identifying successful experiences and lessons learned.<sup>34</sup>

Other pertinent forms of inter-agency collaboration include those taking place within the IASC (referred to above in the context of the MMTF) and with the EU Border Agency (FRONTEX) and the World Health Organization (WHO), which are two of the partner organizations in the PHBLM project. IOM supports and works within the overall framework of the Sixty-First World Health Assembly resolution on health of migrants to promote equitable access to health promotion, disease prevention and care for migrants and promote migrant-sensitive health policies,<sup>35</sup> among others. IOM, the London School of Hygiene and Tropical Medicine and United Nations partners have developed a guidance tool on providing health care for trafficked persons.<sup>36</sup> Finally, IOM Field Offices also collaborate nationally within UN Country Teams in activities of relevance to mixed migratory movements, such as forced labour and counter-trafficking projects, campaigns on violence against women, and other United Nations theme groups on gender activities.

## CONCLUSION

Mixed migratory flows tend to take place in an irregular manner and therefore require a versatile response tailored to the individual needs of migrants, including refugees and asylum-seekers, in accordance with established international norms protecting the human rights of all persons, irrespective of their nationality or immigration status. As illustrated in this background paper, the capacities of States to manage irregular migration and mixed flows, with the support of the international community, are likely to be challenged in the future – perhaps seriously, if the worst case scenarios of climate change are realized. Even if a normative framework is agreed and adopted, capacity-building activities, such as those illustrated in this paper with reference to IOM’s current work in this field in collaboration with other agencies and stakeholders, will need to be undertaken at all stages of the “migratory life cycle” in order to minimize the negative impacts of the phenomenon.

---

<sup>32</sup> An information note on the project is available at <http://www.unhcr.org/497730212.html>

<sup>33</sup> Regional Conferences on Refugee Protection and International Migration in Sana’a, Yemen (19–20 May 2008), Dakar, Senegal (13–14 November 2008), and San José, Costa Rica (19–20 November 2009). In addition, IOM and UNHCR organize an annual seminar on Mixed Migratory Flows in the Caribbean: Migration Management, Contingency Planning and Refugee Protection, in the Caribbean region.

<sup>34</sup> One planned concrete follow-up activity in 2010 is the formalization of a partnership between the IOM and UNHCR regional offices in Dakar for the development and implementation of a voluntary return mechanism for unsuccessful asylum-seekers from countries that are not members of the Economic Community of West African States (ECOWAS).

<sup>35</sup> Health of migrants, Sixty-First World Health Assembly, Resolution 61.17, 122nd Session, May 2008.

<sup>36</sup> *Caring for Trafficked Persons: Guidance for Health Providers*, IOM/London School of Hygiene and Tropical Medicine/UN Global Initiative to Fight Human Trafficking, Geneva, 2009.

## REFERENCES

Acosta Arcarazo, D.

- 2009 *Latin American Reactions to the Adoption of the Returns Directive*. Centre for European Policy Studies (CEPS), Brussels. <http://www.ceps.eu/book/latin-american-reactions-adoption-returns-directive> (accessed August 2010)

Aleinikoff, T.A.

- 2007 International legal norms on migration; substance without architecture. In: *International Migration Law: Developing Paradigms and Key Challenges* (R. Cholewinski et al., eds). T.M.C. Asser Press, The Hague, pp. 467–479.

Amnesty International

- 2006 *Living in the Shadows: A primer on the human rights of migrants*. Amnesty International, London.

Battistella, G.

- 2008 Irregular migration. In: *World Migration 2008: Managing Labour Mobility in the Evolving Global Economy*, IOM, Geneva, pp. 201–233.

Betts, A.

- 2007 Towards a ‘soft law’ framework for the protection of vulnerable migrants. In: *New Issues in Refugee Research*, Research Paper No. 162, UNHCR, Geneva. <http://www.unhcr.org/48b7f9642.html> (accessed August 2010)

Betts, A. and E. Kaytaz

- 2009 National and international responses to the Zimbabwean exodus: implications for the refugee protection regime. In: *New Issues in Refugee Research*, Research Paper No. 175, UNHCR, Geneva. <http://www.unhcr.org/4a76fc8a9.html> (accessed August 2010)

Crisp, J.

- 2008 Beyond the nexus: UNHCR’s evolving perspective on refugee protection and international migration. In: *New Issues in Refugee Research*, Research Paper No. 155, UNHCR, Geneva. <http://www.unhcr.org/4818749a2.html> (accessed August 2010)

Dowd, R.

- 2009 Trapped in transit: the plight and human rights of stranded migrants. In: *New Issues in Refugee Research*, Research Paper No. 156, UNHCR, Geneva. <http://www.unhcr.org/486c92d12.html> (accessed August 2010)

European Commission

- 2008a A common immigration policy for Europe: principles, actions and tools. European Commission, COM (2008) 359, final of 17 June.
- 2008b Strengthening the global approach to migration: increasing coordination, coherence, synergies. European Commission, COM (2008), final of 8 October.
- 2006 Policy priorities in the fight against illegal immigration of third-country nationals. European Commission, COM (2006) 402, final of 19 July.

European Parliament

- 2008 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. European Parliament and the Council, Strasbourg.

Feller, E.

- 2006 Asylum, migration and refugee protection: realities, myths and the promise of things to come. *International Journal of Refugee Law*, Vol. 18(3–4):509–536.

FRONTEX

- 2009 *The impact of the global economic crisis on illegal migration to the European Union*. Risk Analysis Unit, FRONTEX, Warsaw, August.  
[http://www.frontex.europa.eu/specific\\_documents/other/](http://www.frontex.europa.eu/specific_documents/other/) (accessed September 2010)

Gallagher, A.M. et al.

- 2009 *Refugee protection and international migration: a review of UNHCR's role in the Canary Islands, Spain*. UNHCR Policy Development and Evaluation Service (PDES), Geneva,  
<http://www.unhcr.org/4a1d2d7d6.html> (accessed August 2010)

Global Migration Group (GMG)

- 2008 *International Migration and Human Rights: Challenges and Opportunities on the Threshold of the 60<sup>th</sup> Anniversary of the Universal Declaration of Human Rights*.  
[http://www.unicef.org/socialpolicy/index\\_48018.html](http://www.unicef.org/socialpolicy/index_48018.html) (accessed August 2010)

Grant, S.

- 2007 The legal protection of stranded migrants. In: *International Migration Law: Developing Paradigms and Key Challenges* (R. Cholewinski et al., eds). T.M.C. Asser Press, The Hague, pp. 29–47.
- 2005 International migration and human rights. A paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration (GCIM), September, Geneva. <http://www.gcim.org/attachements/TP7.pdf> (accessed August 2010)

International Organization for Migration (IOM)

- 2010 *Migrant Resource Centres: An Initial Assessment*. IOM Migration Research Series No. 40, IOM, Geneva. [http://publications.iom.int/bookstore/free/MRS\\_40.pdf](http://publications.iom.int/bookstore/free/MRS_40.pdf) (accessed September 2010)
- 2009a Irregular Migration and Mixed Flows: IOM's Approach. IOM Council, Ninety-Eighth Session, 19 October, Doc. MC/INF/297, Geneva.  
[http://www.iom.int/jahia/webdav/shared/shared/mainsite/about\\_iom/en/council/98/MC\\_INF\\_297.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/98/MC_INF_297.pdf) (accessed August 2010)
- 2009b *Migrants' Needs and Vulnerabilities in the Limpopo Province, Republic of South Africa. Report on Phase Two (February – March 2009)*. IOM Regional Office for Southern Africa, Pretoria.  
[http://iom.org.za/site/index.php?option=com\\_docman&task=doc\\_view&gid=138](http://iom.org.za/site/index.php?option=com_docman&task=doc_view&gid=138) (accessed August 2010)
- 2009c *Migration, Climate Change and the Environment*. IOM Policy Brief.  
[http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/env\\_degradation/iom\\_policybrief\\_may09\\_en.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/env_degradation/iom_policybrief_may09_en.pdf) (accessed August 2010)
- 2008a *Challenges of Irregular Migration: Addressing Mixed Migration Flows – Discussion Note*. IOM Council, Ninety-Sixth Session, 7 November, Doc. MC/INF/294, Geneva.  
[http://www.iom.int/jahia/webdav/shared/shared/mainsite/about\\_iom/en/council/96/MC\\_INF\\_294.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/96/MC_INF_294.pdf) (accessed September 2010)

- 2008b *World Migration 2008: Managing Labour Mobility in the Evolving Global Economy*, IOM, Geneva.
- 2004 *International Migration Law: Glossary on Migration*. International Organization for Migration (IOM), Geneva.  
[http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published\\_docs/serial\\_publications/Glossary\\_eng.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/Glossary_eng.pdf) (accessed August 2010)
- Misago, J-P. et al.
- 2009 *Towards Tolerance, Law, and Dignity: Addressing Violence against Foreign Nationals in South Africa*. Research conducted for IOM by the Forced Migration Studies Programme of the University of the Witwatersrand, funded by the UK Department for International Development (DFID), IOM Regional Office for Southern Africa, Pretoria.  
[http://iom.org.za/site/index.php?option=com\\_frontpage&Itemid=1](http://iom.org.za/site/index.php?option=com_frontpage&Itemid=1) (accessed August 2010)
- MMTF Somalia
- 2008 *Mixed Migration through Somalia and across the Gulf of Aden*. Mixed Migration Taskforce (MMTF) Somalia. <http://www.unhcr.org/4877716c2.html> (accessed August 2010)
- Passel, J. and D. Cohn
- 2008 *Trends in Unauthorized Immigration: Undocumented Inflow Now Trails Legal Inflow*. Pew Hispanic Center, Washington, DC. <http://pewhispanic.org/files/reports/94.pdf>
- UNDP
- 2009 *Overcoming barriers: Human mobility and development, Human Development Report 2009*. United Nations Development Programme (UNDP), New York,  
<http://hdr.undp.org/en/reports/global/hdr2009/> (accessed August 2010)
- UNHCR
- 2007 *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*, rev. 1, United Nations High Commissioner for Refugees (UNHCR), Geneva.  
<http://www.unhcr.org/4742a30b4.html> (accessed August 2010)
- Van Hear, N. et al.
- 2009 *Managing Mobility for Human Development: The Growing Salience of Mixed Migration*. United Nations Development Programme (UNDP) Human Development Research Paper 2009/20. [http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP\\_2009\\_20.pdf](http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_20.pdf) (accessed August 2010)



---

IOM International Organization for Migration

17 route des Morillons CH-1211 Geneva 19, Switzerland

Tel: +41 22 717 9111 • Fax: +41 22 798 6150

E-mail: [hq@iom.int](mailto:hq@iom.int) • Internet: <http://www.iom.int>