

# **GUIDELINES AND EFFECTIVE PRACTICES**

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**Migrants in Countries in Crisis Initiative**

**Private Sector Consultation**

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## INTRODUCTION AND STRUCTURE

This document is divided into three parts, according to the three phases of crises as identified in the Migrants in Countries in Crisis (MICIC) Private Sector Consultation — Pre-crisis Phase, Emergency Phase, and Post-crisis Phase. Each of the three parts is organized as follows. Text in red identifies general guidelines on protecting and assisting migrants caught in countries in crisis. Text in blue distills, in general terms, practices applicable to the preceding guideline as such practices were explored and suggested during the consultation on the MICIC Initiative.

### I. PRE-CRISIS PHASE

#### 1.1 LAWS, POLICIES, STANDARDS, AND INSTITUTIONAL MECHANISMS

##### i. Engage in ethical recruitment processes.

Amongst others, the following practices may be valuable:

##### Employers and recruiters

- **Adopt an ethical model for the recruitment of migrant workers.** Ethical recruitment models adopt common principles whereby job-seekers are not charged fees; workers' identity documents and passports are not retained; and there is a requirement for transparency in the labour supply chain. By ensuring that migrants are not exploited during the recruitment process, employers and recruiters empower them to react in the event of a crisis. The concept of ethical or fair recruitment is based on existing international standards such as ILO Convention 181 and the code of conduct of the International Confederation for Private Employment Agencies' (CIETT).
- **Map personnel supply chains.** Employers should map their personnel supply chains in order to know their contractors and identify possible risks, including health related, on major migration corridors. If the recruitment of personnel is outsourced or sub-contracted, employers should invest in the development and enforcement of policies for the engagement of contractors and monitor their services through previously established criteria, including regarding protecting and assisting migrant employees.
- **Know migrant employees.** Employers should engage early in the recruitment process and know their migrant employees (nationality, family composition, cultural factors, health profile, personal story, etc.) in order to be able to provide tailored assistance in the event of a crisis.
- **Certification schemes.** Recruitment intermediaries and employers should seek the accreditation of integrity certification schemes and further promote principles of ethical recruitment within their industry and across sectors. Stakeholders should use certification scheme initiatives as platforms to collect and share practical solutions and tools to make ethical recruitment viable.

- **Consult with Governments, including consular officers.** Employers should seek the collaboration of government authorities to obtain information on compliant and non-compliant recruiters.
- **Migrants' review and grievance system.** Employers and recruiters should promote the use by migrants of web-based review and complaint platforms (such as the "TripAdvisor guide" initiative of the website [contratados.org](http://contratados.org))<sup>1</sup> to report abusive treatment.
- **Codes of conduct on the use of recruiters.** Industry groups and industry federations should develop codes of conduct, specifying provisions for the sustainable procurement of recruitment agencies' services. Companies should endorse such codes of conduct and implement their provisions for the fair management of migrant workers.
- **Leadership role of large companies.** Powerful industry players should lead the setting up of industry commitments addressing migrant workers' protection and play a leveraging role by prompting other companies, particularly in the same industry, to follow.
- **Business incentives for commitment to ethical recruitment.** Stakeholders should envision business incentives for ethical recruitment and focus on the measurable evaluation of the impact of such models.

### Governments

- **Engage in recruitment processes.** Engage early in the recruitment process of migrant workers to understand the recruitment model, play a proactive role in protecting migrants and enforce existing regulations.
- ii. **Ensure the duty of care equally for non-national employees, locally and internationally recruited, at all skill levels.**

Amongst others, the following practices may be valuable:

### Employers and recruiters

- **Senior management and investors' commitment.** Leverage executives' buy-in to strengthen corporate commitment to the duty of care toward the national and migrant workforce.
- **Mainstream duty of care of migrant workers across companies.** Promote awareness and education on duty of care culture and regulations across company departments, and in particular human resources.

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<sup>1</sup> See Reuters article "There is now a 'Trip Advisor' for migrants so they can avoid falling into slavery" (3.09.2015) at <http://uk.businessinsider.com/r-could-tripadvisor-style-ratings-save-migrant-workers-from-slavery-2015-9?r=US&IR=T>

- **Train business leaders.**
- **Supplier inclusion.** Include and engage the full supply chain in implementing due diligence and sustainability programs.
- **Consult with migrants.** Hear migrant voices on employers' and recruiters' duty of care policies and provisions.
- **Duty of care policy development.** Develop legally binding internal policy instruments for the protection and assistance of the entire migrant workforce.
- **Extend companies' legal responsibility to assist locally hired, non-national workforce in the event of a crisis.** Promote the development of internal policy to activate companies' legal responsibility and moral imperative to protect their locally-hired migrant workforce during a crisis.
- **Code of conduct and monitoring of suppliers.** Develop or adopt a code of conduct for suppliers to extend the company's duty of care policy throughout the labour supply chain; invest in training, monitoring and enforcing mechanisms. Include code of conduct provisions as contractual elements across categories to ensure legal liability of contractors.
- **Inscribe duty of care in contracts.** Inscribe duty of care provisions as clauses in companies' contracts for internationally and locally hired migrant employees, thus making their implementation legally binding in the event of a crisis. Ensure liability and protection of migrants across the supply chain by adding duty of care clauses in contracts with contractors and suppliers.
- **Set-up grievance and reporting mechanisms.** Establish grievance and reporting systems to track breaches of a company's duty of care principles down the supply chain. Encourage all employees, including migrants, to report violations at any point in the supply chain to the main company.
- **Follow up with contractors and suppliers.** Follow up on violations of principles down the supply chain and collaborate with suppliers to improve the application of norms and standards.

### Governments

- **Ratify ILO Convention 181.**
- **Enshrine duty of care in national employment law.** Include in national employment legislation the duty of care of employers, recruiters and their subsidiaries toward migrant employees and develop legally-binding instruments to hold employers, recruiters and their subsidiaries accountable to protect and assist their migrant workforce, both internationally and nationally recruited, in the event of a crisis.
- **Bilateral agreements on migrant workers.** Enter into bilateral agreements to regulate protection of migrant workers in the event of a crisis. Clarify roles and

responsibilities of employers, recruiters, countries of origin and destination in terms of provision of assistance and protection of workers.

- **Regulate recruitment intermediaries and enforce regulations, where these exist.** Develop clear regulations for recruitment agencies and private employment agencies to ensure they adopt ethical recruitment models as underpinned by international instruments (ILO Convention 181 on Private Employment Agencies), work within a human rights framework and refrain from any practice that could potentially put migrant workers in a situation of employment vulnerability.
- **Harmonize laws for data protection and privacy.** Inform the private sector on legal requirements.

## 1.2 PREPAREDNESS AND CONTINGENCY PLANNING

iii. Invest in coordinated crisis preparedness to build the internal capacity necessary to fully exercise the duty of care.

Amongst others, the following practices may be valuable:

### Employers and recruiters

- **Risk management policy.** Establish a risk management policy compliant with existing requirements for the protection of migrant employees in the event of a crisis.
- **Crisis management teams.** Establish trained, de-centralized teams to enhance the capacity of a company (employer or recruiter of migrants) to activate timely and effective assistance for migrants in the event of a crisis. Common denominators of crisis management teams across industries and size of companies should be:
  - *Field-level management*, to optimize time and rely on local-level information and coordination mechanisms;
  - *HQ counterpart*, to provide support;
  - *Single contact person/emergency leader*, to simplify information flow;
  - *Clear line of decision making authority*;
  - *Corporate plan*, which defines the roles and responsibilities of all employees in the event of a crisis;
  - *Emergency pocket guide*, to equip local crisis management teams with important information such as emergency numbers; and
  - *Training*. The teams receive all relevant training on crisis management, based on the corporate crisis plan and in line with the company's principles and policies.
- **Crisis planning.** Undertake risk-based, corporate contingency planning in coordination with all stakeholders, and particularly governments, at a strategic level. Plans should be actionable, manageable and flexible to adapt to any given crisis

situation and should be updated regularly. Crisis planning should encompass the following:

- Build-in contractors;
  - Include options for relocation of operations within a country; and
  - Encompass all employees, specifying roles and responsibilities.
- **Training and drills on the crisis plan.** Inform crisis management teams and employees at all levels within a company about the elements and procedures contained in the crisis plan; practice it regularly through drills and adjust it according to changing realities to maintain its relevance.
  - **Training and drills on emergency evacuation plan.** Train migrant workforce for evacuation to enhance the predictability of the operation in the event of a crisis. Explain criteria for prioritizing passengers, procedures for the evacuation of family members and dependants as well as luggage, meeting points, communication trees, and strategies such as the appointment of migrant group leaders or wearing clothes of a specific colour to be easily recognizable in a congested airport.
  - **Preposition relationships and partnerships.** Build relationships and partnerships with multiple stakeholders including governments, consular authorities, business, etc. in order to get useful contacts, pre-establish coordination and information sharing platforms, and receive reliable information (intelligence).
  - **Agreements with vendors.** To ensure predictability and timeliness of crisis assistance, sign agreements beforehand with vendors and service providers in the areas of transportation (movement of personnel by air, land and sea); hospitality (safe accommodation in situ, in transit and at destination); security (security officers and escorts); logistics; health (healthcare facilities and medical escorts in situ, transit and destination country); communication (radios, telephones, internet); banks and financial services (availability of cash, different currencies, payrolls in transit and destination). Recruitment agencies should explore agreements with airline companies to reschedule migrant employee return flights without extra cost in the event of a crisis.
  - **Build relationships with local lawyers.** Their knowledge, networks and problem solving capacities can be fundamental to access services and avoid infringing the law on sensitive matters such as, for example, data security and group communication, travel documents and exit visas, payments, and obtaining landing permits.
  - **Build relationships with translators.** Translators and interpreters can assist companies and migrants in their communication and information needs.
  - **Collaboration and coordination platforms.** Establish a formal logistical vehicle to support and channel collaboration and coordination of the crisis response between the private sector and governments in the event of a crisis.
  - **Engagement platform.** Create a platform for the regular engagement of the private sector for the protection of migrants in countries in crisis. To be effective, the platform should be developed along the lines of a public-private partnership and be cross-industry and cross-supplier.



- **Use of technology.** Assess existing tools and focus on the use of platforms that are scalable and inter-operable. Use a combination of high and low tech tools to ensure that the intended services reach different sectors of the migrant population, including the most vulnerable.
- **Tracking migrants and their needs.** Use a system to track mobile employees, so as to be able to know who and where they are in the event of a crisis and how to plan to move them out of harm's way. Educate employees to be accountable on their movements in order to avail of reliable information. Coordinate with governments on setting up a global initiative to exchange data on assisted migrants.
- **Migrant documentation.** Ensuring migrants have valid travel documents at all time to speed up evacuations and/or relocations in the event of a crisis, including by providing for the following actions:
  - *Reminder of document expiration date;*
  - *Electronic backup of documents:* Provide employees with a cloud space to store scanned copies of their identity documents which they can easily access and retrieve;
  - *Original documents availability:* Refrain from withholding employee IDs and passports any longer than the time strictly required for their registration in country and obtain any required permit from national authorities;
  - *Permits produced by the employer.* In countries where employers are responsible for providing consent or exit permits to their migrant employees, establish a mechanism beforehand to ensure that permits will be readily available in the event of a crisis if employees need or wish to be evacuated or leave.
- **Contingency pay mechanism.** Establish flexible payroll and cash assistance systems to be used in the event of a crisis to ensure employees are paid in a timely manner either in the country hit by the crisis or elsewhere (normally the country of relocation or the country of origin). Foresee the necessity of paying migrants' salaries in a different currency from the one normally used; assess migrants' preferences and needs before opting for cash or digital money distribution.
- **Micro-insurance.** Buy repatriation and medical micro-insurance policies to cover healthcare and emergency evacuation/return of migrant workers in the event of a crisis.

### Service Providers

- **Financial services.** Assess low income migrant workers' needs and build financial products and services that – once combined – can build resilience before a crisis, support in providing for basic needs during a crisis, and help recovery in the aftermath. Relevant financial products are insurance and micro-insurance, savings, remittances and fast-cash loans.

### Governments

- **Travel documents.** Expedite the issuance of migrant travel documents to facilitate their departure from a country in crisis and their entry and/or transit through another country for evacuation purposes.
- **Entry visa.** Issue entry visas to facilitate the relocation of migrant workers from a crisis affected country into another country for work purposes.
- **Waive documentation requirements.** Waive the necessity of presenting identity documents to provide work permits in the event of a crisis where documents may have become lost to promote the prompt employment and engagement in income-generating activities of affected migrants.
- **Facilitate the provision of life-saving service.** Consider temporarily suspending or waiving regulations or offering timely information and viable legal alternatives to empower companies to fully exercise their duty of care and to facilitate the provision of life-saving assistance in the following areas:
  - landing permits for the provision of goods, including cash;
  - data protection and restrictions on the use of group messaging applications; and
  - identification and proof of identity for accessing financial services, including money transfer.
- **Authorize the use of electronic signatures** to accelerate processes during a crisis.
- **Support financial products that meet migrant workers' needs.** Establish state-led insurance schemes and other financial packages for migrants based on their specific needs, designating a responsible party (the State, recruiters or employers, migrants, etc.) to regulate these schemes, including associated funding modalities and coverage. Specific recommendations include:
  - *Fund research and support pilot programs to test ideas and prove viability to the private sector of financial services;*
  - *Mandate or incentivize product purchase or use;*
  - *Purchase or subsidize migrant insurance policies;*
  - *Act as risk carrier;*
  - *Consider regulatory aspects, in particular as they relate to irregular migrants;*
  - *Documentation requirements;*
  - *Enforceability of contracts; and*
  - *Regulation of distribution.*
- **Provide migrant insurance.** Establish mandatory insurance schemes and packages for migrants that entitle members, at a minimum, to repatriation and medical assistance in the event of a crisis – topping up what is provided pursuant to migrants' contract of employment or the laws of the country of destination.

## 1.3 INFORMATION TO AND COMMUNICATION WITH MIGRANTS

- i. Prepare migrants for a crisis.

Amongst others, the following practices may be valuable:

### Recruiters

- **Know the end user.** Collect all the necessary information on the employer and/or end user and inform job-seekers accordingly.
- **Collect contact details and documents of migrant employees.** Collect in own databases the workers' contact details, passport number, visa information, family contacts, and flight booking.
- **Electronic backup of documents.** Scan and upload on Cloud space the identity and travel documents and make them accessible to workers in case the employer confiscates the documents.
- **Health assessment and provision of medical details.** Build migrant workers' health profiles and provide them with preventive health, disease prevention and healthcare facilities information.
- **Warning information tools.** Prepare and distribute "in case of crisis" leaflets and brochures, develop messages through Q&A describing what action migrants need to take in the event of a crisis; share useful website addresses and mobile applications; and establish free call centres.
- **Translate warning messages** in different languages.
- **Pre-departure preparation and information.** Organize pre-departure information sessions for migrant workers and provide them with information on crisis risks, emergency contact details of the recruiter and employer Crisis Team Leader, explain the employer duty of care obligations. Share printed information products with migrants and their families.
- **Workers Team Leader.** Designate a Team Leader to serve as contact person for a group of 10-15 migrant workers.

### Employers

- **Upon arrival preparation and information.** Prepare migrant employees on health and safety measures and on the emergency plan; distribute emergency contact details and "in case of crisis" leaflets. Offer a multicultural training to employees.
- **Empower migrants** through education on existing tools, social media, etc.
- **Educate on financial services and savings.** Promote migrants' access to financial services and products and provide information on delivery channels. Inform migrants on digital financial services such as digital accounts, which are accessible simultaneously to migrants and to their families in the country of origin.
- **Migrant insurance.** Offer insurance schemes to migrant workers to cover crisis-related risks incurred by migrants.

## Governments

- **Provide pre-departure and post-arrival courses for migrants with crisis information.** Provide pre-departure and post-arrival orientation to migrants with information on ethical recruitment processes, employers' duty of care, and crisis information, namely how to prepare for crises and what to do in the event of an emergency.

## II. EMERGENCY PHASE

### 2.2 ACCESS TO, AND PROVISION OF ASSISTANCE

#### i. Provide assistance equally for migrant employees during a crisis

Amongst others, the following practices may be valuable:

#### Employers and recruiters

- **Joint action of recruiters and employers.** Employers and recruiters should liaise, coordinate and carry out joint actions to provide specific assistance to their migrant workforce. Recruiters should be responsible for liaising with the workers' team leader to apply the emergency plan; liaising with the foreign affairs ministry and the country of destination embassy of workers caught in crisis; informing and supporting workers' families; activating micro-insurance schemes; arranging return flights with airlines; unlocking wages in advance. Employers should be responsible for locating workers and identifying their specific circumstances, liaising with the workers team leader and with the recruiters to support and set-up evacuation plan, provide Cloud access to migrant ID's, passports, visas, etc.
- **Intelligence and information sharing.** Collect, select and analyse intelligence available at the local and international level to plan and organize the crisis response. Activate the intelligence flow between field and Headquarters crisis management teams. Carry out coordinated operational analyses, in coordination with governments' Security Advisory Councils, consular authorities, and the private sector. Rely on officers on the ground that speak the local language and have local networks, to sort out sources of intelligence and carry out a first analysis.
- **Assess the situation and available assistance options.** Check the crisis plan against the reality on the ground to assess, in coordination with the workers team leader, viable options to provide safety and security to migrants.
- **Communication with migrant employees and their families.** Enable easy communication channels and information flows between migrants and all relevant stakeholders (recruiter, employer, embassy, families) by providing them with necessary information (such as contact details) and with the means to do so (such as radios, telephones and smart phones).

- **Multiple communication systems.** Leverage existing communication systems, privileging those that migrant workers already use and trust. Build redundancy around communication systems and opt for flexible solutions in order to reach out to different sectors of the migrant population.

***In situ* protection and assistance.** Ensure the safety, health and wellbeing of migrant workers through the timely provision of protection and assistance (transportation, accommodation, health, security, communication, etc.) during a crisis.

- **In-country relocation.** Whenever possible and relevant, privilege in-country relocation of personnel and operations in the event of a crisis that does not allow in situ business continuity. Cover the company's duty of care during relocation as part of the employee benefit program.
- **Evacuation.** Evacuate the migrant workforce from a country in crisis as a last resort life-saving measure and when in-country relocation is not viable. Coordinate with all relevant stakeholders, and particularly governments, foreign posts, private sector and international organizations, to exchange information and carry out an orderly operation following the plan migrants have been trained on beforehand.
- **Payment of salaries.** Unlock wages in advance to support migrant workers needs during a crisis and upon relocation/evacuation.

## ii. Provide specific services to migrants caught in crisis.

Amongst others, the following practices may be valuable:

### Service Providers

- **Information and communication technology.** Focus on existing information and communication tools and invest in inter-operability and networkability. Assess a system's utility before implementing it. Combine low technology, traditional systems, with innovative high tech tools.
- **Risk management services.** Train clients on the crisis plan. Rely on operators on the ground to obtain insider information and enhanced ability to respond timely and effectively.
- **Financial services.** Deliver benefits to cover for immediate needs of insured migrants through fast-cash pay-outs and provide small fast-cash loans to families in their country of origin. Provide cash in crisis situations as a more direct delivery option.

### III. POST-CRISIS PHASE:

#### 3.1 ADDRESS POST-CRISIS NEEDS

##### i. Continue engagement with migrant workers in the aftermath of a crisis

Amongst others, the following practices may be valuable:

###### Employers and recruiters

- **Follow up on workers' evacuation.** Ensure all migrant workers are safe following evacuation.
- **Follow up of workers' health.** Check migrant workers health upon return and provide the necessary healthcare follow up.
- **Re-placement of workers.** Relocate migrant employees from a country in crisis to another country where a company has a presence to provide employees with continued working opportunities.
- **Re-hire workers.** Contact migrant workers who have been evacuated during a crisis to re-take their positions after the crisis is over, if the security situation allows it.
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##### ii. Ensure employees are paid for work performed

###### Employers and recruiters

- **Payment method and currency.** Ensure a viable payment method of salaries to migrants who have been evacuated and/or repatriated. Pay migrants' salaries in a different currency from the one normally used if the latter cannot be easily exchanged by the migrant after his evacuation and/or repatriation.

###### Service Providers

- **Financial services.** Create and offer financial products that can help migrants recover and/or rebuild lost property and adjust to a new economic reality in the aftermath of a crisis. Deliver insurance benefits to insured migrants through fast cash payments to cover initial costs and ease the transition; offer microfinance loans to support income-generating activities. Adapt documentation requirements to the needs and to the situation of migrants and consider non-traditional delivery channels to override migrants' mobility and impermanent address.

###### Government

- **Support financial products.** Support the creation and disbursement of financial services for migrants based on their specific post-crisis needs, considering, among others, associated funding modalities and coverage, as well as regulatory aspects, in

particular as they relate to irregular migrants, documentation requirements and regulation of distribution.

- **Entry and re-entry visa.** Issue entry visas to migrant workers evacuated from a country in crisis to facilitate their entry in another country for re-employment purposes. Issue re-entry visas to migrants evacuated from the country during a crisis to facilitate their return for re-employment purposes after the crisis.
- **Waiving documentation requirements.** Waive the necessity of presenting identity documents to provide work permits to migrants in the aftermath of a crisis where documents may have been lost, to promote the prompt employment and engagement in income-generating activities of affected migrants.

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