

30 November – 3 December 2004

Meeting 463  
Date 3.12.04  
Time 10h38

## IOM Council 88<sup>th</sup> Session

*Thank you, Mr. Chairman,*

*This statement is delivered on behalf of a number of NGOs by ICVA.*

Since the launch of the international dialogue on migration for the 50<sup>th</sup> anniversary of the IOM in 2001, NGOs have seen a favourable evolution in the debates towards substantial issues that embrace different thematic and geographical viewpoints. Although presentations still often stem from a decidedly Western, if not European perspective, NGOs are encouraged to see a growing number of member and observer states from Latin and Central America, Africa, and Asia take part in discussions. As NGOs, we were encouraged, for instance, by the numerous references to traditions of hospitality in response to negative images of migrants portrayed in a number of Northern host countries.

NGOs also warmly compliment IOM for inviting members of the Global Commission on International Migration, as well as the International Labour Organisation, to address the Council. Developments in both bodies are clearly related to IOM developments. A mix of views on the global governance of migration and a rights-based approach to migration can only foster comprehensive and sustainable solutions as States share their views on migration management and discuss and assess IOM's programmes and activities.

In view of the ever growing range of activities embarked upon by IOM, we have chosen to address only a few topics in this intervention.

### Migration management and human rights

We have noted a number of references in debates to a perceived dichotomy between States' sovereign rights to regulate entry into their territories and their obligation to respect the human rights of migrants. However, we would like to stress that there is no paradox here. **Eighty-four out of the current 108 IOM member States have ratified all six out of the seven core international human rights conventions.**<sup>1</sup> Of the remaining 24 member States, only 9 have not ratified the two International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights. These treaties all contain strong anti-discrimination clauses and are largely applicable to non-citizens, as demonstrated in the conclusions adopted by relevant treaty supervisory bodies tasked with examining States Parties' periodic reports on implementation of the conventions.

Henceforth, the majority of IOM members and observers should feel more confident about squarely integrating the protection of the human rights of migrants in migration policies and programmes. In doing so, they would simply be implementing their existing international obligations. We welcome encouragements in this direction by a few Latin and Central American and African member States, as well as by the various members of the GCIM that addressed this Council session earlier in the week.

---

<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), the International Covenant on Civil and Political Rights (ICCPR, 1966), the Convention on the Elimination of All forms of Racial Discrimination (ICERD, 1965), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 1984), and the Convention on the Rights of the Child (CRC, 1989).

We take this opportunity to also observe that currently **22 IOM member States and 3 observer States have ratified the seventh core international human rights treaty: the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families** and encourage other members to become more familiar with the provisions of this very useful tool and to consider overcoming their concerns about this instrument.

#### “International Migration Law”

A number of background documents for this session refer to the consolidation of an “International Migration Law” function into the legal capacity of IOM. We welcome efforts to compile and disseminate existing elements of public international law as regards migration. However, the fact remains that the concept of “international migration law” is far from being clear. We remind IOM that, until very recently, a number of its publications highlighted that “there is no comprehensive legal framework governing migration”. We have questions about how this body of international migration law has suddenly come into existence. What, or who, defines a body of law?

We strongly caution against overlap with other existing bodies, in particular UN agencies tasked with the supervision of relevant or related international treaties, including the International Labour Organisation, the United Nations High Commissioner for Refugees, and the Office of the High Commissioner for Human Rights. We also recommend that governments interested in ratifying these instruments direct their requests for advice and assistance to these UN agencies.

Concerning further elaboration of definitions or norms and standards, we voice concerns about the need for caution and intellectual integrity in chartering existing or developing concepts. A case in point is the recent publication of the “Glossary on Migration,” issued as an “International Migration Law” publication. We note, for instance, a definition of the entry on “protection,” which paraphrases a well-known definition in humanitarian circles. The definition was developed during the period from 1996 to 1999, under the auspices of the International Committee of the Red Cross, in a process that brought together a group of humanitarian and human rights NGOs. The definition developed through this ICRC-led process defines the concept of protection as encompassing:

*“...all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law, refugee law.”<sup>2</sup>*

The concept of “protection” appears in the IOM publication without reference to the ICRC-led process definition and with two alterations. The word “full” has been removed before “respect for individual rights” and the phrase “Migration Law” has been inserted in the listing of the source of relevant bodies of law.

We suggest that IOM quotes its sources in publications and gives credit to reference material it reproduces or even chooses to expand upon. This is a question of intellectual integrity and can only breed confidence and respect. Such a practice would be in keeping with one of the recommendations in its self Evaluation of the Migration Policy and Research Programme (MPRP) of June 2003<sup>3</sup> about data accuracy. It recommended that MPRP should invite other

---

<sup>2</sup> Strengthening Protection in War: A Search for Professional Standards. Ed. Sylvie Giossi Caverzasio. ICRC, Geneva: May 2001.

<sup>3</sup> *Evaluation of the Migration Policy and Research Programme*, June 2003, Office of the Inspector General, IOM, [http://www.iom.int/en/PDF\\_Files/evaluation/Executive\\_Summary/MPRP\\_Evaluation.pdf](http://www.iom.int/en/PDF_Files/evaluation/Executive_Summary/MPRP_Evaluation.pdf).

stakeholders to comment on its publications to “ensure accurate, credible research products”. It suggested that one way to implement this recommendation would be to form a review committee comprising representatives of member States and other partners, such as experts of international organisations.

### Evaluations

In his opening Statement, IOM’s Director General stated that it is clear that IOM must refine its skills in project development and implementation, reporting, monitoring, and evaluation. Evaluations and ensuring follow-up to their recommendations is an integral part of ensuring the accountability of an organisation. The results of evaluations should become part of the evolution process of the organisation where lessons are learned and policies adopted in order to improve its ability to carry out its work. Perhaps IOM Council members would benefit from the inclusion of a yearly agenda item on the main findings of evaluations by the Office of the Inspector General and on follow-up to the recommendations.

We welcome the current international context where stakeholders in migration get involved in regional and international or global consultative processes on migration, but fear the consequences of the hasty crafting of concepts and programmes as a product of competition. As NGOs, we remind IOM and its member States of the centrality of the migrant as a human being in these processes.

### Protection and IDPs

As a part of the Inter-Agency Standing Committee, IOM has repeatedly committed itself to the collaborative response to internally displaced persons. This spring, the IASC once again reaffirmed its commitment to working in a collaborative manner to respond to the needs of IDPs and the so-called “procedural road map on developing an IDP strategy” was adopted by all members and standing invitees of the IASC. This road map clearly lays out the need for the humanitarian community to jointly assess the protection and assistance needs of IDPs, develop a strategic plan to meet these needs, and then together decide on how to meet these needs – all under the leadership of the Resident and/or Humanitarian Coordinator.

Despite IOM’s participation in the discussions that led to the creation of the road map and its commitment to the road map, we were surprised to see just some months later, a very different approach to meeting the protection and assistance needs of IDPs in the Darfur region of Sudan unfold. While IOM claims that its inclusion in the Plan of Action was unexpected, there was a clear disregard for the procedures and policy adopted by the IASC. Central to the collaborative response process is that consultations take place from the beginning. Putting an agreement in place and then entering into consultations is turning the process on its head.

We would like to recall that both IOM and the member States of IOM should be ensuring that policies to which the humanitarian community has committed itself are encouraged and respected. Without such efforts by IOM and its member States, the attempts to ensure more predictability in the response to IDPs are only being undermined and there is the risk that protection activities are being handed to an organisation with little experience or expertise in this area.

*Thank you.*

