

# CONCLUSIONS

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1. We began our discussions praising the Mediterranean area as the crossroads of civilisations, cultures and societies, highlighting the strategic importance of the region and the example it could set particularly with regards to the integration of migrants. We were thankfully unanimous in reaffirming the importance of the rights of migrants, their uniqueness, their universality, while insisting on the need for reciprocal co-operation, shared and dynamic responsibility for the protection of the rights of migrants.
2. Rapidly, cracks began to appear in this picture : it was noted that the political scenario had changed and that the economic situation raised concern. Free movement of persons preached immediately after the war has another meaning today. It is hindered by barricades and obstacles to such a point that the principle has become more of an exception, and freedom of movement has sometimes been transformed into a necessity.
3. Even if the multitude of international norms protecting the rights of migrants has been recognised, it is shamefully evident that the number of ratifications is insufficient, particularly concerning the 1990 Convention on the protection of migrant workers and their families ; worse still there is concern for the widening gap between theory and its application : the shortcomings of the application of international migration law is without a doubt an open and deep wound which needs to be treated with great urgency.
4. The 1990 Convention was discussed on several occasions and efforts were made to present an objective and complete analysis. This Convention can be interpreted in contradicting ways depending upon whether the migrant is in the northern or southern part of the mediterranean area. These misunderstandings are most likely to continue. However, the Convention will inspire national legislation, it will encourage good practice, and it will make the obligation of States to co-operate in the supervision of migration more embedded in their conscience.
5. Irregular migration has been given pride of place, so to speak, with its inaccurate and approximate numbers reaching sometimes vertiginous levels. States are faced with permanent challenges: on the one hand, they have the obligation to enforce respect for their sovereignty, the security of their borders and their territory, to fight against terrorism, taking care not to confuse terrorism and irregular migration; and on the other hand, they have the obligation to respect the rights of the migrant, considering that, as an irregular migrant, the individual is more likely to be exposed to violations of his rights and to all kinds of exploitation. The situation of the particularly vulnerable groups, namely women, children, unaccompanied minors, deserves particular attention together with the need to assure those requesting asylum access to protection procedures and mechanisms of refugee law. Discussion on irregular migration gave rise to slightly sceptic comments in

the sense that the glass was definitely half empty rather than half full. Maybe this is due to a possible lack of political will on the part of States to fight this phenomenon and when they do, the measures taken pay more attention to the results rather than to the root causes.

6. A special mention was made to mixed migration flows where people travel together but have different reasons for migrating. It must be remembered that although refugees are not ordinary migrants but international migration includes them in their provisions and all States have the obligation to assure the protection of refugees in the general context of its migration policy: therefore, there is no discrepancy between the protection of refugees and migration policy as long as the latter respects human rights. In practice, and Lampedusa is a striking example. Here, operators have to provide protection and assistance according to needs and cannot afford to enter into deep philosophical discussions of the different forms of protection. It must be remembered that the responsibility to rescue – at sea or elsewhere - is a human or humanitarian primary reflex of the State and other authorized actors, and is a gesture that goes beyond considerations concerning state sovereignty and border controls.

7. The topic of human trafficking gave rise to some critical comments. Apart from the question of whether trafficking comes under ordinary penal law or whether it should also be considered a violation of human rights – and here it must be clear that trafficking, not involving a State-victim relation, is not, legally speaking, a violation of any particular provision of human rights law – the fight against trafficking is unbalanced: the number of victims is unknown, although it varies between 600.000 and 4 million a year; traffickers are difficult to identify and international co-operation has shortcomings and is largely inadequate. The challenge is, therefore, multifaceted and complex. Although efforts and measures concerning the protection of victims and the tracking down of traffickers, were mentioned, nothing, or very little, was said about the measures to be taken concerning prevention, information on potential victims: surely this is the starting point if the root causes and not the results are to be dealt with.

8. The combination “international security and migration” raised complex questions: some concerned the traditional rules of international law, for example, interference with the freedom of the seas caused by controls carried out by the States regardless; others were of a more political nature, such as the wrong use of migration to solve a problem of national security or to cause one to a neighbouring area. Here again the inadequate co-operation factor was highlighted together with the necessity of underscoring the fight against terrorism rather than irregular migration. Participants were reminded that, in this field, the main objective was to find an equal balance between assuring better security and facilitating the legitimate movements, especially within the area where the movement of persons was allowed. The criteria of proportionality should be called upon here and firmly applied. Due to a possible lack of time for further discussion, it was surprising to note that the countries from the southern part of the Mediterranean did not comment on the way they understood or interpreted security measures taken in the northern part of the Mediterranean: this question remains unanswered and perhaps deserves a round table of its own.

9. The concrete response in terms of inter-institutional co-operation, as is the case in Italy, Malta and Spain, has shown certain common strengths and convergences. Paradoxically, we have gone back to the point of re-considering certain fundamental concepts and truths. In fact, the problem of development – and the right to stay or leave – were brought to the frontline; it was also reaffirmed that migration was a normal phenomenon, characteristic of our times, which only becomes a problem if mismanaged. Mention was made about the idea of shared duty, although the expression “shared responsibilities” should be preferred. Indeed, the migrant must not be considered a burden: he can sometimes be a burden but also a richness. Some people used the expression “illegal migrant”, which should be banned from both official and private vocabularies: this misuse of words should be stopped. The opportunity was taken to criticize a lack of legal coherence between the different branches of the law, even though I believe that the crux of the matter is first of all and above all a very discomfoting lack of knowledge of the rules of international migration law: the training of practitioners on a national level is a priority. Return and reintegration were then mentioned but the missing link in our discussions on this topic was without doubt the voice of the countries of origin or transit on the other side of the Mediterranean.

10. Discussions on regional co-operation gave us the opportunity to overview the European Union, a sophisticated system with a very intricate network of norms and directives: we sometimes have difficulty following its developments and perceiving an overall vision of migration policy. Dialogue with the South, whether it be through the 5 + 5 Process or with the African Union, namely with the Arab Maghreb Union, does not meet the expectations of the countries of origin both as far as the opportunities of regular immigration are concerned and public aid for development. There seems to be a definite and frustrating stumbling block hindering the passage from words and dialogue to the application of declarations of intent. However, regional consultations make improvements in the handling of migration possible. National experiences have shown the multiple attempts of response, emphasizing how a single national response is destined to fail. Demographic developments from now to 2050, which still need to consider the probable increase in economic inequality, foresees an explosive situation where only determined action can lead to the beginning of a solution. Africa, whether countries on the shores of the Mediterranean or the Sub-Sahara, must have a more determined dialogue with Europe, a dialogue that looks to the future rather than being centred on colonialism and its negative results.

11. Finally, the presentations on the role of civil society clarified the dialectic relation between security in a wide sense and the various degrees of integration, always remembering that both migrants and nationals have rights and duties, and there is no air-tight barrier between immigration and naturalization. Civil society can urge States to anticipate changes or to make the necessary modifications, for example, concerning the matter of the transfer of funds. However, more often than not, working in emergency situations is the priority of non-governmental organizations. The role of civil society, including the National Societies of the Red Cross and Red Crescent which appear to want to act as the third pillar, is crucial, as these organizations are often the first to be in contact with the migrants, whether regular or irregular. Even if their role is crucial, it does not, however, have priority:

the responsibility to protect lies on the States, while other actors have a subsidiary responsibility, and States should not fall into the temptation of passing their responsibilities onto others.

12. However, the question which must definitely be answered is the following: what are we going to do after this Round Table? What will be the follow-up to these enriching discussions some of which were interrupted and deserve a round table of their own?

- The first concrete action on the part of the Institute and the IOM would be to publish the proceedings of the Round Table, the contributions of all the experts: a work of reference, proof of our meeting will be available shortly. Each expert is kindly asked to send the Institute the finalized text of his/her presentation.
- Other concrete activities were suggested during the course of the debates, for example, co-operation with other centres existing in Europe; co-operation with centres in Africa should also be added. Analysing the relationship between international humanitarian law and migration was also suggested. Another issue which was not treated but is of current interest in this period of economic instability is the fight against racism, xenophobia and discrimination towards migrants, or the general impact of the economic crisis on migration in the Mediterranean area. The problem of return in all its facets also deserves more in-depth discussion. On the subject of the fight against trafficking, it was suggested that the Institute and the IOM develop good practices, elements that can lead to improved international co-operation.
- The IOM gives particular importance to training in international migration law in general or in certain aspects: the need to train national officials was emphasized in the context of handling the borders on a European and international level; it is a field that deserves our attention.

All these suggestions will be analysed by the Institute and IOM to determine a suitable follow-up.

The Sanremo Institute provides an informal venue, suitable for this type of meeting, and the topics covered during these two days deserve a follow-up. Whatever the follow up, a modification must be made: a future round table must be a proper round table, perhaps with less experts, shorter presentations, to give more room for dialogue among participants; certain topics were not followed by a discussion of ideas or an exchange of experiences. If we want to make a modest contribution to what the Mediterranean area becomes or will become, our future meetings must be characterized by cohesion and union rather than division. Perhaps a meeting could be organized on the southern shores of the Mediterranean.

13. On your behalf may I thank the interpreters who have made mutual understanding possible. A big thank you goes to the members of the IIHL Secretariat for their much appreciated efficiency and smile. Finally, I would like to thank you, experts and participants alike, for your spirit of dialogue, openness and reciprocal respect, all factors that have contributed to the success of this Round Table.