



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

**INFORMAL CONSULTATIONS ON
INTERNATIONAL DIALOGUE ON
MIGRATION**

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INTERNATIONAL DIALOGUE ON MIGRATION 2008

Return Migration: Challenges and Opportunities

Discussion Note

23 October 2008

INTERNATIONAL DIALOGUE ON MIGRATION 2008

Return Migration: Challenges and Opportunities

1. Pursuant to the IOM Constitution and the IOM Strategy Document adopted by IOM's membership in 2007 (activity 7), the International Dialogue on Migration (IDM) provides a forum for governments, intergovernmental and non-governmental organizations and other stakeholders to identify and discuss key issues and challenges in the field of migration, in order to explore policy issues of common interest and the means to cooperate in addressing them. The dialogue takes place at the annual Council session and at intersessional workshops that consider the multidisciplinary aspects of migration and important linkages with related policy fields, such as trade, health and development.
2. This discussion note provides an update on IDM activities in 2008, outlines plans for the IDM in 2009, and seeks the views of the membership on potential topics for the intersessional workshops to be convened next year.

IDM 2008 - Return Migration: Challenges and Opportunities

3. In 2008, the IDM has been guided by the overarching theme selected by the membership, "**Return Migration: Challenges and Opportunities**". This theme is reflected in the two intersessional workshops organized in 2008 and the Council session planned for December.

Intersessional workshops

4. The first 2008 intersessional workshop, "**Managing Return Migration**", was held in Geneva on 21 and 22 April 2008. This capacity-building workshop was attended by nearly 200 participants: 125 government representatives from over 60 countries; approximately 70 participants from over 20 intergovernmental, non-governmental and other international organizations, and two academic institutions.
5. The workshop looked at the concept of return migration in the broader context of migration management, considering both policy and programmatic perspectives and the needs and interests of different migration stakeholders. It provided the IOM membership with the opportunity to discuss return when entry or stay is not authorized, and cases of particularly vulnerable migrants, such as refugees, victims of trafficking, unaccompanied minors and migrants stranded in transit or at destination, with a view to managing return in a safe, dignified and sustainable manner that is respectful of human rights in all circumstances. Various governments shared their experiences with return migration, and the key issues and policy areas that form part of a comprehensive return migration framework were highlighted.
6. The second 2008 intersessional workshop, "**Enhancing the Role of Return Migration in Fostering Development**", took place in Geneva on 7 and 8 July 2008. It was attended by 120 government participants from over 70 countries, approximately 80 participants from

26 intergovernmental, non-governmental and other international organizations, and 4 participants from the private sector.

7. It is now widely recognized that returning migrants possessing different skills can contribute substantially to home country development through their considerable human, financial and other resources, regardless of whether the return is permanent, temporary, circular or virtual in nature. The workshop looked into ways to enhance the potential contributions of nationals living abroad through public-private and inter-State partnerships as well as diaspora mapping and engagement. The discussions focused on how harnessing the development potential of return migration and mitigating its potential adverse impacts can ensure that returns are more sustainable, while benefitting the country and community at large.

8. The two 2008 intersessional workshops received financial support from the Governments of Australia, Italy and the Netherlands.

Council 2008 - Return Migration: Challenges and Opportunities

9. The IDM programme for the 2008 session of the Council will comprise:

- (a) a special interactive session with the *Global Migration Group (GMG)*, with an introductory presentation by the current Chair of the GMG, followed by discussion between heads of agencies and the IOM membership on the GMG's work to date and future priority areas (3 December);
- (b) a panel discussion on *Return Migration: Challenges and Opportunities*, at which high-level presentations on policies, good practices and lessons learned in this area will be followed by discussion (4 December);
- (c) a panel discussion on *Migration Highlights*, which will focus on a selection of major recent migration developments around the world, with high-level presentations followed by discussion (4 December);
- (d) a panel discussion on *Addressing Mixed Migration Flows*, to consider the policy challenges for migration management posed by complex migration flows that may include refugees, asylum-seekers, economic and environmental migrants and other people in need of protection and assistance (5 December).

IDM 2009 - Human Rights and Migration: Working Together for Safe, Dignified and Secure Migration

10. In response to a request made by the membership at the informal consultations held on 29 April 2008, the Administration proposed two possible overarching themes for the 2009 IDM. The overwhelming majority of respondents to a survey sent out after the

consultations selected “**Human Rights and Migration: Working Together for Safe, Dignified and Secure Migration**”. The proposed alternative theme was “South-South Migration”.

11. Drawing on IOM’s research and programmatic experience, under this theme the IDM will explore the “human dimension” of migration and ways to incorporate considerations relating to the human rights, well-being, safety, dignity and security of individuals and communities into migration policies, legislation and programming. The IDM will also seek to build on the discussions and issues raised during the 2008 Global Forum on Migration and Development, whose theme was “Protecting and Empowering Migrants for Development”, and take forward those that are relevant for IOM and its membership.

12. The Administration wishes to take this opportunity to request delegations to give consideration to the potential intersessional workshop topics listed below, or such other topics related to the overarching theme “**Human Rights and Migration: Working Together for Safe, Dignified and Secure Migration**” as the membership might wish to propose at the informal consultations. Two topics should be selected for the IDM intersessional workshops to be convened in 2009.

(a) Effective respect for the human rights of migrants: normative framework and implementation

13. While the general architecture of international human rights law is well known, exactly how individual rights and treaties are applicable to migrants is not always clear. Migrants are entitled to fundamental and inalienable human rights, although their status as non-nationals in the country of residence can sometimes complicate the effective application of such rights. Questions relate, *inter alia*, to the principle of non-discrimination in the context of migration and the need to reconcile the exercise of the sovereign prerogatives of States - including the right to regulate entry, exit and residence - with effective respect for the human rights of migrants.

14. This workshop would provide an overview of the principal global and regional human rights treaties relevant to migrants and consider the integration of human rights standards into national legislative frameworks, policy and programming on migration. Moving from law to practice, the workshop would address potential gaps in the day-to-day application of human rights of migrants, while considering the scope for inter-State cooperation at regional and bilateral levels and the participation of non-State actors in promoting respect for the human rights of migrants.

(b) Trafficking and exploitation of migrants: ensuring protection of human rights

15. The exploitation and abuse of migrants, and the particular case of trafficking in human beings, constitutes a gross violation of fundamental human rights. While important legal instruments already exist, concerning trafficking especially, States and other relevant actors need to be alert to potential gaps in protection. Shortcomings may arise, for example, in the situation and protection of migrants to whom existing instruments do not apply, but who nevertheless find themselves in conditions of forced labour or other forms of exploitation and suffer human rights violations.

16. This workshop would consider the practical value of human rights in ensuring the safety and dignity of migrants who, through trafficking or otherwise, have become subject to exploitation and abuse. While covering the basics of the current anti-trafficking framework and its operational challenges, the workshop would also take a fresh approach by situating trafficking within the wider context of irregular migration and forms of exploitation that do not necessarily meet the strict definition of trafficking. Combating exploitation on the basis of a broad human rights approach would also necessitate the involvement of different players that could be called upon to address potential abuses.

(c) Migrants and societies: rights and responsibilities

17. The relationship between migrants and States tends to be the focus of attention when discussing human rights, but interactions between migrants and their families, neighbourhoods, employers and wider communities in countries of origin, transit and destination are equally significant. Each of these relationships implies rights and responsibilities on the part of all those involved. The workplace, for example, is a major locus of a migrant's engagement with society, with rights and obligations for States, employers and employees. Other arenas of interaction include access to health-care services, education for migrants and their families and matters of civic and political participation which may, for example, call for cooperation between countries of origin and destination or between national and local levels of government.

18. The aim of this workshop would be to examine the relationships between migrants and society in terms of the interplay of rights and responsibilities of all stakeholders, including migrants themselves, to ensure the protection of the human rights of migrants as well as the more general welfare of migrants and communities of origin, transit and destination. Some of these dimensions are directly underpinned by human rights provisions, while others require a range of legal, policy and programmatic responses. Giving practical expression and effect to the principle of non-discrimination, which is central to the human rights framework, is an essential element in managing these interactions.

(d) Protection of the human rights of vulnerable migrants: challenges and gaps

19. Particular groups of migrants, whether moving between or within countries, may find themselves in circumstances that increase the risk of human rights abuses. Stranded migrants constitute a particularly vulnerable group, in part because of their ambiguous legal status, which has long been neglected. Migrants in an irregular situation, temporary workers and those employed in unregulated sectors of the economy may be more susceptible to human rights violations. Children at risk deserve particular attention, as do environmental factors and gender-specific concerns that can contribute to vulnerability. Finally, vulnerabilities can be the result of implementation deficits in non-discrimination standards, for example in access to health care and education, or of poorly managed relationships between migrants and the host society and inadequate information and awareness of the human rights of migrants.

20. In this workshop, the conditions that can generate heightened vulnerability to human rights violations, the interplay between them, and the situations in which respect for human rights may be more challenging would receive special attention. The workshop would adopt a response-focused approach to these challenges, recognizing that the diverse and compound

vulnerabilities experienced by certain groups of migrants require a multifaceted yet coherent approach in terms of legislation, policy and programming involving a wide range of actors.

21. At the informal consultations on 23 October, delegations are requested to come prepared to select two of these four possible workshops or to suggest modifications or alternatives to them.