





## IOM projects take up the challenge posed by migration

Migration is seen as globalisation's unsolved problem. The unpredictability of migration flows constitutes a challenge for sending and receiving countries, and is an important point of discussion for all governments at the Global Forum on Migration. In 2007, they met in Brussels, this year they will be meeting again in Manila and next year the discussions will be continued somewhere else again. All manner of scenarios are dealt with aimed at controlling migration flows. Because there is no doubt that, alongside the flow of refugees looking to escape from conflicts, there will be an increasing number of migrants willing to take their chances for economic improvement through emigration. On top of this, there is the growing consciousness that climate change will give large groups of people reason to move, either to keep dry or to find arable land for agriculture.

Who was not shocked by the multitude of reports in 2007 about migrants being rescued from the sea after risking their lives to set foot somewhere on the European mainland? How much hope developed among migrants when, after much discussion, the Dutch government announced a special general pardon? These two news stories put a face to the problems surrounding migration. Compassion for those who survived the perilous crossing and emotional relief for all those whose long period of uncertainty ended. Simultaneously, we should not forget that the majority of these enterprising immigrants' attempts are less successful or fail entirely. They do not reach their destination or are handed a negative decision by the government which means they cannot stay in their country of choice. Return then seems the best alternative, if they do not opt for the uncertain future of an illegal alien.

The statistics for 2007 provide food for thought in the light of the above. The number of asylum requests is at an all time low. Has the migrant flow to the Netherlands decreased? The number of those leaving voluntarily with IOM's help has also never been lower. Are migrants opting to live as illegal aliens? It is no easy task to answer these questions. Worsening security conditions in countries such as Somalia, Iraq, Sudan and Afghanistan help explain why hardly anyone is returning there. Moreover, comparison with neighbouring countries in Europe reveals similar decreasing trends. Naturally, the general pardon influences the attitude of people who have requested asylum. On the one hand, the opportunities for survival thanks to work in the informal economy reveals that the Netherlands needs these

migrants. Yet, on the other hand, the legal and equality principal does not resist this non-regular migration.

Over the past few years, IOM has worked hard to contact that mixed group of migrants. Rejected asylum seekers are not the only group who were informed of the opportunity of a new future in their countries of origin. Contacts were actively made with illegal migrants and those already in aliens detention. Experience has taught us that the prospect of development is of great importance for successful reintegration. People who are no longer allowed to stay in the Netherlands should be able to return to their country of origin in a safe, respectful manner and have a perspective for a future livelihood. Together with a number of social organisations, IOM has detailed a vision to offer that perspective. A proposal which emphatically provides a constructive contribution to the global dialogue on the interplay between Migration & Development.

Reintegration in the country of origin is dealt with in the essay 'Spijtoptanten en de uitdaging van de terugkeer' [Those who regret their choices and the challenge of return] which has been included in this annual report. In this article, Peter van Krieken states that it is a collective challenge to create preconditions which make return positive and remove its negative connotations thereby making it an appealing option.

IOM acts as an independent migration organisation both in the discussion and in the practical implementation. Creative, inspired IOM staff hereby work towards results with partners from the ministries of Justice and Foreign Affairs, municipalities, social and migrants' organisations. The essay in this annual report intends to further inspire people and contains a brief justification of the projects IOM carries out. Those projects are emphatically international in character as migration is the international, 21<sup>st</sup>-century dilemma. The involvement of the migrant diaspora is an ideal bridge towards increasing perspective in the countries of origin for Migration & Development. The 2007 results serve as an example for taking this route on a larger scale and in a wider, international context. This constitutes IOM's contribution to the solution of the problems which migration can entail for people and administrative bodies.

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July 2008



# Essay

## Hesitant, if not reluctant: the challenges of returning<sup>1</sup>

Peter van Krieken<sup>2</sup>

*In many a house in Addis Ababa you will find more or less the same photograph on the wall: the son who 'has made it good' in the US, the land of opportunity, wearing his best suit and leaning on a high-performance car with a proud smile. It is conveniently forgotten, however, that both the suit and the car have been hired and the occasion is probably the wedding of a good friend.*

*The photo is supposed to show that all is well and good with the migrant in the diaspora. Reality is often different, but that is never spoken about. Image counts. One must never be considered a loser.*

*That does not make a possible return to the country of origin any easier, but it is not impossible.*

*The Netherlands has some famous returnees: Prince William Frederik returned in 1813 from England after many years in exile during French rule. He was awaited on the beach at Scheveningen by three important dignitaries. The four of them now find themselves celebrated together in a famous statute on Plein 1813 in the centre of the Hague.*

*Another famous example is the return of Queen Wilhelmina in 1944 to the liberated part of the southern Netherlands. The photograph taken on that occasion is now part of the nation's collective memory.*

RETURN IS  
AN ART



### This essay

In this contribution 'return' will be looked at from a legal, economic and socio-psychological perspective. It will be argued that a return, in spite of the many inherent problems and challenges, can be successful. However, lessons learned from integration and reintegration efforts need to be fully utilized. Return is a complex affair. It is the result of an often long-lasting individual decision-making process. During the last couple of years due attention has been paid to finding out how that individual decision-making process takes place. Also, many return projects have been set up. A starting point may be that the return, like other forms of migratory movements, is the result of push and pull factors. In that context, also some attention needs to be paid to rights and responsibilities, rights and duties, and in particular the question whether there is a right to migration and whether countries of origin have a duty to accept and/or assist the return of their subjects even if the latter would rather remain abroad.

It is a shared challenge to create the conditions which transform a return into a positive event in order to avoid the negative connotation and to make the return an attractive alternative.

### Push and Pull

Migratory movements are the result of push and pull factors such as economic or ecological (non-)developments, expectations for the future, war, civil strife or other forms of violence and/or overpopulation. But also societal tension, a lack of social cohesion, studies, persecution or repression, family, employment possibilities and idealism may play a role. Many of these aspects do influence and have an impact on each other: demographic pressure may result in economic tension which might give rise to political unrest and subsequent repression or even persecution. It is therefore not always apparent which one is the real 'trigger' which makes people decide to look elsewhere for their well-being, in other words to emigrate.

Migration is not only the *result* of various societal or economic developments, but can also be the *cause* of such developments. Migration may yield economic growth, happiness, tension, jealousy or hostility - both in the country of origin and in the country of arrival.

Also of relevance is the notion that labour migration not only solves labour market challenges, but also creates new jobs. Migration creates work for civil servants, lawyers, the police and social and cultural services alike. It is therefore not easy to get a complete picture of the many advantages and disadvantages of migration.

Many migrants settle and are allowed to stay, like professionals, fellow EU citizens, spouses, and recognized refugees. Many others need to leave, either to a third country or to their country of origin. Also those migratory movements are subject to the laws of *push and pull*.

### Migration is not a right; migrants have their own rights

The Universal Declaration of Human Rights (1948) is somewhat ambiguous when it comes to the issue of migration. Article 13 states in its para. 2: *Everyone has the right to leave any country, including his own, and to return to his country*. This formulation is somehow interpreted as amounting to the right to enter a country other than one's own, as the right to emigrate would otherwise be meaningless.

That interpretation is not correct. The UDHR focuses above all on the relationship between a State and its own subjects. And that is what the article is all about: the right of that subject to leave his own country. Nothing more, nothing less, and no inherent right to enter another country except as an asylum seeker, as recognized in article 14 of the same UDHR: quite logical, really.

Although a 'right to migration' may not exist, that does not mean that migrants would be without any rights. Virtually all human rights instruments make sure that everyone, citizens and foreigners, legally or illegally residing in a country, enjoy a minimum of fundamental rights: no inhuman or degrading treatment, no torture, no arbitrary arrest, a fair trial, a right to education, these are applicable to everyone present on a State's territory. Of course, there are some differences between citizens and migrants, e.g. when it comes to political rights (the right to vote, to right to be elected) and, for example, access to social welfare.<sup>3</sup>

### **Rights and duties**

In the 'West' human rights increasingly occupy centre stage. That is particularly true since WWII and understandably so. But it goes one step further. When 'Westerners' 'lecture' about human rights and whilst discussing, for example, the UDHR, they tend to stop at article 28, whereas it only starts to become interesting at art. 29:

- Everyone has duties to the community in which alone the free and full development of his personality is possible.
- In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Rights are hence always coupled with duties and vice versa: no rights without duties, no duties without rights. As for persons who have been told to leave the territory of a country where they had sought asylum or where they would like to live and work as a migrant it should be emphasized that not living up to that obligation will make the situation worse for those who, in principle, might be allowed to stay.<sup>4</sup>

### **Duty to depart**

There must be no misunderstanding: if a migrant is not allowed to stay, he must leave the country.<sup>5</sup> Both international and national law do not allow for any misunderstanding on this very issue. Any obligation to leave the country is meant to mean that the returnee takes the necessary steps to do so. If the authorities in this country have any obligation, it is towards society as a whole, *not* towards the returnee.

### **International law**

International law entails both classical and modern aspects.<sup>6</sup> The former deals with inter-state relations, the latter also with state-individual relations. Return covers both aspects.

There is an obligation to welcome back one's subjects. This has both inter-state



and state-individual aspects. The 'receiving' state must hence accommodate a request from another state to take back one's subjects. But that state is also obliged to welcome the individual at the latter's request.<sup>7</sup>

The first obligation has not been laid down as such in international law, but there is no doubt (in general principles, learned writings) that such a rule exists. The obligation to welcome back one's own nationals has been laid down in a variety of human rights instruments.<sup>8</sup>

### The decision

The State's decision on entry, sojourn and return needs to comply with a number of conditions: a fair procedure, careful scrutiny and the right to appeal. These conditions have been laid down in a number of international agreements. Remarkably, the ECtHR has determined that the article of the European Convention on Human Rights (ECHR) dealing with the right to appeal does not cover non-subjects. The Court argued that this issue is dealt with in Protocol 7 (1984) to the Convention. The Netherlands has signed this Protocol, but has not ratified it.<sup>9</sup> However, in practice all European countries have done so in an appeal procedure. This principle is also reflected in the relevant EU procedures directive.

### Return and readmission agreements

A practice is emerging worldwide, and in Europe in particular, of mainly bilateral return and readmission agreements. It concerns agreements between countries of departure and countries of origin and/or transit or otherwise third countries in order to facilitate return or readmission through procedural and practical measures.<sup>10</sup> These agreements should be seen over and above the obligation to take back one's own subjects. That obligation does exist, also without a return agreement. The latter agreement rather confirms the existence of the international rule (custom) concerned.<sup>11</sup> Yet, these agreements facilitate the implementation of that rule by indicating modalities and providing practical guidelines. The EU intensively tries to streamline, coordinate and not to frustrate the return. Hence the (often successful) efforts to embark on a standard agreement, on the recognition of each other's expulsion orders, common return flights and placing return in a broader migration/development context.<sup>12</sup>

### Return as a result of Push & Pull

As indicated above, return is also subject to the laws of *push & pull*. The individual decision-making process entails (a) legal; (b) economic; and (c) socio-psychological aspects.

#### Ad (a) legal

It is recalled that there is no right to immigration and that when a state orders a foreigner to leave the territory of that country, the latter duly needs to depart or will otherwise be expelled. Some minimum norms need to be taken into account (careful decision making, no collective expulsion, limited detention) and the country of origin must cooperate. It may be an open door, but the great majority of the ones involved will in due time find their way home. Exceptions can be identified through the cooperation-criteria.<sup>13</sup> If, indeed, a return is not possible in spite of the efforts undertaken by those concerned, the country of departure needs to accept continued residence.

#### Ad (b) economic

The returnee needs to be 'empowered', to be able to face the new reality (a different or the same 'old' existence in the country of origin) and to live up to this. Empowering the returnee amounts to preparing him for reintegration and (economic) survival. New skills, work experience, and/or a diploma are necessary, apart from financial means or very practical possessions, to make a new start. It is submitted that a passive stay in the host country hinders and hampers reintegration in the country of origin. Experience, however, has also taught that an education (with a diploma) in the host country is no guarantee for successful reintegration. Education (vocational training) in the country of origin is preferable. The best combination needs to be identified and the secret of a successful return starts at the host country's door of entry. All those who enter need to become actively involved, be it in education, vocational training, good jobs, self-activation – a pro-active approach is badly needed. Obligatory idleness, as is now so often the case, hampers both integration and reintegration. The Netherlands has recently reviewed the rules on legal employment: the asylum seeker is allowed to work twenty-four weeks a year, to start six months upon arrival - a fair balance one might say.<sup>14</sup> But rigorous rules on access to the labour market and social welfare as well as the prohibition on working during the first six months are needed to limit the pull factor of economic migrants making use of the asylum procedure to gain access to that labour market. In any case, during the first six months upon arrival, all efforts need to be undertaken to activate the asylum seekers: education and voluntary work (on and around the reception centres).

#### Ad c) social

The returnee needs, as indicated, to be harnessed. There is no need to pity him, but some counselling towards preparing him for the return might benefit all those concerned. Also discussion or communication with successful returnees might add to this process. The latter could be invited to the Netherlands, or video-links could be set up. Also programmes about the country of origin are of relevance, as well as satellite-links, TV satellite dishes, the BBC World Service (in one own's language) etc. Also the internet (skype !) brings one's home very close by. The purpose of these contacts is not only to enable the individual to contact family and friends, but also to see the socio-economic developments back home. This particularly concerns job vacancies and the labour market.

Empowering the returnee hence consists of (i) training; (ii) identification with successful examples; (iii) (re-)identification with the country of origin; and (iv) the development of effective assistance programmes in the country of origin. Also of importance is the need to appreciate that when it concerns vulnerable adults or children (war trauma; child soldiers), the socio-psychological problems (including PTSS, PTSD), are *almost always* more successfully addressed in the country of origin and/or with the peer-group there. Resocialization results improve by linking them to reintegration. Sierra Leone, Liberia, Angola - these are good examples. That does not mean that the 'waiting-room' (i.e. the country of arrival) should not offer the necessary services, on the contrary that time should be used effectively. But those services should not delay the return unnecessarily. Organizations active in the country of origin in the resocialization and reintegration fields hence deserve all possible support.<sup>15</sup> And because it does not concern the

average form of development assistance, specialized organizations need to be involved - organizations that are able to link reintegration to departure and return. For both immigrants and emigrants successful (re-)integration is crucial for all involved: the country of arrival, the country of origin, the migrant himself, but also the category of migrants in its entirety.

### Voluntary?

Free will does not exist, that is, it is a relative concept. So when return is equated with a voluntary return the following needs to be taken into account:

- voluntariness can only be 'enforced' to a limited extent by offering a departure 'bonus' (whereas financial support in the country of departure is less effective compared to offering that support in the country of origin);
- voluntariness can only be 'enforced' to a limited extent through repressive measures (detention) which, by definition, are limited in time;
- it can be assumed that the decision to return or not is influenced by the presumed possibility of a general 'amnesty' or a pardon;
- actual and factual access to the labour market and public (social) services are important elements in the decision-making process as a whole.

The individual decision-making process also refers to most subjective and personal aspects like shame, the perception of being a 'loser', or rather the desire to see family and friends.<sup>16</sup> Scholars should not unnecessarily frustrate those who implement projects. Of course, legal experts happily tell administrators what to do and what not to do, what is just/legal, and what is not. That is because they call themselves legal experts. This is also the case in the 'return' debate. Most fortunately also other disciplines now partake in that debate. Jensen and Pedersen, for instance, have carried out research into which migrants and when they remigrate from Denmark, in a study with the appropriate title *to stay or not to stay*.<sup>17</sup> Also, two important (psycho-) social models have been developed in this realm: Berry's *acculturation model* and Sussman's cultural identity model. These two models show that immigration, emigration and remigration can be linked to the level that the migrant feels at ease, considers himself at home, or can identify with or has respect and/or admiration for the reality of the country of immigration. But also sub-cultures play a role, in particular the possibility to become part of the diaspora (China town, little Pakistan). Language, homesickness, melancholia, contemplation - these are personal aspects that are of relevance in addition to socio-economic success or failure.<sup>18</sup> Both project developers and the implementers need to take these useful studies to heart.

### Relation between successful sojourn and return

An interesting phenomenon can be discerned with refugees once the situation in the country of origin improves. Apart from the legal aspects (i.e. the application of the cessation clause) it is remarkable to note that successful integration in the country of asylum has a positive impact on the decision-making process as to whether or not to return. Those Chileans who were best integrated (upon fleeing to Europe following the 1973 coup against Allende and the subsequent repressive Pinochet regime) were the first to return home, to repatriate.<sup>19</sup> It is often true, a fascinating paradox, that many return upon having obtained the citizenship - and hence a passport - of the country of asylum (or: immigration).<sup>20</sup> Apparently a new passport counts as a recognition of sorts, - but also as 'security' against the possible risks of returning to the country of origin.

### And what if return does not occur?

It is illusionary to think that (a) all undocumented (illegals) return on their very own initiative; and (b) that any country can truly make all the undocumented leave. What hence remains is the essential question of which obligations states have towards illegal migrants residing on their territory. Related to this is also whether those obligations would influence the individual decision-making process, including the *push/pull* balance.<sup>21</sup> It could be submitted as a matter of course that those who should leave a country, but who nevertheless have access to the labour market, access to medical care and/or cure, to housing and to education, will not consider themselves exposed to major *push* elements.

Whilst trying to find a balance between what ought, can or should, a distinction needs to be made between emotional, rational and utilitarian arguments. Seeing a begging child or a *clochard* under a bridge, *emotion* may trigger the need to add content to the lives of these two. Also *rational* considerations might be at stake: this or that treaty indicates that the community as a whole should take care of the groups concerned (right to education; right to housing). Finally, also *utilitarian* aspects may play a role: the socio-economic equation of what it costs to allow someone to wither away compared to accommodating him into mainstream society. As to migrants without a permit to stay it is correct to submit that positive action is needed in the case of life-threatening diseases. Not intervening would amount to inhuman treatment - forbidden under Article 3 of the European Convention on Human Rights (ECHR). In such a case, the emotional, rational and utilitarian aspects come together (the latter related to *public* health, the need to prevent epidemics, to make sure that everyone is duly immunized). Also, 'illegal' children have access to education, - *no questions asked*. Again, the emotional, rational and utilitarian elements coincide. These three factors always play a role as to the departure of foreign children, born and raised in the Netherlands, but not always with the same outcome.

It can be noted that the 'undocumented' have built their own network and are perfectly able to survive, at least for some time: *survival skills prevail*. A parallel society may be the result of such a situation. Not impossible, because also in the European Union, some 20% of the economy is not officially accounted for (VAT et al.). The major part of that so-called grey economy is taken care of by fellow-citizens. But it can be safely submitted that that reality enables many of the undocumented to 'survive'. Yet, by acknowledging that a parallel society is emerging or has emerged, it has a serious impact on legal status, health services and social welfare. Being able to survive does not amount to the right of leave of stay. As a bottom line it should be emphasized that the implementation/execution of government decisions, the enforcement, is and remains the central element of a democratic society. But, finally, because no country is able to successfully expel 150,000 to 200,000 undocumented foreigners, the *push/pull* factors stand central in this challenging administrative and societal dilemma.

### Departure v. return

Return evokes different emotions and cannot be compared with departure. The latter was often the appropriate reason for farewell parties, whereas the former is often looked upon as utter failure. A Somali once confided to me that his untimely return was simply part of a bigger 'balance': you gain some, you lose some, meaning that the investment in departure (a one-way ticket to Europe normally amounts to some \$5000) sometimes pays off, and sometimes not. So, your big brother, who made the 'investment', did not show you all the corners of the house upon return? Such misunderstanding was the cause of much laughter. But the question thus remains what could turn return into a success. It is often forgotten that the returnee will be given one evening only to tell all his stories. Only one evening to account for his stay abroad. Then it is quickly 'business as usual' as if the returnee had never gone. Also Dutch diplomats, who in the capital of that far-away country have a car with a driver to take them to meetings and dinners, often find themselves commuting by (a delayed) train once they are again posted to The Hague. Yet it is true that in a town like Hargeisa the various tea-houses attract various categories of returnees: in that one the 'Britishers' and that other one the 'Canadians' And yes, the 'Dutch' also have their own retreat where one can hear both the southern and northern Dutch accents...

### Return is an art

Return is not always looked upon as a success. Of course, quite a few returnees were welcomed:

- Prince William Frederik, the later King William I, on Scheveningen beach returning from exile in England
- Khomeini, Tehran 1979, after years of exile in Najaf and later Paris
- Odysseus (Ithaka, 1150 BC), after a long heroic journey, and who first had to deal with the many 'suitors' as described by Homer (750 BC)
- MacArthur, who upon being dismissed by Truman was treated to what was possibly the greatest ticker-tape parade ever in NY's history.

Others were less successful, like

- Napoleon, who ten months after having been exiled to Elba returned to Paris where he regained his powerful position but who was finally and definitely beaten at Waterloo (1815)
- Aquino (Manila 1987) who upon arrival was murdered at the airport immediately upon disembarking
- Benazir Bhutto, who was brutally murdered shortly after her return (2007).

### Research and projects

In March 2003, the IOM, after 15 months of intensive research, finalized a study on the return possibilities of Somali and Angolan refugees. Supported by the Institute of Social Studies (The Hague) and the Netherlands Government's Central Agency for the Reception of Asylum Seekers (COA), statistics had been analyzed and interviews had been conducted with Angolans and Somali, with self-help organizations, and others supportive of the ones concerned. Both countries were at the time among the main countries of origin where it concerns the influx of asylum seekers. In fact, in 2001 Angola was the number one on that list.

The IOM research was divided into three phases. During the first phase a quantitative and qualitative profile-analysis was duly carried out. In that way one tried to gain an insight into the reasons why refugees were unwilling to return on a voluntary basis. Attitudes and opinions were linked to age, gender, family ties and migration. During the second phase the countries of origin were checked against possibilities for returnees to obtain income, education, housing, social and medical services and reintegration. The third phase consisted of linking the results of the first and second phase. That was accomplished during a round-table conference with all organizations and personalities who had been involved in the project, and with policy makers and others dealing with return-related activities. In the conclusion to this study, the researchers focus and advise on schooling in the mother tongue, additional training in the country of origin and special services for minor asylum seekers. It was pointed out that extra attention needed to be given to four special groups: young children, single mothers, those who have no dependents and those aged 14-18.

Return and reintegration projects are always welcome. They assist in creating an environment in which return can be looked upon as a positive event. It is similarly important to start projects that can effectively counter the trafficking and smuggling of human beings. Also PR is of great relevance, but efforts to picture life in countries of arrival in a negative, yet realistic way, will always meet with reactions like "that does not apply to me" or, simply, "false propaganda" exceptions to a rosy rule.

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#### Project example #1

The IOM project in Sri Lanka is a good example of comprehensive assistance towards return. The project's title is self-explanatory: *VARSRP: voluntary assisted return and sustainable reintegration programme*. For the sake of this project, IOM has set up a network of six offices over the whole of Sri Lanka. The support being provided consists of vocational training, the possibility of micro-credit and of setting up one's own enterprise. This approach, coordinating and offering reintegration assistance in the country of origin, deserves to be copied. The European Commission supports this project financially. During the last four years some one hundred Sri Lankans have returned from the Netherlands, half of whom having requested reintegration support.

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### Project example #2

Mulemba is a reception centre for Angolan unaccompanied minors who have returned home. Its location is just outside the capital Luanda. Only youngsters who have no family or whose family whereabouts are unknown have access to this centre. At the centre they receive education and/or vocational training from a local organization. The Mulemba house was set up in 1994 by the French Françoise Sion. This originally small-scale project started by offering housing to street children, but has now developed into a major reintegration project. IOM has a contract with 'Mulemba' for unaccompanied minors who return from Switzerland, the Netherlands, the UK and Belgium; it includes family tracing. But 'Mulemba' does not only focus on returnees, also youngsters who had 'stayed behind' continue to have access to this centre. They, too, receive housing and education/training.

In practice, only few returnees make use of this facility. This could well indicate that they enjoy a fairly effective socio-economic network and hence do not need this (additional) support. Yet, offering this possibility in itself already makes quite a difference.

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### Project example #3

On top of the minimum assistance being provided to returnees, IOM now offers additional support: HRT, the return reintegration regulation. This is done in the form of financial support: € 1750 for an adult or an unaccompanied minor and € 875 for an accompanying child. In this context the value of a step by step approach should be underlined:

- assistance towards and before the actual departure
- the departure and journey
- assistance upon arrival (hence: education/training in the country of origin rather than in the country of departure)

In the same sense, the concept 'durable return' should be looked upon as a relative one. It is preferable to address the reintegration issue in the context of offering the best possible perspective upon return.

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### Project organization

The Netherlands' branch of IOM is exceptionally well positioned to play a constructive role in this realm. IOM is the most important actor where it concerns *Assisted Voluntary Return*. But also whenever return does not occur on a voluntary basis, IOM's assistance to the returnee is valuable thanks to IOM's pragmatic solution-oriented approach. It should be emphasized that IOM does not mediate in the case of forced return. However, IOM is always able to grant *post-arrival* assistance to the returnee irrespective of the character of the return itself. It concerns reintegration assistance. A good example would be the Afghan RANA project: *Return, Reception and Reintegration for Afghan Nationals to Afghanistan*.<sup>22</sup>

IOM statistics show that the total *Assisted Voluntary Return* in Europe for the period 1995-2002 amounted to 450,000 beneficiaries (of whom 340,000 or 75% went back to the former Yugoslavia, - Kosovo and Bosnia in particular). A significant part of the return population (40,000) concerned those returning to Kosovo and Bosnia from other parts of former Yugoslavia. The remaining 70,000 concerned a return from, in particular, EU countries to the former Soviet Union (CIS), other countries of Eastern Europe (including Balkan countries) and Turkey. Also the statistics for 2003-2007 prove that *Assisted Voluntary Return*, if carefully projected and implemented, can be successful. More than 125,000 individuals have been assisted, among whom are 15,000 from the Netherlands.

### Cooperation

Cooperation in the context of return in partnership with countries of origin can be beneficial to all concerned. Similarly, a dialogue on mutual assistance to formulate and implement a wide-scale migration policy should be commended. Also, making migration part of foreign affairs policy would appear to be a logical step, but, as is so often the case and because political, economic and development goals are not necessarily parallel, cooperation between 'home affairs', on the one hand, and 'foreign affairs', on the other, remains a distant dream in this field.<sup>23</sup> Whilst taking into account that it is quite a challenge to realize this type of cooperation in a country like the Netherlands, no miracles can be expected in Hargeisa, Dakar, Kirkuk or Kabul, where different interests may illustrate the various dilemmas even better. Return should hence never be automatically linked to development projects. In such a case return becomes a subject for negotiations and that could negate the legal obligation to readmit one's own citizens.

### Reintegration and integration

It is often forgotten that return does not amount to return in the traditional sense. The village has a new leadership. Bad harvests may have changed the economic reality. The urbanization process has accelerated. Fishermen now work in the fish processing industry. Farmers now tend the gardens of a big hotel on the beach. Remarkably, whilst abroad, the 'expats' do not undergo the same development as their fellow countrymen who stay at home. Churches in Holland Michigan (to where many Dutch emigrated in the 1950s) are significantly more conservative than their counterparts in the country of origin. Moroccans living in the Netherlands protested vehemently against reforms in family law in Morocco itself. Indeed, there is no return to ground zero, the place and time of departure. Return amounts to a journey to a country that has changed during the absence of the traveller. This means that integration and reintegration become sides of the very same coin. It also – once again – points to the need to offer (re)integration activities in the country of origin, - also to ensure that the local developments become fully part of the new reality, the new mindset. It is essential in the preparation for an active and successful economic and social existence.

### Durability

It is illusory to enforce any form of durability in the return context. Durability not even being a reality in the case of a Volvo, it is even less guaranteed in the case of return. Durability shall be strived for, aimed at, but shall not become an



all-decisive factor in designing or adjusting return programmes. As a matter of course the most successful return is most probably the definitive return. But we all realize that 'travel' is often part of the system, sometimes a 'virus'. This is also true for returnees. Moreover, awareness of return support may be a reason for the journey in the first place. Romanians who returned home from France with a € 300 reintegration grant in their pocket may be tempted to take the next bus to France to receive such a generous grant once again. This is in particular the case if the cost of the journey to France is significantly less than the return grant. As indicated above, it all boils down to *demand and supply, push and pull*. The inappropriate use of return support needs to be taken into due account.

## SEVEN ESSENTIALS FOR A SUCCESSFUL RETURN

For a return to become successful a number of conditions need to be met. To some extent it is a variation on what Ethiopian friends told me: *you return with great dignity if you carry a diploma, have a second-hand car waiting for you at the harbour and/or with your foreign wife*. Reality, of course, is ever so slightly different. So what is to be expected, what preparations need to be made?

### 1 *A sense of reality*

Return, like the departure in the first place, has to do with salaries, living conditions, a vision of the future, a social network, a fall-back position, obligations, as well as demographic social and economic interaction.

The country of origin should neither be perceived more advantageously nor more negatively than it truly is. Meeting that request is not easy because in many cases the country of origin had to be 'sold' in a negative way in order to have a chance of staying in the country of desired residence (asylum).

### 2 *Respect*

Mutual respect and trust is in that context crucial. 'Mutual' refers to the relationship between the authorities and fellow citizens in the country of origin, the country of temporary residence and the individual himself.

### 3 *Self-image*

A great many emotional reactions will occur during a return process. A positive self-image is often key to a positive acceptance. However, feelings of 'shame' often occur. For a Somali, it is generally speaking 'easier' to return than for an Ethiopian. This feature is related to the 'soul', the culture. Self-image can be positively influenced. Everyone benefits from proper counselling.

### 4 *Reception, support*

An effective network is of great help, as is family and a group of friends. They do exist, everyone knows them and has them. But also support in the form of vocational training assistance towards reintegration is essential, as is the availability of micro-loans, in short a socio-economic model that streamlines departure and in particular return.

### 5 *Cognitive dissonance*

A sacred principle of Dutch culture is that no one should be content with nothing in particular.<sup>24</sup> But that is exactly what happened so often in the first place. The one who is told to return, but is reluctant to do so, will always be tempted to listen to the most optimistic, hopeful statements and actions in his immediate environment. The well-wishing volunteers, the eager lawyer, the 'I do not like bad news' civil servant, - they all seem to uphold an unlikely fairy tale. All involved should know better and should act accordingly. This is also true for the returnee. He needs to reaccept the country he so anxiously tried to leave behind, - an important process indeed.

#### 6 *The individual decision-making process*

The decision to return is above all an individual one, based on one's own estimation of the impact of the various *push & pull* factors. It goes without saying that living the life of an illegal makes many realize that there is no durable future in the country of desired migration. The role of employers, access to social welfare, to health services, the emergency reception, the house-owners, they are all probably more relevant than generally believed.

#### 7 *Effective organizations*

Return is a complex process that already starts at the front door. Transparency, accessibility and accountability stand central next to support and implementation. In order to accomplish what needs to be accomplished an effective organization is badly needed, preferably one that is active in both the country of departure and in the country of arrival, an organization qualified to become involved in integration as well as reintegration.

### Conclusion

quite a few of the Ethiopians whose photograph was hanging on the wall in Addis Ababa in the introduction to this essay have meanwhile returned. Successfully, as they themselves submit. Most of them were assisted through IOM, an organization perfectly able to provide effective support, whether it concerns the return trip, vocational training or other support towards reintegration, - a crucial combination indeed.

Return needs to be put on the agenda immediately upon arrival. Return needs to be presented as the (statistically speaking) most likely outcome of both illegal migration and most asylum applications. There is nothing wrong with return. It is above all a challenge, one that can be met by virtually all returnees. They are not losers but winners. Returnees do not tend to look upon their 'adventure' as a failure, but rather as an enrichment of their life. It indeed concerns courageous people, individuals with experience, with a certain drive, a vision. Sometimes return amounts to an obligation. More often than not it is also quite possible.

THERE IS  
NOTHING  

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WRONG WITH  
RETURN

- 1 This text is a slightly adjusted English version of *Spijtoptanten en de uitdaging van de terugkeer*, the introductory essay to IOM's (the Netherlands) 2007 Annual Report.
- 2 Dr P.J. van Krieken (Webster University Leiden, 1949) returned as per 1 January 2008 from Vientiane, Lao PDR, after over two years with the UNDP as Chief Technical Advisor in the Lao PDR International Law Project. During his long career (UNHCR, Refugee Foundation 999, Ministry of Justice) he has returned home more often, but left for abroad again and again (although he now claims that this time his return is definitive). He already started publishing on the subject of return and repatriation in 1979 with an article in the Netherlands Yearbook of International Law (*Repatriation of Refugees under International Law*). He has also been involved with this theme in the field (Southern Sudan, Ethiopia, Pakistan/Afghanistan).
- 3 Returnees, too, enjoy basic rights as well as some specific ones, like the one formulated in the ECHR's Protocol 4, article 4 in which collective expulsion has been explicitly forbidden. Collective expulsion is at stake when the individual's status has not been decided upon individually. Some misunderstanding may have arisen as to whether 'collective' return flights would fall under this prohibition. This is not the case, as long as each returnee's status has been individually decided upon.
- 4 One of the 'challenges' posed by the 1990 Migration Convention is to be found concerning the issue of access to social services: undocumented foreigners would appear to enjoy the same rights as legally residing migrants. See on this issue: Migrants' Rights and the Law of the Sea, in *International Migration*, Vol. 45 (1) 2007, 209-224.
- 5 See the useful *Return Migration: Policies and Practices in Europe* (IOM, January 2004).
- 6 The following paragraphs have been based to some extent on reports published by the Netherlands Advisory Committee for Aliens Affairs (ACVZ), reports to which the present author has contributed.
- 7 It practice this is not always easy to bring about; see e.g. Guofu Liu's important contribution The Rights to Return in China, in *International Migration* Vol. 46 (1) 2008, 191-229.
- 8 Hailbronner, in his monograph *Die Rücknahme eigener und fremder Staatsangehöriger* (Heidelberg, 1996) concludes that international relations and shared responsibilities towards individuals result in the obligation to receive returning subjects. He submits that this concerns a generally recognized principle of international law (p. 92).
- 9 The Netherlands is in the company of countries like Belgium, Germany, Spain and Sweden (the situation as of April 2007).
- 10 Details of some twelve return regulations can be found in my *The Consolidated Asylum and Migration Acquis* (The Hague/Cambridge 2004), pp 323 ff.
- 11 Reference is made *inter alia* to Aleinikoff, *Migration and International Legal Norms* 2003, 8/9: "Widespread state practice of accepting the return of one's citizens, including the conclusion of readmission agreements, is said to support the existence of [a] norm of customary international law" (emphasis added).
- 12 Council Directive 2001/40/EC on the mutual recognition of decisions on expulsion of third country nationals; Return Action Programme, adopted by the Council on 28 November 2002; etc.
- 13 The 2004 ACVZ report on the *national aspects of return* names (p. 30) stateless Palestinians, mixed Armenian-Azeri couples, Bihari from Bangladesh, Ethiopians from Eritrea, and Kurds from Syria.
- 14 The inherent complexities of the regulations concerned may indeed prevent prospective employers from hiring those asylum seekers.
- 15 The Transcultural Psychosocial Organization (TPO, Professor Joop de Jong, Amsterdam University) has contributed greatly in this field. Reference should also be made to a Deng report on where and how attention is being paid to the resocialization and reintegration of e.g. former child soldiers. It turns out that UNICEF, Rädda Barnen, IRC, War Child, the Red Cross and also IOM have booked significant results in countries like Somalia, Liberia and Sierra Leone. See the 2003 ACVZ report on Children and Asylum, p. 98 ff.

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- 16 Research among African refugees showed that the *peer group* as well as informal contacts have a major impact on the individual decision-making process. Also, official institutions (both in the country of presumed departure and the country of origin) are hardly relevant, due to a lack of confidence (J.S. Collins (1996), *An Analysis of the Voluntariness of Refugee Repatriation in Africa* (thesis submitted to the University of Manitoba)
- 17 Out-Migration of Immigrants from Denmark, *International Migration*, Vol. 45 (5) 2007, 87-114.
- 18 See the important contribution by Tannenbaum: Back and forth: immigrants' stories of migration and return, in *International Migration*, Vol 45 (5) 2007, 147-175.
- 19 This phenomenon is quite understandable: it concerned representatives of the elite eager to assist in the institutional and legal reconstruction of the country of origin, and who saw for themselves economic perspectives. Indeed, there are correlations and causalities between social class, times of departure and the possibilities of being granted asylum. Gradation and results differ over the years with the upper class leaving first, to be followed by the middle class and the farmers/labourers much later, - this all combined with a declining asylum-granting scale. And if after a number of years of exile/refugee status the situation in the country of origin improves resulting in a (forced) return, the upper-class reps return without major problems, the middle class needs to make up its mind, whereas the others prefer to stay. Integration promotes self-confidence and hence the chances for successful reintegration.
- 20 See also Schell and Muller *Terugkeren: het eeuwige dilemma. Methodiek voor psychosociale ondersteuning van vluchtelingen (Return, the eternal dilemma. Methodology for psycho-social support of refugees)* Utrecht 2000.
- 21 The 'undocumented' basically consist of three sub-categories:
- those who enter legally but do not depart upon the end of their residence permit (*overstayers*)
  - asylum seekers whose application has been rejected but who do not leave the territory of the country where they had applied
  - those who enter illegally, do not legalize their stay, and refuse to depart.
- All three sub-categories lack a right to claim a leave of stay and all three are under the obligation to depart.
- 22 <http://iom.fi/content/view/2/8> (17 March 2008):
- 23 Regard should be had to those who have been considered to fall under the Exclusion Clause (Art. 1F) of the 1951 Refugee Convention, many of whom still not having left the territory of the Kingdom of the Netherlands.
- 24 The Dutch saying is as follows: *niemand blij maken met een dood vogeltje*; literally translated as *you are not allowed to make someone happy with a dead bird*.



