Background Paper

(Original version: English)

Roundtable 3 – Managing Migration and Perceptions of Migration for Development Outcomes

RT 3.2: Migrant Protection as Integral to Migration Management

Co-Chairs of RT 3.2: Australia and Ethiopia

Team members preparing the Session: Bangladesh, Indonesia, Netherlands, Philippines, United States of America; and IOM and OHCHR

Roundtable coordinator: Anja Klug

Table of Contents

Introduction

Migration can help to realize the desire of individuals to live their lives where and how they choose. The United Nations Development Programme (UNDP) noted in its 2009 *Human Development Report*, 'even before we start asking whether the freedom to move has significant effects on incomes, education or health … we recognize that movement is one of the basic actions that individuals can choose to take in order to realise their life plans'.[1]

An individual's intention to migrate to a specific country may not necessarily correspond with that States' migration policies. States have the right and, indeed, responsibility, to choose who to admit, exclude and expel from their territory, within the limits of international law. Migration policies have to meet several, and at times conflicting, objectives. These include, amongst others, addressing national labour market needs; maintaining commercial or cultural exchange and cooperation with other countries; meeting international protection obligations and considerations relating to national security and the prevention of crimes. They are, therefore, best developed in consultation with all concerned stakeholders.

How ever a State has defined its migration policy, a fully-developed migration policy recognizes that migratory movements are composed of people with needs and legitimate rights, be they a State's own nationals or nationals of another country under their jurisdiction. It respects relevant obligations towards these individuals deriving inter alia from international human rights, labour and refugee law.

Protecting[2] the lives and well being of people and ensuring that they can access their human rights is an objective in itself. It is a core condition for human development and mitigates the long-lasting negative economic, social and individual consequences of violence and deprivation. Migration can carry a number of risks, especially for people in irregular situations or with specific needs. Migrants in general can experience harassment and discrimination, exclusion, violence and exploitation. Enhancing the well-being of migrants increases their agency and empowers them to participate in, contribute to, and enjoy economic, social, cultural and political development towards the full realization of their human rights and fundamental freedoms.

Designing migration policies that meet diverse objectives such as assisting economic and cultural growth; ensuring national security and safeguarding the human rights of migrants can at times be challenging. However, practical examples of protection-sensitive and rights-based initiatives taken by governments in different regions, sometimes with the support of international organizations and other stakeholders, show that they are not irreconcilable and that in fact, migration management policies that manage to integrate both are more effective. Tight border control without corresponding protection safeguards may risk preventing refugees and other people in need of international protection from gaining access to safety. Such policies have not stopped people from migrating, sometimes by ever more dangerous routes. They can create serious risks to people's lives and security and aggravate the situation of individuals with specific needs such as, for example, traumatised persons, trafficked persons or children. The challenge is to develop policies that safeguard national borders and provide protection for vulnerable people in need, while delivering a state's migration objectives.

Real or perceived conflict between migration control and human rights prerogatives may arise at any point of the migration cycle: on departure, during travel, upon arrival or during stay, and upon return to the home country. The interests which need to be taken into consideration in resolving these

---

[1] UNDP: *Overcoming Barriers – Human mobility and development*, Human Development Report, New York (2009), available at: http://hdr.undp.org/en/media/HDR_2009_EN_Complete.pdf.
[2] The terms 'protection' or 'protecting' in this paper encompass all activities (including respect, protect and fulfil) aimed at obtaining full respect for the rights of all individuals in accordance with international law. Protection obligations of State may derive from different areas of international law, including international human rights, labour, refugee and humanitarian law.

situations can vary. Depending on the situation, different areas of international law might apply and provide guidance.

This paper, which has been prepared to support the discussion of GFMD Roundtable Session 3.2 "Migrant protection as integral to migration management", draws attention to the challenging task of States to design protection responses without undermining migration control and law enforcement objectives. Based on the applicable international protection framework deriving inter alia from international human rights and refugee law, it discusses practical ways forward. The paper takes up four specific migrant-focused examples of migration situations where migration management intersects with protection considerations. These scenarios have been selected to trigger discussion on the challenges and principles concerning migration situations which can render affected people particularly vulnerable. The four sections are as follows:

- Border management and the protection of separated and/or unaccompanied children
- Rescue at Sea – managing sea borders while ensuring protection of migrants and refugees
- Migrant workers and their families in humanitarian crises
- Combating labour exploitation and human trafficking while protecting affected migrant workers

Each section is structured around one fictional scenario illustrating the challenges of migration. There will be examples of good practice in policy and procedural responses, as well as questions aimed at facilitating the discussion on protection-sensitive and rights-based practical responses. There is also a guide to further references.

Border management and the protection of unaccompanied and/or separated children

Children, that is girls or boys below the age of 18,[3] are affected by international migration in different ways: some are affected because they live in communities that send or receive large numbers of migrants; some are left behind by migrant parents; some are brought along with their migrating parents or guardians; others travel on their own without their parents or guardians. Whether they migrate on their own or with their families, whether they are legally in the country or in an irregular situation, children can be vulnerable to human rights abuses during their journey and in the country of destination.

Protection challenges: Children who move alone irregularly and independently of parents and adult care givers (unaccompanied/and or separated children)[4] make up a significant proportion of migratory movements. They are particularly vulnerable and can be exposed to a wide range of protection risks. These include high risk journeys, abuses by human smugglers, exploitation and human trafficking, separation from families, migration related detention and difficulties in meeting their most fundamental needs.

The reasons why children leave their countries are manifold and not necessarily different from adult migration. Some are en route to join family members, seek education, employment, or better opportunities for themselves or their families. Children may be fleeing conflict, violence or the impacts of poverty in their home countries. Often it is a combination of these reasons which trigger the decision to leave. The decision to migrate is often taken and financed by the entire family with or without the child's involvement. Travel can be facilitated by human smugglers.

Whatever their reasons for migration, there are particular challenges associated with protecting the rights of these children. Destination countries are often apprehensive that the establishment of strong child protection policies may inadvertently create a pull factor leading to children attempting dangerous journeys alone to secure protection status in a destination country. In addition, children seeking asylum can face difficulties in accessing asylum procedures and in having their claims heard and assessed. The challenge lies in finding solutions which take the child's best interests into account within broader migration policy considerations. There is a need to protect children in vulnerable situations and, on the other hand, to deter more children from attempting these perilous journeys.

International legal framework: How unaccompanied minors are received, processed, held, and returned, or integrated, depends on the national law and policy of the country in which they arrive. International human rights law, most notably the 1989 Convention on the Rights of the Child (CRC), humanitarian and refugee law, provide binding international minimum standards on the treatment of children. These can assist States in developing appropriate responses. The CRC, inter alia, lays out States Parties' legal obligations for protecting the rights of children:

---

[3] See Article 1 of the 1989 Convention on the Rights of the Child, entered into force 02.09.90, available at: http://www2.ohchr.org/english/law/crc.htm.
[4] The term 'separated child' refers to children separated from parents and/or legal or customary caregivers, whilst the term 'unaccompanied child' refers to children separated from parents, caregivers and other relatives.

- *Non-discrimination*: Article 2 states that: "States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." The Committee on the Rights of the Child, the expert body supervising the implementation of the Convention, has suggested, in its General Comment No. 6, that this should be understood to prohibit discrimination on the basis of migration status.

- *The best interests of the child* as a primary consideration in all actions concerning children (Article 3). The Committee has suggested in its General Comment No. 6 that "a determination of what is in the best interests of the child requires a clear and comprehensive assessment of the child's identity, […] particular vulnerabilities and protection needs".

- *The right to life, survival and development* includes the development of the child "to the maximum extent possible" (Article 6(2)). Decisions to repatriate or provide residence in the destination country can significantly impact a child's life and development.

- *Right to be heard:* Article 12 of the CRC recognizes the fundamental right of every child to be heard as a due process safeguard. The views expressed by children should be considered in decision-making processes.

Possible policy responses: Good practices include measures for ensuring migrant children are treated first and foremost as children as opposed to irregular or regular migrants. This includes non-discriminatory access for all children, including refugee and migrant children, to comprehensive child protection systems designed to respond to the specific needs of children and prevent child abuse, neglect, exploitation and violence.

Relevant processes and procedures to assist unaccompanied/separated children can include mechanisms to address the child's immediate needs, the appointment of a legal representative and/or guardian, child-sensitive age assessment, family tracing and identification of a solution taking into account the best interests of the child. Coordination and referral mechanisms between the child protection system and asylum procedures help to ensure that the refugee protection needs of children are recognized and addressed. Connecting children to other available immigration relief outside of asylum can also assist with their long-term protection.

However, effective and protection-sensitive strategies go beyond the responses in one single State. A cooperative and coordinated response involving countries of origin, transit and destination can help ensure that these challenges are comprehensively tackled.

Practical Example

To address the large number of unaccompanied children on the move, the Government of Mexico, with the assistance of UNHCR and IOM, appointed 68 Child Protection Officers (CPOs) in early 2007 to serve as focal points for unaccompanied children. The CPOs are a corps of migration officials who work within the National Institute for Migration. Their responsibilities include: informing children of their rights, including their right to seek asylum; identifying children who may be in need of international protection and referring them to the proper procedures; and following cases to their conclusion. Key actors from government and international organizations jointly drafted a flowchart on the protection of unaccompanied children to serve as a model to improve identification and referral to appropriate channels.

Since 2007, the number of CPOs has increased from 68 to 327. Their presence along the entire southern Mexican border has led to an increase in the number of successful asylum claims made by unaccompanied children in Mexico and to a reduced risk of trafficking, abuse and exploitation of children. The fact that the CPOs form part of the National Institute for Migration facilitates access to information on unaccompanied children. However, given their position as migration officials and members of the agency tasked with controlling access to the territory and effecting deportations, advocating on behalf of the children in their care has at times proven challenging.[5]

Case Study: Ali & Osman stopped at the border

Ali's father is a rebel fighter in country A, who decides his young son will be safer outside the country. Ali's father contacts a remote relative, Hassan, who organises for Ali to be sent to his uncle who lives in the UK. They travel across the border, where Hassan hands Ali over to another agent, called Mohammed, who is helping a group of people to clandestinely enter Europe. Among the people in the group is 17 year-old Osman, from a neighbouring province of Ali's home country.

The journey is hard, and Mohammed treats the children badly. He shouts at them and beats them. He threatens to leave Ali behind and takes all the money Ali's parents had given him.

They arrive at the coast but wait many days before a boat is ready to take them to Europe. In the middle of the night, they are pushed onto a rubber dinghy with several other people. The European coast line is close, but suddenly the boat starts sinking, people are crying and panic breaks out. Ali and Osman manage to reach the coast, but they witness many others drown before their eyes. The two continue their journey until they are picked up by the border police during a routine passport check – they have no documents.

The border police place the boys into immigration detention and initiate deportation procedures. Ali tries to kill himself in detention and is brought to a hospital for treatment of his injuries. The hospital informs the detention centre that Ali is a child who is severely traumatised and urgently needs psychological treatment.

Guiding Questions

1. Which tools could assist your border guards in the early identification of unaccompanied/separated children at border points?

2. Which immediate assistance and other measures may be necessary? Which partners can provide support to you?

3. How can States best ensure that the best interests of the child is a primary consideration in migration decisions? How can international organizations, such as UNICEF, UNHCR or IOM assist states? Which arguments speak for assisting children to return to their families, which for continued stay?

---

[5] Child Protection Officers: *Protection Model for Unaccompanied Children and Adolescents – Informational Sheet*, Mexico's Administrative Instruction Regarding Child Protection Officers within the National Institute for Migration (Circular: INM/CCVM/CRII/00325) (2009); UNICEF: *Protecting Children Migrating Alone – Challenges and Advances in Mexico* (2009); UNHCR: *The International Protection of Unaccompanied or Separated Children Along the Southern Border of Mexico, 2006-2008* (2008).

A Dangerous Reluctance: Rescue at Sea – managing sea borders while ensuring the protection of migrants and refugees in distress at sea

Irregular maritime migration is a global phenomenon and raises both protection concerns as well as migration management challenges in regions such as the Caribbean, the Gulf of Aden, the Mediterranean and the Pacific. Most contemporary maritime movements are "mixed", as opposed to being primarily refugee outflows. They may involve migrants, refugees and asylum-seekers as well as victims of trafficking, unaccompanied children, and individuals in need of medical care. But regardless of their status, most migrants arriving by sea are exhausted and traumatised and need immediate humanitarian assistance. Some may even need long term care.

Protection challenges: Irregular travel of this kind is often facilitated by smugglers or traffickers and generally takes place under extremely dangerous conditions. The vessels used for the journey are frequently overcrowded, unseaworthy and not always commanded by a professional crew. Distress at sea situations are common, raising grave humanitarian concerns for those involved. Search and rescue operations, disembarkation, processing and the identification of solutions for those rescued are ongoing challenges for States and international organisations, as well as the shipping industry.

International legal framework: The rendering of assistance to persons in distress at sea without regard to their nationality, status or the circumstances in which they are found is a longstanding maritime tradition, today underpinned by a comprehensive maritime law framework governing search and rescue at sea. Additional legal obligations to protect human life and the rights of people at sea derive from international human rights law, international refugee law, and, in some situations, also international humanitarian law. Core principles include:

- The duty to protect life at sea and render assistance to those in distress at sea without discrimination[6]
- The obligation to ensure arrangements for distress communication and coordination[7]
- The duty to cooperate to ensure that shipmasters providing assistance for those in distress are released from their obligations and that survivors are disembarked from the assisting ship and delivered to a place of safety as soon as reasonably practicable[8]
- The principle of *non-refoulement*, which prohibits return to territories where an individual may face persecution, torture, inhuman and degrading treatment or other irreparable harm[9]

---

[6] Article 98, 1982 United Nations Convention on the Law of the Sea (UNCLOS), entered into force 16.11.94, available at: http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf; Chapter V, Regulation 33 1-1, 1974 Convention for the Safety of Life at Sea (SOLAS Convention), entered into force 25.05.80, available at: http://treaties.un.org/doc/Publication/UNTS/Volume%201184/volume-1184-I-18961-English.pdf; Chapter 2.1.10, 1979 International Convention on Maritime Search and Rescue (SAR Convention), entered into force 22.06.85, available at: http://treaties.un.org/doc/Publication/UNTS/Volume%201405/volume-1405-I-23489-English.pdf; Article 6, 1966 International Covenant on Civil and Political Rights (ICCPR), entered into force 23.03.76, available at: http://www2.ohchr.org/english/law/ccpr.htm.

[7] Article 98(2), UNCLOS; Chapter V Regulation 7, SOLAS Convention.

[8] Regulation 33, 1-1 SOLAS Convention; Chapter 3.1.9, SAR Convention; IMO Resolution MSC.167(78) Annex 34: *Guidelines on the Treatment of Persons Rescued at Sea.*

[9] Article 33, 1951 Convention Relating to the Status of Refugees, entered into force 22.04.54, available at: http://www2.ohchr.org/english/law/refugees.htm; Articles 6 and 7, ICCPR; Article 3, 1984 Convention Against Torture and

- The obligation to treat rescued persons humanely in line with international human rights law[10]
- The duty to respect the sovereignty of other States[11]
- The principle of international cooperation [12]

Despite this body of law, distress situations often result in fatalities, due to inadequate search and rescue (SAR) facilities or capacities in many regions. Border management priorities can also influence the willingness of coastal States to engage with or support SAR operations. People who have been rescued have to be disembarked, and upon disembarkation, may need costly humanitarian assistance, processing and solutions which may entail continued stay – a scenario which presents significant challenges for States. Well-functioning SAR services and post-disembarkation procedures are sometimes considered as encouraging risky sea movements. These concerns are often fuelled by intense media attention which sea arrivals often attract.

Possible policy responses: The International Maritime Organisation (IMO) has continually sought to clarify the roles and responsibilities of various stakeholders in rescue at sea operations. Amendments to the International Convention for the Safety of Life at Sea (SOLAS Convention) and the International Convention on Maritime Sea and Rescue (SAR Convention), as well as accompanying IMO Guidelines, underline the duty of all State Parties to co-ordinate and co-operate in rescue at sea operations.[13] However, these initiatives have not always been enough to change State practice.

Recognising that the key to the effectiveness of a global SAR framework is cooperation and burden-sharing among concerned States, one option put forward is a model framework to enhance international cooperation and burden-sharing in the context of rescue at sea emergencies.[14] Such a framework for cooperation could support participating States to each assume different responsibilities ranging from different kinds of direct involvement in a specific rescue at sea case to the provision of financial or in-kind support.

A framework for cooperation could form the basis for an ad hoc arrangement in a particular rescue at sea emergency, or be used to develop a standing cooperative arrangement to increase predictability of responses among affected States. It could also be adopted as one element in a broader comprehensive regional approach to address irregular mixed migration.[15] Such a broader approach could, in addition to immediate protection responses, also include preventative measures to discourage people from risking dangerous sea voyages (public information campaigns, actions to prevent the departure of unseaworthy vessels), stringent criminal law enforcement measures, and international cooperation to address exploitative migrant smuggling. The opening of legal migration channels and possibilities for family reunification could diminish the demand for irregular migration.

Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), entered into force 26.06.87, available at: http://www2.ohchr.org/english/law/cat.htm.

[10] Regulation 33.6, SOLAS Convention.

[11] Article 2, Charter of the United Nations (UN Charter), entered into force 24.10.45, available at: http://www.un.org/en/documents/charter/index.shtml.

[12] Articles 55 and 56 UN Charter.

[13] Regulation 33, 1-1, SOLAS Convention; Chapter 3.1.9, SAR Convention; IMO Resolution MSC.167(78), Annex 34: *Guidelines on the Treatment of Persons Rescued at Sea*; IMO Circular FAL.3/Circ. 194: *Principles Relating to Administrative Procedures for Disembarking Persons Rescued at Sea* (2009).

[14] The Djibouti Expert meeting has adopted such a model framework for cooperation; see UN High Commissioner for Refugees: *Refugees and Asylum-Seekers in Distress at Sea – how best to respond?* (5 December 2011), available at: http://www.unhcr.org/refworld/docid/4ede0d392.html.

[15] Such a comprehensive approach is, for example, suggested by UNHCR's *10-Point Plan on Refugee Protection and Mixed Migration*, see UN High Commissioner for Refugees: *Refugee Protection and Mixed Migration: A 10-Point Plan of Action* (January 2007), available at: http://www.unhcr.org/refworld/docid/45b0c09b2.html. The policies and accords of the United States and Cuba, permitting various forms of legal migration to the US while discouraging boat migration are instructive in this respect.

Practical Example

The Spanish trawler "Francisco y Catalina" rescued 51 people (including 44 Eritreans, two Ethiopians and five persons of other nationalities) in distress on the Mediterranean Sea in July 2007. The rescue took place in international waters, on the line between the Maltese and Libya search and rescue (SAR) zone. After high-level negotiations, a burden-sharing agreement, sponsored by the Europeans Commission, was developed to allow for the disembarkation of all 51 rescuees in Malta, followed by their processing in several European countries – Spain, Italy, Andorra and Malta. Rescuees were accordingly disembarked in Malta, and from there transferred by two Spanish planes to Madrid and onwards to relevant countries for processing.

Case Study: The Elizabeth in distress at sea

The maritime Rescue Coordination Centre (RCC) of country X receives a distress call from the Elizabeth, a vessel with over 300 people on board. Elizabeth is en route to country X. She is flagless and in international waters within the SAR area of country Y. It is clear that her passengers intended to enter country X irregularly.

The RCC of country X sends out a rescue alert. A master of a merchant vessel under the flag of country A responds. It is in the vicinity of the *Elizabeth* and will be seeking permission from their headquarters to engage in a rescue operation. However, the next day, the master reports that he did not get permission to engage because it would cause too much delay to a tight schedule and furthermore, his ship was not equipped to deal with that many extra people.

The RCC sends one of their coast guard vessels to rescue the Elizabeth. On reaching it, it finds the passengers are a collection of different nationalities. Some people claim that they had left their country because of an ongoing conflict; others hope to find work or join their families. There are three pregnant women and some 30 children, some of whom may be unaccompanied. Many passengers are sick.

The Elizabeth's engine is damaged beyond repair. The coast guard decides to tow her to the nearest port in country Y and send a request to country Y for permission to land the Elizabeth's passengers. Country Y refuses, arguing it is already overwhelmed with irregular migrants and does not have the facilities to process such a large number of people. Country Y also argues that since the group was on their way to country X they are not their responsibility.

The coast guard approaches other nearby countries with a request to land. These are all turned down. The captain is given various reasons, including the high number of arrivals countries are coping with; the fact that the rescue operation did not take place in their territorial waters, and that they don't want to set a precedent for other boats like this to come to them.

The government of country X finally negotiates a deal with country Z. Country Z agrees to allow the Elizabeth's passengers to land under the condition that country X will find long term solutions for the passengers within a month of their arrival, outside of country Z.

Guiding Questions

1. What are the protection issues involved in this rescue at sea emergency? How would you address them?
2. How could these protection responsibilities be best reconciled with border management objectives?
3. How could we enhance the framework for cooperation and coordination on these types of scenarios?

Migrant workers and their families in humanitarian crises

Media coverage of the suffering of innocent civilians during times of humanitarian crisis such as armed conflict, public disorder or natural disaster, rarely shows that nationals from other countries can be among those at risk, although they often play an integral part in sustaining the economies and societies of their host countries. Non-nationals affected by humanitarian crises in their countries of residence are likely to face considerable hardship, distress and violence. But in addition, they can face particular challenges because of their migrant status. This section is about migrant workers and their families, but is also relevant for other groups of non-nationals. [16]

Protection challenges: Migrant workers can already face many obstacles in accessing their human rights in host countries, particularly when in an irregular situation (e.g. restrictions on freedom of movement, arbitrary detention, racism and xenophobia, and lack of access to essential services and economic and social rights). These challenges can exacerbate their vulnerabilities during a crisis, which in the worst case may include deliberate targeting of migrants. Migrant workers can also face practical barriers in accessing humanitarian support and evacuation systems (language barriers, lack of information, lack of inclusion in preparedness and contingency planning, and lack of financial means). In addition, access to embassies and diplomatic protection from their home countries may not always be readily available or accessible, particularly during a conflict or crisis situation. Access to consular assistance and possibilities to leave the country may also be impaired by a loss or deprivation of travel documents.

International legal framework: The international legal framework makes numerous provisions for the protection of migrants, including in times of crisis. The most important principles include:

- All migrants, irrespective of their status, are entitled to the full protection of their human rights. [17] With few exceptions these rights also apply in the context of crisis. [18]
- International humanitarian law also protects migrants; the most relevant provisions include the obligation to treat them humanely in all circumstances if they take no active part in the hostilities, the principle of distinction between civilians and combatants, the right of migrants to leave the country in conflict, the prohibition of forced transfers. [19]
- Countries of origin can protect their citizens abroad by providing consular assistance and other emergency assistance as relevant. [20]

---

[16] For a discussion of the vulnerabilities of migrants in times of crisis, see IOM International Dialogue on Migration, second inter-sessional workshop: Protecting migrants during times of crisis: immediate responses and sustainable strategies, background paper, www.iom.int/idmmigrantsincrisis.

[17] See for example Human Rights Committee: *General Comment No. 15 – The position of aliens under the Covenant of 11 April 1986,* available at: *http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/bc561aa81bc5d86ec12563ed004aaa1b?Opendocument.*

[18] See for example OHCHR: *Report of the Office of the High Commissioner on the outcome of the expert consultation on the issue of protecting the human rights of civilians in armed conflict*, A/HRC/14/40 (2 June 2010), available at: http://unispal.un.org/pdfs/AHRC1440.pdf.

[19] See 1949 Geneva Conventions and their 1977 Protocols; the full titles and information on these treaties are available at: http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp. See in particular Common Article 3, Part III of the 1949 Fourth Geneva Convention Relating to the Protection of Civilian persons in Time of War, entered into force 21.10.50, available at: http://www.icrc.org/ihl.nsf/INTRO/380; Part IV of the Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts (Protocol I), available at: http://www.icrc.org/ihl.nsf/INTRO/470 and customary international humanitarian law.

[20] See Article 5 of the 1963 Vienna Convention on Consular Relations, entered into force 19.03.67, available at: http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf.

Impact on migrants and home countries: In some instances, the return or evacuation of migrants to their home countries is the best available tool to ensure the protection of migrants and to reduce the risk of prolonged displacement. Many migrants have to take calculated risks, weighing up immediate proximity to danger and conflict against the negative impact that losing their jobs could have on their families and in large-scale crises, on the economy of their home countries. For example, more than half a million migrants lost their jobs during Iraq's invasion of Kuwait in 1990, including several hundred thousand Egyptian labourers in Iraq and tens of thousands of Bangladeshis, Pakistanis, Sri Lankans, Indians and Filipinos in Kuwait. Over 250,000 migrant workers were officially evacuated, with many more making their own way out. In the recent Libyan crisis, over 800,000 migrant workers fled over the span of less than two months. In a humanitarian crisis, the speed and scale of out-migration can be severely challenging to all involved. This is especially so for the countries of origin of returning migrant workers.

The rapid return of large numbers of migrant workers can have serious negative consequences for themselves and for their country of origin, primarily in terms of lost remittances and increased unemployment for their country of origin. Suddenly terminated contracts, lost salaries and the disappearance of social security contributions can have long term economic and social impacts. Documents confiscated by employers may be lost and need to be replaced. Returning migrants also quickly shift from being the primary provider of a family to becoming a dependant. This adjustment is often difficult and stressful for individuals and families alike. Exacerbating this situation is the burden of debts to migration agents or others that may have been incurred to secure the overseas work, which becomes the responsibility of the entire family, putting additional financial pressures on the household. Migrants who are returning from conflict situations may require emergency or long-term healthcare for physical or mental trauma suffered during the conflict and their evacuation.

Possible policy responses: Protection and support mechanisms to address these challenges are necessary before, during and after the crisis, including pre-crisis preparedness, emergency response, and post-crisis recovery. Sustainable strategies are needed to support migrants who have lost their employment and main source of income and those who depend on them. While the host country and the country of origin are primarily responsible for the protection of labour migrants, employers, recruiters and other private actors can make important contributions in this respect. The elaboration of a Code of Ethics could provide guidance and help to generate common understandings. Comprehensive and lasting solutions encompass migration, humanitarian, development and security dimensions. Enhanced cooperation and operational capacity of international agencies is necessary to support States, employers and migrants in addressing contemporary migratory challenges emanating from complex crises. [21]

Practical Examples

The Philippines has established a "wardenship" system among its overseas communities. Through this system, the diplomatic and consular officers link up with overseas Filipino community leaders to identify and assist migrants who otherwise cannot access by themselves, for whatever reason, the diplomatic and consular services and information in time of crises and facilitate their access to humanitarian assistance.

---

[21] For further detail on policy conclusions by governments and other stakeholders at IOM's International Dialogue on Migration on this topic, held in Geneva on 13 and 14 September 2012, see Chair's Summary at www.iom.int/idmmigrantsincrisis.

The Republic of Korea and IOM signed a Memorandum of Understanding (MoU) to facilitate the emergency evacuation of Korean nationals in times of crises and provide other related services where no Korean representation exists.[22]

Case Study: Ahmed caught in crisis

Ahmed, from a sub-Saharan country, has been living and working with a permit in country A. When street protests against the government begin, he decides to stay on, as he desperately needs the money for his family back home.

The protests escalate and turn violent. The army intervenes and a state of emergency is declared after an attempted coup. Soon, there are armed rebels fighting government forces in the streets in Ahmed's neighbourhood, where many other migrant workers live.

A few days pass. Ahmed and his workmates try to leave their apartment block to find food and water. They are attacked by local rebels who accuse them of stealing jobs and spying for their government. Ahmed's group manages to escape but not without some of them being badly injured. They are cared for by locals in the apartment block, but they do not have adequate medical supplies. Ahmed hears that another couple of work mates from home have been killed by crossfire. He hears rumours that neighbouring countries are closing their borders to people fleeing the fighting.

Then, through his expat network, he hears that his government is sending a boat to evacuate its nationals. But it can only make one port that is a long distance from the city where he lives. His contact in the network tells him that if he can make it to the boat he will be safe; but it is the only way his country can help him. Ahmed hears that a group of his countrymen have found a truck and are going to try to make it to the port. In spite of the danger and the uncertainty, Ahmed decides to join them.

Guiding Questions

1. What measures have you/are you planning to put in place for the protection of your nationals abroad should a crisis occur in their host country? What is your experience with such situations? Which other stakeholders have/could provide support? What is the role of actors such as recruitment agencies or employers?
2. How could you better integrate migrants into your humanitarian response strategies for crisis situations? What particular measures are necessary for their protection?
3. As policy makers, which medium and long-term strategies can we develop to ensure support for returnees and their communities? How can international organizations best play their role?

---

[22] Further information is available at: http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAS/cache/offonce/lang/en?entryId=31877.

It is increasingly recognized that labour migration can be beneficial for migrant workers themselves and can assist economic and social development in both origin and destination countries. However, migration can also create challenges for the protection of human and labour rights.

Protection challenges: One of the consequences of 'flexible' labour markets has been a proliferation of irregular or informal work opportunities to meet lower-skilled or semi-skilled labour needs. Irregular migration and informal or irregular work opportunities can make migrants vulnerable to abuse and exploitation at the hands of employers, government officials, the general population in receiving countries, and by unscrupulous recruitment agents in their countries of origin.

Lower-skilled workers often use private recruitment agents which can give rise to abuses including deliberate misinformation about the working and living conditions in the country of employment and the charging of excessive fees. The requirement in some countries that employers sponsor migrant workers (i.e. that the worker is tied to one employer for their work and residence permit) can lead to harmful dependencies. The power imbalance that is thus created can, for example, result in salary withholding and late payment of wages, the substitution of the original employment contract with one containing fewer safeguards for the migrant worker, withholding of the migrant's documents, unlawful restrictions on freedom of movement, denial of access to decent living conditions and healthcare, and, in some cases, psychological, physical or sexual violence and intimidation. In addition, further problems arise as migrant workers are typically barred from labour unions and have little or no access to social protection, including the social services in the country of employment.

Women, who constitute approximately half of all international migrants, more often than men hold jobs that leave them unprotected by laws that cover other workers. Sexual exploitation sometimes goes hand in hand with labour exploitation. Women migrant workers often take jobs in unregulated lower-skilled sectors, such as domestic work, childcare, home care, and commercial sex work. This employment tends to be irregular, unprotected by labour legislation and often facilitated by criminal networks (see also Background Paper for Roundtable 3.3).

Virtually every country is affected by human trafficking, i.e. the recruitment of people by improper means such as force, fraud or deception, with the aim of exploiting them.[23] It is necessary to sanction criminals who exploit desperate people and to protect and assist their victims, many of whom endure unimaginable abuses.

The challenge is to design a labour migration system that contributes to the human development of the migrants and creates growth and prosperity in both origin and destination countries. Exploitation and maltreatment of workers violates fundamental human rights and labour law standards. It can also result in unfair economic competition which can ultimately undermine peaceful relations between

---

[23] See definition in Article 3(a) of the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, available at: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf.

States and disrupt social justice. It can also exacerbate prejudices against migrant workers perceived to be 'stealing jobs'.

International legal framework: The international legal framework for the protection of migrant workers, which can help to develop rights-based migration frameworks, includes international labour law and international human rights law. These instruments afford different levels of protection to migrant workers:

- Universal human rights law applies to all migrants, regardless of status.[24]
- General ILO labour standards apply to all persons in their working environment, regardless of nationality, residence or immigration status unless otherwise indicated. These relate specifically to freedom of association and collective bargaining, prohibition of forced labour and child labour, right to equal remuneration and non-discrimination in employment and occupation.[25]
- Some human rights[26] and labour standards[27] are specifically designed to protect migrant workers. The latter include most notably the principle of equality of treatment of migrant workers in regular situations, obligation to take measures to prevent irregular migration and protect the rights of migrants in an irregular situation arising from past employment (remuneration, social security and other benefits).
- The 2005 *ILO Multilateral Framework on Labour Migration*[28] provides non-binding guidelines for international cooperation on labour migration.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons to the United Nations Convention against Transnational Organized Crime provides the legal framework for the prevention of human trafficking, the prosecution of the traffickers and the protection of its victims.

---

[24] See inter alia the Universal Declaration of Human Rights, the ICCPR and the 1966 International Covenant on Economic, Social and Cultural Rights. A listing of all core international human rights instruments is available on the OHCHR website at: http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx.

[25] 1948 Freedom of Association and Protection of the Right to Organise Convention; 1949 Right to Organise and Collective Bargaining Convention; 1930 Forced Labour Convention; 1957 Abolition of Forced Labour Convention; 1951 Equal Remuneration Convention; 1958 Discrimination (Employment and Occupation) Convention; 1973 Minimum Age Convention; and 1999 Worst Forms of Child Labour Convention.

[26] The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Their Families (ICRMW), available at: http://www2.ohchr.org/english/law/cmw.htm recognises the human rights of migrant workers and promotes their access to justice as well as to humane and lawful working and living conditions. It provides guidance on the elaboration of national migration policies and for international cooperation based on respect for human rights and the rule of law. It sets out provisions to combat abuse and exploitation of migrant workers and members of their families throughout the migration process.

[27] The 1949 Migration for Employment Convention (Revised), available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312242 was developed to address the need for large-scale transfer of labor for post-war reconstruction. The 1975 Migrant Workers (Supplementary Provisions) Convention, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312288 was adopted after oil-price hikes led to recessions and a recruitment stop in European countries. It addresses measures to combat irregular migration, and the protection of labor rights for migrants in irregular situations in Part I. Part II addresses the integration of settled migrants and establishes the principle of equality of opportunity and treatment for these migrants.

[28] Available at: http://www.ilo.org/public/english/protection/migrant/download/multilat_fwk_en.pdf.

Possible policy responses: Domestically, states often have human rights and labour laws in force that protect workers from exploitation. Nonetheless, 'shadow' economies thrive on undocumented migrant labour where exploitation of vulnerable workers can be the norm. There is a need for better enforcement, through appropriate labour inspection and procedures for access to justice. Consular protection, advice and assistance by the country of origin can also be important to tackle abuses and threats. Consulates are often the only institution to which exploited migrant workers can turn. Sound migration policy involves much more than "fighting" irregular migration and tightening border controls. Comprehensive approaches to irregular migration are needed to address its root causes, to protect the basic human rights of workers in irregular status in line with international norms, to provide avenues of legalisation on humanitarian grounds for victims of horrendous abuses, and to consider regularisation options for those who are law abiding, contribute to the economy and society, and have put down roots, as appropriate. Cooperation at all levels (bilateral, regional and multilateral) between governments, civil society and trade unions, the private sector and other stakeholders is an essential pillar for improving migration governance, ensuring the protection of migrant workers, and securing development benefits of labour migration. In the long run, the goal should be migration and employment in conditions of freedom, dignity, equity and security.

Practical Examples

Engagement of a Country of Destination

To minimize migrant exploitation and trafficking in persons, the United States government, under the *William Wilberforce Trafficking Victims Protection Reauthorization Act* of 2008, is required to hand out an information pamphlet on legal rights and available resources to individuals applying for certain employment or education based visas. The pamphlet contains toll-free hotline numbers that migrants in the United States can call should they feel that their rights are being violated. The contents of the information pamphlet include a discussion of procedural issues, legal rights and available legal resources concerning items such as: the visa application process, including information about the portability of employment; the legal rights of employment- or education-based visa holders under Federal immigration, labour, and employment laws; the illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail and worker exploitation in the United States; the legal rights of immigrant victims of trafficking in persons and worker exploitation. It also informs about nongovernmental organisations that provide services for victims of trafficking in persons and worker exploitation. The pamphlet is translated into multiple languages and is also posted on many U.S. Embassy websites (http://www.travel.state.gov/pdf/Pamphlet-Order.pdf).

Case Study: Maria and Anna working abroad

Maria is a 32 year old widow. To support her children, she takes a job in a clothing factory in a far-off country. She arrives at the factory to discover that her pay is half the amount she was told she would get, and her employer takes her passport for 'safe keeping'. With no savings and a debt to pay her recruitment agent, Maria has no choice but to stay.

During her second month at the factory Maria meets fellow national Anna who also has a young family to support back home. Anna has been in the country for three years and at the factory for two years. Anna reveals that she is illegally in the country and that she ran away from her first employer because he tried to force her into sex work. Anna is very worried as she owes more than USD 25,000 to the smugglers who got her into the country. Anna is desperate to repay this money because the smugglers have been threatening her aged parents back home. One day, one of the machines on the floor malfunctions and catches on Anna's arm. She has been working for 12 consecutive hours and is exhausted and unable to free herself. She is seriously injured. The employer, anxious to avoid paying

expensive medical costs, turns Anna into the immigration authorities who arrest her for violation of immigration laws.

Shortly after the accident, immigration agents raid the factory. Maria is rounded up along with the other workers and detained, as none could present valid work permits or passports. The employer disappears and without access to her passport, Maria is worried that she will be mistakenly arrested for being in the country irregularly and deported, still owing the debt to the agent. She contacts the consulate for help.

Guiding Questions

1. What migration management tools are currently available to address the specific vulnerabilities of migrant workers, particularly females?
2. How can we best integrate these tools into our policies and practices for cooperation between governments?
3. Who are the other relevant stakeholders that we can work with?

Conclusion

The four case studies in this background paper illustrate a few examples of the challenges faced by persons on the move. They also illustrate the complexities States face in designing appropriate policy responses. This background paper seeks to stimulate discussion through examining these complex migration scenarios on how we can safeguard the human rights of people as they move through all forms of the migration cycle, and how we can best understand and act on our responsibilities as origin, transit and destination countries.

Because migration is about people moving across national borders, cooperation between states is at the heart of successful migration policy and programs. International cooperation in this area has the potential to profoundly impact on people's rights, safety and well-being. This is especially so in the case of children, where the long term effects of their journeys are played out into adulthood.

The dynamic relationship between geopolitical and geo-economic changes and the patterns and processes of migration will continue to evolve. States and international forums have the challenging task of developing flexible cooperative frameworks that have the capacity to respond quickly to crisis situations, such as rescue at sea situations, and migrants in humanitarian crises. They also need to develop long term strategic policies that address the protection dimensions of regular and irregular migration at land and sea borders, exploitation of labour migrants, and the particular challenges facing immigrant children, especially unaccompanied minors.

Selected References

Border management and the protection of unaccompanied and/or separated children

Committee on the Rights of the Child (CRC): *The Rights of All Children in the Context of International Migration*, Day of General Discussion, Background Paper (August 2012), available at: http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/2012DGDBackgroundPaper.pdf.

Council of Europe: *Explanatory Memorandum to the Recommendation CM/Rec(2007)9 of the Committee of Ministers to Member States on Life Projects for Unaccompanied Migrant Minors* (2007), available at: http://www.coe.int/t/dg3/migration/Activities/Mg_s_mna_en.asp.

ICRC, International Rescue Committee, Save the Children-UK, UNICEF, UNHCR, World Vision International: *Inter-Agency Guiding Principles on Unaccompanied and Separated Children* (2004), available at: http://www.unhcr.org/4098b3172.html.

IOM: *Unaccompanied Children on the Move* (2011), available at: http://publications.iom.int/bookstore/free/UAM%20Report_11812.pdf.

IOM: *Exchange of Information and Best Practices on First Reception, Protection and Treatment of Unaccompanied Minors: Manual of Best Practices and Recommendations* (2010), available at: http://www.iom.pl/Shared%20Documents/EUAM_report_2010%20(4).pdf.

IOM: *International Migration Law No 15 – Human Rights of Migrant Children* (2008), available at: http://publications.iom.int/bookstore/free/IML_15_EN.pdf.

OHCHR: *Study of the Office of the United Nations High Commissioner for Human Rights on challenges and best practices in the implementation of the international framework for the protection of the rights of the child in the context of migration*, A/HRC/29 (5 July 2010), available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.29_en.pdf.

Save the Children, UNHCR and UNICEF: *Separated Children in Europe Programme – Statement of Good Practice* (2009), available at: http://www.unhcr.org/refworld/pdfid/415450694.pdf.

UN Committee on the Rights of the Child (CRC): *CRC General Comment No. 6 – Treatment of Unaccompanied and Separated Children Outside their Country of Origin* (2005), available at: http://www.unhcr.org/refworld/docid/42dd174b4.html.

UNICEF: *Guidelines on the Protection of Child Victims of Trafficking* (2006), available at: http://www.unicef.org/ceecis/0610-Unicef_Victims_Guidelines_en.pdf

UNICEF: *Implementation Handbook for the Convention on the Rights of the Child* (2007), available at: http://www.unicef.org/publications/files/Implementation_Handbook_for_the_Convention_on_the_Rights_of_the_Child_Part_1_of_3.pdf.

UNHCR: *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum* (1997), available at: http://www.unhcr.org/refworld/docid/3ae6b3360.html.

UNHCR: *UNHCR Guidelines on Determining the Best Interests of the Child* (2008), available at: http://www.unhcr.org/protect/PROTECTION/4566b16b2.pdf.

UNHCR: *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, Chapter 6.1 Child protection systems (February 2011), available at: http://www.unhcr.org/refworld/docid/4d9430ea2.html.

Literature

A B Carr: *Incorporating a 'Best Interests of the Child' Approach into Immigration Law and Procedure"*, Yale Human Rights and Development Law Journal, Vol. 12 (2009), pp. 120-159.

A Levinson: *Unaccompanied Immigrant Children: A growing phenomenon with few easy solutions*, MPI and Background Paper for the UN Committee on the Rights of the Child, Day of Discussion (September 2012).

A Macdonald: *Protection Responses to Unaccompanied and Separated Refugee Children in Mixed Migration Situations*, Refugee Survey Quarterly, Vol. 27 No. 4 (2008), pp. 48-62.

European Union Agency for Fundamental Rights: *Separated, Asylum-Seeking Children in European Union Member States: Summary Report* (2010), available at:
http://www.iomlondon.org/doc/report/SEPAC-SUMMARY-REPORT_en.pdf.

European Union Agency for Fundamental Rights: *Child Trafficking in the European Union – Challenges, Perspectives and Good Practices* (2009), available at:
http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2009/pub_child_trafficking09_en.htm.

J Bhabha and C Alfirev: *The Identification and Referral of Trafficked Persons to Procedures for Determining International Protection Needs*, UNHCR Legal and Protection Policy Research Series, PPLAS/2009/3, available at: http://www.unhcr.org/refworld/docid/4ad317bc2.html.

L Feijen: *The Challenges of Ensuring Protection to Unaccompanied and Separated Children in Composite Flows in Europe*, Refugee Survey Quarterly, Vol. 27 No. 4 (2008), pp. 63-73.

M Dottridge: *In Pursuit of Good Practice in Responses to Child Trafficking: Experiences from Latin America, Southeast Europe and Southeast Asia*, Terre des Hommes International Federation (2010), available at: http://www.reliefweb.int/rw/lib.nsf/db900SID/MINE-82XQ3F?OpenDocument.

New Directions for Child and Adolescent Development: *Special Issue – Independent Child Migration—Insights into Agency*, Vulnerability and Structure Volume 2012, Issue 136 (2012).

S Troller: *In the Migration Trap: Unaccompanied Migrant Children in Europe*, Human Rights Watch (2010), available at: http://www.hrw.org/en/node/87786

Rescue at Sea – managing sea borders while ensuring the protection of migrants and refugees in distress at sea

IMO/International Chamber of Shipping/UNHCR: *Rescue at Sea: A Guide to Principles and Practice as Applied to Migrants and Refugees* (September 2006), available at:
http://www.unhcr.org/refworld/docid/45b8d1e54.html. (This short leaflet provides on overview of the most important legal provisions and on practical procedures to ensure the prompt disembarkation of survivors of rescue operations, and measures to meet their specific needs, particularly in the case of refugees and asylum-seekers.)

IOM: *International Dialogue on Migration: Challenges of Irregular Migration – Addressing Mixed Migration Flows* (2008), available at:
http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/96/MC_INF_294.pdf.

IOM: *International Dialogue on Migration: Irregular Migration and Mixed Flows – IOM's Approach* (2009), available at:
http://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/wmr2010/pres_cholewinski.pdf.

UNHCR: *Refugee Protection and Mixed Migration: A 10-Point Plan of Action* (January 2007), available at: http://www.unhcr.org/refworld/docid/45b0c09b2.html.

UNCHR: *Rescue at Sea, Stowaways and Maritime Interception: Selected Reference Materials* (December 2011), available at: http://www.unhcr.org/refworld/docid/4ee087492.html. (Mixed maritime movements can implicate different areas of international law. This binder compiles selected key provisions from each of these bodies of law. It also includes selected guidelines, recommendations, submissions, advisory opinions, policy papers issued by UNHCR and the International Maritime Organization (IMO) as well as materials from meetings and conferences.)

UNHCR: *Expert Meeting on Refugees and Asylum-Seekers in Distress at Sea – How Best to Respond*, Djibouti *(*November 2011), available at: http://www.unhcr.org/pages/4d22f95f6.html. (This meeting specifically focused on enhancing inter-State cooperation, including burden and responsibility sharing).

UNHCR: *Refugee Protection and Mixed Migration: The 10-Point Plan in action*, Chapter 3 Protection-sensitive entry systems (February 2011), available at: http://www.unhcr.org/refworld/docid/4d9430ea2.html.

United Nations Office on Drugs and Crime: *Smuggling of Migrants: A Global Review and Annotated Bibliography of Recent Publications* (2010), available at: http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Smuggling_of_Migrants_A_Global_Review.pdf.

Case Law

J.H.A. v. Spain, CAT/C/41/D/323/2007, UN Committee Against Torture (CAT), 21 November 2008, available at: http://www.unhcr.org/refworld/docid/4a939d542.html.

Hirsi Jamaa and Others v. Italy, Application no. 27765/09, Council of Europe: European Court of Human Rights, 23 February 2012, available at: http://www.unhcr.org/refworld/docid/4f4507942.html.

Literature

A Fischer-Lescano, T Lohr, & T Tohidipur: *Border Controls at Sea: Requirements under International Human Rights and Refugee Law*, International Journal of Refugee Law Vol. 21 No. 2 (2009), pp. 256-296.

C Baillet: *The Tampa Case and Its Impact: Burden Sharing at Sea*, Human Rights Quarterly 25 (2003), pp 741-774.

K Newland: *Troubled Waters: Rescue of Asylum Seekers and Refugees at Sea*, MPI (2003).

K Wouters and Maarten Den Heijer: *The Marine I Case: a Comment*, International Journal of Refugee Law Vol. 22 No.1 (2009), pp 1-19.

M Pallis: *Obligations of States towards Asylum Seekers at Sea: Interactions and Conflicts Between Legal Regimes*, International Journal of Refugee Law Vol. 14 No 2/3 (2002), pp 330-364.

M Scheinin: *Rescue at Sea: Human Rights Obligations of States and Private Actors, with a Focus on the EU's External Borders*, Global Governance Programme Report.

R Weinzierl and U Lisson: *Border Management and Human Rights. A Study of EU Law and the Law of the Sea,* German Institute for Human Rights (2007), available at: http://www.unhcr.org/4963237c11.html.

Migrant workers and humanitarian crises

Government of the Philippines: *Colombo Process – Scope of Collaboration and Possible Institutionalized Response during Emergencies Impacting Migrant Workers*, Intervention by the Delegation of the Philippines during the Fourth Ministerial Consultations held in Dhaka, Bangladesh (20–21 April 2011).

IOM: *International Dialogue on Migration: Moving to Safety – Migration Consequences of Complex Crisis,* Background Paper and Chair's Summary (April 2012), available at: http://www.iom.int/idmcomplexcrises.

IOM: *International Dialogue on Migration: Protecting Migrants During Times of Crisis – Immediate Responses and Sustainable Strategies,* Background Paper and Chair's Summary (September 2012), available at: http://www.iom.int/idmmigrantsincrisis.

IOM & International Peace Institute: *International Dialogue on Migration: Migrants in Times of Crisis – An Emerging Protection Challenge,* Background Paper (October 2012), available at: http://www.iom.int/idmnewyork.

IOM: *Migrants Caught in Crisis,* IOM, Geneva (2012) available at: http://publications.iom.int/bookstore/free/MigrationCaughtinCrisis_forweb.pdf.

IOM: *IOM's Humanitarian Emergency Response to the Libyan Crisis: 28 February 2011 – 27 September 2011*, Seven Month Report on IOM's Response, Geneva (2011)., available at: http://www.iom.int/jahia/webdav/shared/shared/mainsite/media/docs/reports/MENA-Seven-Month-Report.pdf.

OHCHR: *The situation of migrants and asylum-seekers fleeing recent events in North Africa***,** A/HRC/18/54 (1 September 2011), available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A.HRC.18.54_en.pdf.

Literature

B Kelly and A Jawadurovna Wadud: *Asian Labour Migrant and Humanitarian Crises: Lessons from Libya*, IOM and Migration Policy Institute Issue in Brief No.3 (July 2012).

B Magnoni et al.: *Risks Across Borders – A Study of the Potential Micro-Insurance Products to Help Migrants Cope with Cross Border Risks*, Multilateral Investment Fund, Washington D.C. (2010).

C Aghazarm, P Quesada, S Tishler: *Migrants Caught in Crisis – The IOM experience in Libya,* IOM, Geneva (2012).

Forced Migration Review*: North Africa and Displacement* (June 2012).

J Powers, B Magnoni and E Zimmerman: *Formalizing the Informal Insurance Inherent in Migration: Exploring the Potential Risks Between Migration, Remittances and Micro-Insurance*, Micro-Insurance Paper No. 7, International Labour Organization (ILO), Geneva (2011).

P W Galbraith: *Refugees from War in Iraq: What Happened in 1991 and What May Happen in 2003*, MPI Policy Brief No. 2, Migration Policy Institute, International Organization for Migration (IOM), Washington, D.C. (2003).

T del Rosario: *Best Practices in Social Insurance for Migrant Workers: The Case of Sri Lanka*, Working Paper No. 12, International Labour Organization (ILO) Asian Regional Programme on Governance of Labour Migration, Bangkok (2008).

Combating labour exploitation and human trafficking while protecting victims

Decent Work and Labour Rights

Global Migration Group: *Guidance and Tools Package for UN Country Teams, Addressing Vulnerabilities Associated With Migration*, available at: http://www.globalmigrationgroup.org/.

ILO: Asian *Decent Work Decade Resource Kit – Protecting Migrant Workers* (2011), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme2/labor-migration/asian_decent_work_wcms_098142.pdf.

ILO: *Money and Migration – Smart Guide For Migrant Workers* (2011), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme2/labor-migration/moneymigration_wcms_171656.pdf

ILO: *Protecting Migrant Workers Beyond the Crisis*, Global Jobs Pact Policy Brief No. 17 (2010), available at: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms_146814.pdf.

ILO: *International Labour Migration – A Rights-Based Approach* (2010), available at: http://www.ilo.org/public/english/protection/migrant/download/rights_based_approach.pdf.

ILO: *In Search of Decent Work—Migrant Workers' Rights: A Manual For Trade Unionists* (2008), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme2/labor-migration/in_search_of_decent_work_wcms_115035.pdf.

IOM, ILO & OSCE: *Handbook on Establishing Effective Labour Migration Policies* (2007), available at: http://www.osce.org/eea/29630.

ILO: *Multilateral Framework on Labour Migration – Non-Binding Principles and Guidelines for a Rights-Based Approach to Labour Migration* (2006), available at: http://www.ilo.org/public/english/protection/migrant/download/multilat_fwk_en.pdf.

ILO: *Labour Migration Policy and Management – Training Modules* (2005), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme2/labor-migration/labor_mig_policies_magmt_pub04-29.pdf.

ILO: *Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers – An Information Guide* (2003), available at: http://www.ilo.org/employment/Whatwedo/Instructionmaterials/WCMS_116358/lang--en/index.htm.

ILO: *Sending Workers Abroad: A Manual for Low and Middle-Income Countries* (1997), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme2/labor-migration/sending_workers_abroad_97B09_34_engl.pdf.

IOM: *International Dialogue on Migration N°16: Human Rights and Migration – Working Together for Safe, Dignified and Secure Migration* (2010), available at: http://publications.iom.int/bookstore/free/IDM16.pdf.

IOM: *Working to Prevent and Address Violence Against Women Migrant Workers* (2009), available at: http://www.unhcr.org/4bf643f89.html.

IOM, EC and ILO: *Addressing the Irregular Employment of Immigrants in the European Union – Between Sanctions and Rights* (2008), available at: http://www.iom.hu/PDF/Addressing%20the%20Irregular%20Employment%20of%20Immigrants%20in%20the%20European%20Union_Between%20Sanctions%20and%20Rights.pdf.

IOM: *International Dialogue on Migration N°3: International Legal Norms and Migration – An Analysis* (2002), available at: http://www.ir.metu.edu.tr/iom/pdf/iom2-6.pdf.

IOM, UN: *The Human Rights of Migrants* (2001), available at:
http://publications.iom.int/bookstore/free/Migrants_Human_Rights.pdf

Protecting trafficked persons

IOM: *International Migration Law N°24: Rights, Residence, Rehabilitation – A Comparative Study Assessing Residence Options for Trafficked Persons* (2010), available at:
http://publications.iom.int/bookstore/free/IML24.pdf.

IOM: *International Dialogue on Migration: Trafficking in Persons and Exploitation of Migrants – Ensuring Protection of Human Rights,* Background Paper and Workshop Report (2009), available at:
http://www.iom.int/jahia/Jahia/policy-research/international-dialogue-migration/intersessional-workshops/ensuring-protection-of-human-rights.

IOM: *The IOM Handbook on Direct Assistance for Victims of Trafficking* (2007), available at:
http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/CT%20handbook.pdf.

IOM: *Psychosocial Support to Groups of Victims of Human Trafficking in Transit Situations* (2004), available at: http://publications.iom.int/bookstore/free/PsychoSocial_Support_Transit.pdf.

OHCHR: *Recommended Principles and Guidelines on Human Rights and Human Trafficking*: *Commentary* (2010), available at:
http://www.ohchr.org/Documents/Publications/Commentary_Human_Trafficking_en.pdf.

UNODC, UNICEF, UNICRI, UN Women, ILO, IOM and OHCHR: *International Framework for Action to Implement the Trafficking in Persons Protocol* (2009), available at:
http://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf.

UNODC: *Model Law against Trafficking in Persons* (2009), available at:
http://www.unodc.org/documents/human-trafficking/UNODC_Model_Law_on_Trafficking_in_Persons.pdf.

UNHCR: *Refugee Protection and Human Trafficking – Selected Legal Reference Materials* (2008), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme3/migrant-smuggling-and-trafficking/Refugee_Protection_and_Human_Trafficking.pdf.

ILO: *Combating Forced Labour – A Handbook for Employers and Business* (2008), available at:
http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme3/migrant-smuggling-and-trafficking/combating_forced_labour_handbook.pdf.

ILO: *Forced Labour and Human Trafficking – A Handbook for Labour Inspectors* (2008), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme3/migrant-smuggling-and-trafficking/forced_labour_human_trafficking_handbook.pdf.

OHCHR: *Recommended Principles and Guidelines on Human Rights and Human Trafficking* (2002), available at: http://www.globalmigrationgroup.org/uploads/UNCT_Corner/theme3/migrant-smuggling-and-trafficking/Recommended_Principles_and_Guidelines_on_Human_Rights_and_Human_Trafficking.pdf.

Literature

B Ghosh: *Elusive Protection, Uncertain Lands: Migrants' Access to Human Rights*, IOM (2003).

F de Varennes, Fernand: *Strangers in Foreign Lands: Diversity, Vulnerability and the Rights of Migrants*, UNESCO Paper (2003).

N Piper and R Iredale: *Identification of the Obstacles to the Signing and Ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (2003).

R Cholewinski: *Protecting Migrant Workers in a Globalized World*, MPI (2005).

R Cholewinski, Ryszard: *Migrant Workers in International Human Rights Law: Their Protection in Countries of Employment*, Oxford (1997).

R Martin: *Temporary Foreign Worker Programmes: Policies, Adverse Consequences, and the Need to Make them Work*, ILO (2003).

P Taran and E Geronimi: *Globalization, Labour and Migration: Protection is Paramount*, ILO (2003).

P Stalker: *Workers Without Frontiers: The Impact of Globalization on International Migration*, ILO (2000).

T del Rosario: *Best Practices in Social Insurance for Migrant Workers: The Case of Sri Lanka*, Working Paper No. 12, International Labour Organization (ILO) Asian Regional Programme on Governance of Labour Migration, Bangkok (2008).

Photo credits