



PRINCIPLE 1

Adhering to international standards
and fulfilling migrants' rights

Supporting States' adherence to international standards

Today, 1 billion people – comprising a seventh of humanity – are on the move; this is more than at any other time in recorded history. A variety of elements contribute to the movement of people on such a large scale. The forces driving migration include climate change, natural and human-made catastrophes, conflict, the demographic trends of an ageing industrialized population, an exponentially expanding jobless youth population in the developing world and widening North–South social and economic disparities.

The first principle of the Migration Governance Framework (MiGOF) states that “humane and orderly migration requires compliance with international law”. The obligation to respect, protect and fulfil the rights of individuals is paramount and applies to all individuals within a State’s territory, regardless of nationality or migration status and without discrimination, in order to preserve their safety, physical integrity, well-being and dignity. Protecting the rights of individuals includes combating xenophobia, racism and discrimination, ensuring adherence with the principles of equality and non-discrimination, and ensuring access to protection.

International migration law

The International Organization for Migration (IOM) advises States and builds the capacity of the various migration governance actors to act in adherence to international standards and promote the rights of migrants in the development and implementation of migration policies. IOM has embarked on a two-pronged approach to support States’ adherence to international standards: (a) promoting and integrating a rights-based approach (RBA) culture throughout all sectors of the Organization; and (b) promoting international standards with States and other stakeholders.



The *IOM Glossary on Migration* is an accessible and extensive collection of definitions of migration-related terminology. The purpose of this Glossary is to develop a common understanding and consistent use of migration and migration-related terms based, whenever possible, on international standards. Creating uniformity in language is an important starting point in migration discussions to ensure an accurate understanding and coherent exchange of information among actors working in the field of migration.

Promotion of international standards with States and other stakeholders

IOM aims at disseminating a sound understanding of States' obligations and migrants' rights under the relevant international legal framework. Such a framework is the result of decades of negotiation by the international community. There is thus no lack of legal protection for migrants in this framework, but there is an acute lack of implementation of the relevant standards when it comes to those who migrate irregularly or find themselves in precarious situations along the route or at destination. The aim of the Global Compact for Safe, Orderly and Regular Migration was to strengthen inter-State cooperation and fill this gap in implementation by building on existing legal frameworks and sharing good practices. IOM will have a key role in supporting States in the implementation phase of the Global Compact for Migration. The Sustainable Development Goals (SDGs) are also unequivocally anchored in human rights and are "to be implemented in a manner that is consistent with the obligations of States under international law" (para. 18). The implementation of the Global Compact for Migration will have to take also into consideration commitments adopted by States in the 2030 Agenda for Sustainable Development. To strengthen and further develop its supporting role in light of these recent developments, IOM will focus on the activities outlined below.

From a policy/legislation development perspective, IOM aims to foster and promote migration governance based firmly on international standards; this includes work with other UN agencies and civil society on key issues such as alternatives to detention (ATDs), as well as broadly speaking advocating for RBA with governments and being at the forefront of new thinking in areas of international law, protection of migrants and policy development. Such activities will also include fostering better and broader understanding of what international standards mean for everyone in their daily lives, as well as having a rights-based and people-centred approach to discourses on migration.

Comparative analysis of legislation and identification of good practices

This initiative responds to the growing request for assistance from States to identify good practices in legislation relating to migration that can be used as a model to develop or improve their own systems. Taking the Global Compact for Migration as a starting point to identify the priority areas, IOM will conduct a comparative analysis of different components of national legislation on migration, including border management, residency and nationality, access of non-nationals to health and social security, labour codes and their application to non-nationals, refugees, asylum seekers and their temporary protection, as well as environmental migrants at the regional level. The analysis will be conducted by identifying several States that

will be taken as a model in each region of the world. The findings relevant to each region will be compiled in a short booklet that will be disseminated to interested governments.

Rights-based approach to migration policy

IOM has started developing the *Information Note on an RBA to Migration Policies*. As it has been recognized by the MiGOF in its Principle 1, compliance with international standards is critical to good migration governance and can help maximize the benefits of migration. The Information Note is aimed at providing guidance to governments and policymakers on how to ensure that migration policies are designed to ensure the effective implementation of international standards, including regarding the rights of migrants. Furthermore, it provides concrete recommendations to support governments in the preparatory phase and diagnosis of existing policies on migration. It also supports governments in setting policy objectives that are in line with country priorities, tailored to national migration realities and adapted to ensure the implementation of international standards. Finally, the Information Note outlines the measures that can contribute to integrate an RBA into States' legal and institutional framework, as well as into sectoral policies in the area of migration.

In light of the renewed interest by governments in receiving advice on developing or amending their migration policies, including in the context of the Global Compact for Migration implementation, the Information Note should be expanded and transformed into a more in-depth series of publication aimed at guiding States on a step-by-step policy development process with a specific focus on how to ensure that international standards and migrants rights are fully factored into migration policies. This in turn will also contribute to achieving the SDGs that are relevant to migration. The initial publications will look into how substantive international standards can inform the definition of the overall policy objectives and influence the decision of the best policy instruments to be adopted, with a particular attention to the role of legislation. It will also describe how to incorporate RBA into the very process of development of a policy, by incorporating rights principles, such as participation, transparency, accountability, as well as proportionality and non-discrimination. The subsequent publications will guide policymakers on how to integrate international standards in sectoral policies (such as labour migration, border management, public health, education and integration).

The publication will also be accompanied by training modules that will be used to train government officials and other relevant stakeholders on implementing RBA to policy in their national context.

Protecting the human rights of migrants

In 2020, IOM will continue to provide technical assistance to States to develop their capacity in protecting and assisting migrants in need, in line with their obligations under international law, such as international human rights law, international labour law, transnational criminal law and refugee law. IOM's activities aim to help States fulfil their obligations towards migrants, while empowering rights-holders, such as trafficked persons, smuggled migrants with protection needs, (rejected) asylum seekers, migrants in irregular situations, stranded migrants, unaccompanied and separated migrant children and other migrants subjected to violence, exploitation or abuse to realize their rights. Through the UN Network on Migration, which has been set up to facilitate the implementation of the Global Compact for Migration – IOM will continue to contribute the objectives of the Global Compact for Migration.

Alternatives to detention, tools series

Supporting the identification of good practices on ATDs, immigration detention has come under international scrutiny in recent years. It is one of those areas where the joint advocacy of many international organizations and civil service organizations (CSOs) has been particularly effective in shaping international jurisprudence and, to some extent, also States' approaches. States' interest in prioritizing non-custodial ATDs is also reflected in Objective 13 of the Global Compact for Migration as a tangible and practical way of obtaining better migration governance. However, the capacity of States and other actors to translate this interest into practice is still limited, in great part due to lack of more extensive pilot projects and experience. The existing examples of use of ATDs is targeted to specific groups of individuals, and the numbers of those who benefit from them is not sufficiently significant to persuasively underpin the notion that they are not only more humane but also equally effective. IOM has been assisting States in implementing different forms of alternatives around the world, yet the projects are rarely framed as ATD projects. As much of this work is implemented as part of different thematic interventions, capturing it remains challenging.

With the intention to consolidate IOM expertise and increase the Organization's capacity to support States in implementing ATD, IOM has carried out a mapping of projects that contain elements of ATD with a view to developing a framework to understand their types and highlight potential learning points and gaps.

As a next step, IOM plans to develop a series of tools aimed at guiding IOM staff and other interested stakeholders in conceiving, developing, implementing and advocating for ATDs. To uphold the human rights principle that, in the immigration context, detention should be used as a measure of last resort, States will have to move towards a more extensive use of ATD. International organizations and CSOs

have the responsibility to support the State to do so. With this responsibility in mind, IOM plans to develop the following guiding tools as part of this series: road map, ATD for vulnerable migrants, evaluation tool, advocacy tool and compilation of good practices.

A principled approach in the Organization

As an independent, neutral and impartial organization, IOM is committed to adhering to international standards in its own work and follows a series of human rights-based, migrant-centred principles, intrinsic to all operations and staff values.

Principles for Humanitarian Action

In 2020, IOM will continue to strengthen principled humanitarian action to effectively access and respond to people in need of humanitarian assistance and protection in emergencies and protracted crises. Guided by the Organization's institutional humanitarian policy, the Principles for Humanitarian Action, IOM will invest in operational policy development and capacity strengthening with a focus on hard-to-reach and high-risk settings, including areas where IOM works through remote management. Operational guidance will include strengthened risk management, due diligence and accountability mechanisms. Throughout 2020, IOM will continue to support principled humanitarian action through its active engagement in the Inter-Agency Standing Committee (IASC) at all levels.

Promoting a rights-based approach within the Organization

IOM fosters RBA culture by advising its departments, regional offices and country missions on compliance with international standards and promoting the rights of migrants in the structures throughout internal policies, advocacy activities and programmes and operations of the Organization.

IOM will continue to mainstream and encourage RBA to programming by identifying the international legal standards at play in projects and incorporating rights principles into the actual programming process. Furthermore, as the lead agency on migration within the UN system, IOM adheres to the purposes and principles contained in Article 1 of the Charter of the United Nations of 1945 to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.

In order to strengthen adherence to this principle in 2020, IOM developed an internal guidance note on IOM's responsibilities and compliance to human rights standards and humanitarian norms. In 2020, IOM will continue to establish a monitoring and compliance entity, responsible for monitoring the Organization's

compliance to human rights standards and humanitarian norms. The monitoring and compliance entity will:

- Provide guidance to IOM staff on how to consciously and systematically integrate rights and rights principles to the extent possible in all the Organization's activities;
- Build the capacity of IOM staff to detect and prevent violations of human rights and humanitarian law, by increasing the awareness of what these norms are and how to identify challenges to their effective implementation and potential violations;
- Promote partnerships with other important UN entities working on human rights, as well as relevant CSOs to develop strategies on advancing human rights and set immediate, medium- and long-term human rights priorities; and
- Partner with other relevant internal departments and divisions to develop a system to ensure compliance and adherence to human rights and humanitarian law by making sure that alleged violations or incidents never go unreported and that proper procedures are in place to address these forms of complaints.

Gender

Around the world, more people are on the move than ever before. Many of them are seeking new opportunities and a better life for themselves and their families. Others are forced to move due to disaster or conflict. Gender is central to any discussion of the causes and consequences of migration, whether forced, voluntary or somewhere in between. It is recognized that a person's sex, gender, gender identity and sexual orientation shape every stage of the migration experience. Gender influences reasons for migrating, who migrates and to where, how people migrate and the networks they use, opportunities and resources available at destinations, and relations with the country of origin. Risks, vulnerabilities and needs are also shaped in large part by one's gender, and often vary drastically for different groups. The roles, expectations, relationships and power dynamics associated with being a man, woman, boy or girl, and whether one identifies as lesbian, gay, bisexual, transgender, queer and/or intersex (LGBTQI), significantly affect all aspects of the migration process, and can also be affected in new ways by migration.

It is therefore crucial to understand how gender interacts with migration and how to respond accordingly. Taking into account gender-specific migration trends can mean the difference between implementing a project that successfully addresses the specific needs and capacities of all IOM beneficiaries, and one that fails to do so and perpetuates inequality. Given the gender-specific nature of migration, the following are central to IOM's work: (a) advocating for equal rights under the law in employment and mobility; (b) combating discriminatory migration practices; (c) understanding how gender affects the types of migration undertaken; (d) responding to how gender influences access to social services, economic growth, capacities, risks and vulnerabilities; (e) ensuring diversity and inclusiveness in consultations and participation in activities; and (f) addressing how migration influences gender roles and relations.

In 2012, in order to enhance its commitment to gender equality, IOM agreed to implement an accountability framework called the UN System-Wide Action Plan (UN-SWAP) on gender equality and the empowerment of women, which was approved by the UN Chief Executives Board for Coordination (CEB). This initial framework of the UN-SWAP ended in 2017 and has been succeeded by an updated framework, known as UN-SWAP 2.0, which IOM has committed to implement by 2022. With the ambition of making gender mainstreaming operational, the UN-SWAP has provided the UN system with a strategy and a common set of goals and standards to which to adhere and aspire for the achievement of gender equality. Every year, IOM and other participating agencies report on how they are progressing towards implementing the framework.

In line with IOM's Gender Equality Policy and IOM's commitments to the UN-SWAP, in 2020, priority will be given to improving the collection and reporting of gender equality results from the Organization's programming. IOM will continue its efforts in establishing a baseline on how IOM's projects contribute to gender equality. Capacity-building interventions to IOM field offices will continue to be organized to ensure gender is mainstreamed from project development to implementation and evaluation and that lessons learned feed into new programming aiming at contributing more tangibly to gender equality.

In this context, the continued monitoring and support to IOM field missions on how to mainstream gender considerations into programming, including the correct use of the IOM Gender Marker, is paramount.



“People are really interested in the training. I had to do a course to be able to deliver this training, and I am applying a lot of what I have learned in my own life. You become more aware on how you communicate with others.”

– Sawa, a non-violent communication facilitator

Protection from sexual exploitation and abuse

IOM is the only agency delivering a dedicated inter-agency project to support collective protection from sexual exploitation and abuse (PSEA) at the country level on behalf of the IASC. Based on its experience of the past six years in collective PSEA, IOM will continue to build the capacity of UN/Humanitarian Country Teams and in-country PSEA Networks by providing targeted technical assistance on request and informing the global dialogue based on operational lessons learned. IOM will also build the capacity of existing and future PSEA coordinators that help maintain momentum of collective PSEA in the country, advise senior leadership and lead the technical-level PSEA Network. IOM will remain the IASC's official liaison with the UN Working Group on Sexual Exploitation and Abuse, advocating for the harmonization of UN and IASC protocols and guidance on PSEA responsibilities, and continuing to share best practices across agencies and forums on this important issue.

Accountability to affected populations

The accountability to affected populations (AAP) and protection mainstreaming operation will contribute to safe, orderly and dignified migration, putting high standards in protection to IOM movement operations and establishing relevant feedback channels with the beneficiaries. IOM is committed to mainstreaming protection across its programmes in line with its RBA. By adhering to a set of minimum protection standards, the following will be achieved:

- Safety and dignity will be prioritized to avoid any unintended negative consequences of IOM's actions;
- Meaningful access will be secured to IOM services and aid by all groups; and
- Establish accountability to affected individuals and communities and ensure participation and empowerment through an inclusive approach to decision-making processes.

When the right capacities are in place, IOM will be able to respond appropriately to provide specialized protection services, such as (but not limited to) family tracing and reunification in line with the child's best interests, response to survivors of gender-based violence (GBV) or providing assistance to victims of human trafficking.

Protection mainstreaming

Protection mainstreaming is the process of incorporating key protection principles in humanitarian response. IOM ensures that do-no-harm, promoting non-discrimination, meaningful access, safety, dignity, participation, empowerment and accountability measures become integral part of every response. IOM aims is to save lives, ensure safety and security, alleviate suffering and restore the dignity of migrants, displaced persons and affected populations in accordance with international human rights law, international humanitarian law, as well as internationally recognized protection standards. IOM abides by the IASC's definition of protection. In 2020, IOM will make a deliberate and concerted effort to prominently strengthen protection mainstreaming as it forms one of the principles of the protection in humanitarian action (PiHA).



Jawid and his mother are recent Afghan returnees from the Islamic Republic of Iran. Upon return, they received tailored protection assistance from IOM.

© IOM 2018/Eva SCHWOERER

Institutional framework for addressing gender-based violence in crises

GBV² is one of the most widespread human rights abuses in the world,³ affecting individuals everywhere, with consequences that reach beyond the individual and can affect entire families and communities. Humanitarian crises and situations of fragility more broadly can exacerbate exposure to different forms of GBV.

GBV interventions refer to core crisis programming activities that can remedy, mitigate or avert direct loss of life, physical or psychological harm and threats to a person's dignity and well-being. Therefore, specific measures and interventions to mitigate, respond to and prevent GBV must be undertaken from the onset of a crisis and continue through transition and recovery efforts in all IOM sectors and programmes.

Crisis operations that do not take into account vulnerabilities to GBV cannot adequately adhere to common standards that promote gender equality, conflict sensitivity and protection principles. As such, these operations can in fact exacerbate the risk of GBV and represent a failure on the part of the Organization to fully promote, respect and protect the rights of affected populations, particularly those of women and girls.⁴

IOM has made concerted efforts to transform the way in which IOM addresses GBV in crises. Building up an understanding of challenges, as well as documented lessons learned and emerging good practices, in September 2018, IOM launched the Institutional Framework for Addressing Gender-based Violence in Crises (hereafter

² In line with terminology adopted by the Inter-Agency Standing Committee (IASC), the International Organization for Migration (IOM) uses the term “gender-based violence” (GBV) and recognizes that sexual violence is one type of GBV. Other organizations, however, use the term “sexual and gender-based violence”. For more explanation, see the IASC, *Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery* (hereinafter GBV Guidelines) (2015), p. 322.

³ GBV violates a range of human rights, including the following: (a) right to life; (b) right to security of person; (c) right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; (d) right to equal protection under the law; (e) right to equality in the family; and (f) right to the highest standard attainable of physical and mental health (Convention on the Elimination of All Forms of Discrimination against Women, 1992). It also violates the right to health, the right to non-discrimination and the right to just and favourable work conditions. Successive Security Council resolutions (SCRs) have defined some of the most egregious forms of GBV as threats to international peace and security. See for examples: SCR 1820, SCR 1888 and SCR 2106. See also: IASC, *GBV Guidelines* (2015), pp. 5 and 16.

⁴ GBV is included in the IASC Principals commitments to the Centrality of Protection in Humanitarian Action. Addressing GBV is further a core responsibility of Humanitarian Coordinators and Humanitarian Country Teams (HCTs), identified in HCT terms of reference as one of four mandatory issues to which responders are required to pay particular attention.

GBViC Framework),⁵ the first such dedicated framework for the Organization, as well as an accompanying toolkit for operationalizing the framework's strategic interventions. The GBViC toolkit is an essential element to support the implementation strategy and allow IOM staff to operationalize the framework in migration crises; The toolkit also explores how to strengthen the capacities of health teams to address GBV in emergencies in collaboration with the Migration Health Division (MHD).

In 2020, IOM will continue developing operational tools and guidance to address GBV risks – expanding to more Migration Crisis Operational Framework (MCOF) areas – pursue its collaboration with MHD on health and mental health and psychosocial support (MHPSS) and expand technical support and capacities at the regional level.

Camp management standards

In 2020, IOM will also continue the development of inter-agency camp management standards based on governance, participation and the reduction of GBV risks, working with the Camp Coordination and Camp Management (CCCM) Cluster Working Group that has been established. The development of camp management standards will support IOM's localization efforts to strengthen the capacities of national and local stakeholders, including authorities, to respond to displacement crises and uphold the rights of populations affected by forced displacement.

⁵ This framework is the result of extensive field consultations across Headquarters and nine IOM country offices and regional offices, involving 208 staff members, as well as external partners. Technical review of the framework has been conducted at the field and headquarters levels.