GFMD 2011 Concluding Debate, Geneva, 1-2 December 2011

Cluster II Summary Report [1]

Working Session on: *Addressing irregular migration through coherent migration and development strategies*

Cluster II of the GFMD 2011 thematic program explores some important challenges posed by irregular migration for development, particularly in regard to the human rights and vulnerability of migrants in irregular situations. Irregular migration has long been recognized as linked to development in multiple ways, including low levels of economic growth and lack of employment opportunities triggering irregular movement. Additional factors leading to irregular migration, such as political instability, conflict, persecution, human rights abuses and natural disasters, can add to the vulnerability of irregular migrants. The disempowered status of irregular migrants lowers their capacities to contribute to development.

Irregular migration has no clear or universally accepted definition.[2] It is a complex issue, since irregular movements often shadow regular migration, for example in response to perceived or real economic opportunities in destination countries, but are also often tied to inadequate legal migration opportunities. Irregular migration is born of, and can lead to, forms of vulnerability that may seriously jeopardize the health, well-being, human development and lives of the people caught up in it.

The GFMD 2010 discussion on irregular migration saw a deepening of this important debate since its first appearance in a Roundtable session in Manila in 2008. The GFMD 2011 thematic meetings in El Salvador and Turkey flowed from the recommendations made in Puerto Vallarta that the GFMD should continue discussing joint strategies to address irregular migration. Both thematic meetings involved a mix of governments, civil society and international organizations from different regions.

Thematic meetings:
  a) *Cooperation Strategies among States to Address Irregular Migration: Shared Responsibility to Promote Human Development*, San Salvador, 4-5 October 2011[3]
  b) *Addressing Irregular Migration through Coherent Migration and Development Strategies*, Istanbul, 13-14 October 2011 [4]

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[1] This Cluster Summary was prepared in consultation with a government team comprising Australia, El Salvador, Indonesia, Mexico, Philippines, Turkey, Switzerland and the United States.

[2] See, e.g., the IOM *Glossary on Migration*, 2004: "Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. […] From the perspective of destination countries it is illegal entry, stay or work in a country, meaning that the migrant does not have the necessary authorization or documents required under immigration regulations to enter, reside or work in a given country." (p. 34).

[3] The meeting in San Salvador was hosted by the Government of El Salvador and co-chaired by El Salvador and the Government of Mexico. It was supported by the Swiss Chair and IOM, and involved 73 participants, including governments from Africa, Asia-Pacific, Europe, Latin America and the Caribbean, Canada and the US; and international organizations and civil society.

[4] The meeting in Istanbul was hosted by the Government of Turkey and co-chaired by Turkey and the Government of Switzerland. It was supported by ICMPD and involved 61 participants, including governments from Africa, Asia, Latin America, Europe, Australia and the US, and international organizations and civil society.

1.   Introduction

The UN estimates that about 10-15% of international migrants (currently estimated at some 214 million) are in some form of irregular status. However, global data on irregular migration remain poor and inaccurate, *inter alia* because of the complexity of the phenomenon (often closely intermingled with regular migration), its clandestine nature, and the lack of capacity (and in some cases the will) to monitor and collect data on irregular migration.

Both thematic meetings sought to broaden the dialogue on irregular migration and development, and establish a firmer space within the GFMD to share knowledge, experience and ideas about international cooperation to address the development-related causes and impacts of irregular migration in ways that can promote human development. They strove for integrated and inter-disciplinary solutions that could balance national and individual (migrant) interests, border security issues with fundamental human rights and the interests of governments, migrants, civil society and other players affected by irregular migration. Specific objectives of the meetings in El Salvador and Istanbul were:

- To discuss causes of irregular migration and address the diverse impacts of irregular migration on countries of origin, transit and destination.
- To exchange information on bilateral, regional and international practices, strategies and models designed to protect migrants in an irregular situation, and to offer viable alternatives to irregular migration.
- To identify conditions and mechanisms for effective partnerships between countries of origin, transit and destination in order address development-related causes of irregular migration.

2.   Key Issues and Outcomes

Participants recognized that irregular migration has a number of negative causes and consequences. In countries of origin, the absence of jobs and sustainable development is one very common cause prompting many people to look for opportunities abroad. But other non-economic factors, such as conflict, human rights abuses, political instability and lack of established, meritocratic bureaucracies and justice systems, can also induce people to migrate, often in irregular ways, especially where there is inadequate information about the opportunities and risks of working abroad and/or regular migration channels are inaccessible, complex or simply too expensive. The actions of fraudulent migration intermediaries/agents who advertise false opportunities can also exploit vulnerabilities and cause (irregular) migration.

In countries of destination, irregular immigration can lead to an erosion of public confidence in the integrity and effectiveness of migration (and asylum) systems, because of a real or perceived threat it may pose to society and the economy and the increased competition for scarce jobs. Xenophobic sentiments tend to grow where there are poorly informed perceptions about migrants, insufficient coherence between migration and labour market planning, and a lack of support mechanisms for vulnerable migrants. Irregular migration can also reflect negatively on established migrant communities and diasporas.

Irregular migration also endangers the well-being and the lives of migrants and their families. A large but unknown number of irregular migrants die each year trying to cross land and sea borders. Smugglers extract large amounts of money, and traffickers, as well as certain employers and recruiters, ruthlessly exploit irregular migrant women and men by forcing them into low-paid, insecure and degrading work, including slavery.

The specific issues addressed and outcomes reached were the following:

i)   Irregular migration, like regular migration, is in most instances an adaptation strategy for migrants seeking to improve living and economic conditions. It is not a goal in itself. However, while regular and irregular migration share some common drivers, irregular movements can often be caused by a demand for informal and cheap labour and inadequate access to legal employment, and facilitated by smuggling and trafficking networks.

ii) Irregular migrants contribute to development in their countries of origin through their remittances and otherwise, but their vulnerability to exploitation, lack of access to education and health care, reduced mobility, low income, etc. limit this contribution.

iii) Participants confirmed the observation of the UNDP Human Development Report, 2009, that policies and programs to ensure that people move safely and legally can also result in greater economic efficiency, social equality and contribution to development.

iv) There exist different perspectives on irregular migration, including different interests: To ensure public confidence, governments need to maintain migration and asylum policies that address irregular migration effectively, but also respect fundamental principles of protection; certain employers may primarily be interested in filling jobs through cheap labour; and advocacy groups, trade unions and relevant international agencies often emphasize the need to ensure the protection of irregular migrants against exploitation.

v)   Effective mechanisms of interaction and dialogue between governments, civil society and other concerned actors are thus required. These should take the form of formal, permanent consultations at national, regional and global levels. Governments, civil society and the private sector all have a stake in taking combined action for better research, information, support services, advocacy and capacity building in countries of origin, transit and destination. This will help strengthen the links between migration and development at all points in the migration cycle, which in turn can generally improve the conditions of migrants while migrating. Such joint initiatives, however, should be led by governments.

vi) Governments of destination countries have primary responsibility for protecting the rights and entitlements of all persons on their soil, including irregular migrants. And governments of origin countries maintain their responsibility for their nationals abroad, irrespective of their status, and thus share a common responsibility with destination countries.

vii) The irregular migration process begins long before the actual movement, and eventual decisions to move are often based on erroneous perceptions of the potential economic and other benefits abroad. In this 'pre-migration stage', measures by governments and non-governmental actors in origin countries to discourage irregular migration can benefit from more comprehensive interventions, such as promoting local development; analysing the local labour market, income characteristics and quality of available jobs; addressing socio-economic conditions and expectations of potential migrants; and fostering a 'sense of roots' in the home community.

viii) In some countries or communities, there is an emerging 'culture of emigration' where migration (including irregular migration) is seen as the answer to almost all of life's problems, both individually and collectively. Governments and other actors need to address this phenomenon pro-actively, e.g. through targeted information campaigns about the perils of irregular migration, the realities that face migrants in host countries, etc

ix) The irregular migration phenomenon debate cannot be fully understood without considering the globalization process and its impacts on states, their economies, societies and cultures. The challenges raised by irregular migration must be addressed through policies that go beyond

management and border control approaches. Undeniably, globalization has caused great disparities and asymmetries among countries. These aspects must be evaluated through a comprehensive approach, to find balanced answers that take account of: the factors that impel irregular migration, and international dialogue and cooperation based on the principle of shared responsibility.

x)   Enhanced and sustained inter-state cooperation on both migration and development is seen as part of a comprehensive and coherent approach to addressing the causes and impacts of irregular migration. Inter-state actions on migration and development are often most effective through bilateral or regional cooperation agreements that can negotiate mutually favourable terms for the migrants and for the countries of origin and destination. By opening up legal channels for labour mobility around the identified needs of all parties, such arrangements are likely to help mitigate the factors (in origin and host countries) that cause or encourage irregular migration.

Bilateral and regional cooperation should also go beyond mere readmission and labour agreements, and include support for capacity building and investments in the local economy to promote and sustain the creation of jobs. It must further be recognized that the challenges of irregular migration are not all resolvable through cooperation agreements. More effective domestic management of irregular migration, including enforcement of migration laws, which provide proper protections for vulnerable migrants and asylum seekers, is also part of the equation.

xi)   Acknowledging and respecting the different interests, values and needs of all players can help states build partnerships with each other based on trust. The sustained commitment of countries of origin to assume responsibility for the well-being of their own nationals abroad and concretely cooperate in resolving any difficulties over irregular migration, is a key to successful partnerships in this area

xii)   Data on irregular migration are crucial to reach a common perception and better understanding of irregular migration. Many governments lack such data, and there should be more cooperation between origin, transit and destination countries to collect data. Migration Profiles could be a useful tool for this purpose, and regional dialogues could also be instrumental in data collection and sharing.

xiii)   A number of practices to support and protect migrants were showcased from the perspective of country of origin, country of destination and inter-state and regional cooperative arrangements:

- Ecuador has established migrant centres/shelters (Casas del Migrante) in Ecuador and abroad to support and protect both its immigrants and emigrants. Ecuador, El Salvador, Honduras, Mexico and Nicaragua use their consular networks to disseminate information and facilitate access to services for their émigrés. El Salvador has established an observatory to monitor the situation of its nationals abroad, especially while in transit, and to enable the government to develop targeted policies and strategies of "services for protection". These models could contribute in some form to promoting and publicizing the economic, social and cultural benefits of migration (including irregular migration), and help combat misperceptions about migration.
- Honduras and Mexico have set up information and referral programs for their émigré communities in host countries like the US on health literacy, preventive healthcare and health promotion. El Salvador and Mexico also offer virtual education courses to their nationals abroad. Countries of destination like Belize, Brazil, Dominican Republic and Germany offer some free public health services to migrants and families in irregular circumstances (in Switzerland, health insurance is obligatory, and insurance companies are required to insure anyone regardless of status).
- Mexico's free training course for migration officers in the protection of unaccompanied minors (OPI), available to other countries, offers a good model for replication (see the Puerto

Vallarta GFMD and the GFMD Platform for Partnership). El Salvador has also passed a law to protect migrants and their families. At the destination end, countries like Germany and the Netherlands offer special services for vulnerable children in irregular circumstances.

- Regularizing the immigration status of long-term irregular migrants who have employment and homes in their host country was also practised in some European and Central American countries as a way of reducing the vulnerability of irregular migrants. Governments were urged to continue this policy.
- Zimbabwe demonstrated how the illegal employment of irregular Zimbabwean migrants by a South African company eventually ended in an agreement between Zimbabwe and South Africa to regularize these workers, based on the real demands of the employer (and the economy's real need for such employment).
- Multi-sectoral committees or councils within government can help achieve institutional coherence in managing labour migration and protecting, supporting and developing migrants and their families. Brazil's National Council on Migration, involving 9 Ministries and committees that deal closely with civil society, was a model worth replicating elsewhere. El Salvador offered a model of tripartite labour migration management, involving the Ministry of Labour, Ministry of Foreign Affairs and IOM. To achieve coherence between the need to manage migration and protect individual rights, all national migration legislation should be reviewed and brought into conformity with international human rights laws.
- Inter-state frameworks for managing temporary and circular labour migration, which engage government, private sector and international agencies such as IOM, are more likely to reduce the need for migrants to resort to irregular migration. Senegal's temporary labour migration program with Spain was offered as a good practice. It was agreed that circular migration should be promoted and replicated as a good inter-state practice to facilitate safe and empowering labour mobility.
- Australia has for the past three years effectively trialled a labour mobility program to bring seasonal workers to Australia from participating Pacific island countries (Pacific Seasonal Worker Pilot Scheme), which includes a suite of complementary social support measures.
- Switzerland is concluding Migration Partnerships with a number of countries of origin based on a balance of their respective interests. While the partnerships focus on traditional areas such as readmission and visa regulations, they also gradually move into broader areas such as exchange for vocational training and traineeships.
- France has signed 13 agreements with third countries, and several others are in the process of negotiation. These agreements create a framework for discussion between France and countries of origin on irregular migration and on how to channel and improve employment policies and professional training measures in both countries. The French agreement with Tunisia, for instance, increases the issuance of visas between the two countries and the exchange of young professionals. It also tackles irregular migration through a better cooperation between law enforcement agencies.
- The Regional Cooperation Framework to address irregular movement and combat people smuggling in the Asia Pacific region, developed in consultation with UNHCR and agreed through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, with the strong support of Co-Chairs Indonesia and Australia.

3.   Core Messages to the Concluding Debate

In addition to the general outcomes and messages outlined above, the following **concrete outcomes/proposals** from the meetings in San Salvador and Istanbul embody the core messages to the Concluding Debate:

a) **Establish a sustained dialogue in the GFMD to deal with irregular migration** and related development and human rights issues, based on the shared responsibility of all states to address this phenomenon through dialogue and cooperation.

b) **Encourage countries to establish or strengthen the use of consular networks** of countries of origin to provide effective support to migrants and protection of their rights.

c) **Support countries of origin in comprehensive interventions and actions** aimed at discouraging irregular migration.

d) **Establish national councils, committees or working groups** for the support, protection and human development of migrants and their families.

e) **Consider establishing a GFMD working group focused on labour migration**, particularly irregular forms of labour migration, to test and operationalize the lessons and models offered by existing framework instruments (such as the ILO Multilateral Framework on Labour Migration and other similar guiding tools from expert international organizations).

f) **Dedicate a virtual space in the existing website of the GFMD (Platform)** to exchange information on good practices relating to irregular migration.

4.   Questions to guide the Concluding Debate

i) *What is the interplay between irregular migration and development? Where and how do these two issues connect for purposes of identifying appropriate policy responses to irregular migration?*

ii) *What are the basic elements of success in ensuring that national policies for enforcement of migration laws, prevention of irregular migration and protection of the rights and dignity of migration are mutually reinforcing?*

iii) *How can countries of origin and destination take joint action to deal with the causes of irregular migration?*

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