

Statement by Amnesty International & Human Rights Watch

Governing Council, International Organization for Migration Geneva, 2-4 December 2002

Amnesty International and Human Rights Watch welcome the opportunity to attend the IOM Governing Council as Observers. We stand ready to work constructively with the Council and the offices of IOM, including in informal discussions, on matters of human rights compliance, transparency and accountability. We are mindful of the contribution made by IOM and its predecessor organizations to the well-being of many thousands of migrants and refugees since 1951, and particularly welcome this year's paper entitled "Migrants' Rights: IOM Policy and Activities." We trust that this document will provide a foundation for further development of IOM policy.

As organizations committed to the promotion and protection of human rights, however, we also come to this meeting with concerns about the human rights impact of certain IOM operations. In particular, we are concerned that IOM's work in certain contexts is adversely impacting upon basic human rights of migrants, refugees and asylum seekers, including for example the right to be free from arbitrary detention and the fundamental right to seek asylum.

In coming to this Council meeting, Member States cannot leave their other obligations at the door. Notably, Member States bring with them international responsibilities for the protection of the human rights of migrants, refugees, and asylum seekers. We note, for example, that a number of IOM Member States are parties to the Convention on the Rights of Migrant Workers and Their Families, and most are parties to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. More than half are members of the Executive Committee of the U.N. High Commissioner for Refugees, and all but three are parties to the International Covenant on Civil and Political Rights. These obligations are critical to ensuring that the work of IOM is grounded in established international standards and norms, both today and in the context of discussions on the future relationship between IOM and the United Nations.

We urge IOM Member States to ensure that these international obligations are reflected in both IOM policy and its work in the field. This means that the Governing Council should urge IOM to refrain from or immediately cease engaging in any activities that have the effect, either directly or indirectly, of obstructing enjoyment of basic human rights by migrants, refugees and asylum seekers.

We are conscious of the fact that IOM is playing an increasingly prominent role in the reception, assistance, and return not only of migrants, but also of asylum seekers, refugees and the forcibly displaced. Given that IOM does not have a protection mandate for its work with refugees and displaced persons, Amnesty International and Human Rights Watch recommend that IOM should refrain from taking a lead role in situations which fall squarely under the protection mandate of other international organizations, such as UNHCR. The same is also true in the context of “mixed flows” involving the onward movement of asylum seekers in search of effective protection and so raising substantial refugee protection issues. We recognize, therefore, that the ongoing work of IOM and UNHCR to define their respective roles more clearly is of critical importance.

Amnesty International and Human Rights Watch are also concerned that IOM should not provide an alternative agency for states where they prefer to avoid their human rights obligations or where UNHCR has declined engagement in a given situation on the basis that it sees grave problems or dangers. Even with the best of motives, IOM involvement in such situations can end up unwittingly facilitating abuses and harming migrants, refugees and asylum seekers. IOM’s presence should not have the effect of prolonging untenable state policies and practices which themselves fail to comply with international human rights standards. Such policies range from certain border control and deterrent measures, to arbitrary and unlawful detention to encouraging premature return to countries of origin. In such circumstances, states should be required to act in their own name and should be held directly accountable for their actions.

On behalf of our respective organizations, we look forward to continuing dialogue in furtherance of the protection of the rights of migrants, refugees, asylum seekers, and the displaced.