

GUIDELINE 3: Empower migrants to help themselves, their families, and communities during and in the aftermath of crises

In order to help themselves and others and to enjoy their rights, migrants need access to identity documents, basic public services, and financial and other resources. Migrants' ability to help themselves and enjoy their rights can be undermined by factors related to their entry and stay, means of arrival, connections to local populations, and conditions in the host State, including in workplaces. These factors can in turn undermine emergency response and recovery efforts.

States, private sector actors, international organizations, and civil society can promote migrants' resilience and empower migrants to help themselves during and after a crisis by addressing underlying conditions of vulnerability. Respecting, protecting, and fulfilling migrants' human and labor rights in ordinary times advance these goals as do efforts to ensure migrants are able to access information, basic services, and administrative, judicial, and other redress mechanisms.

Legal, policy, and operational factors that constrain protection should be addressed. Examples of obstacles include laws, policies, and practical barriers that arbitrarily restrict the movement of migrants, enable arbitrary detention, discriminate between migrants and citizens in the provision of humanitarian assistance, or permit exploitative employment or recruitment practices.

In times of crisis, fear of immigration enforcement can inhibit migrants, particularly those in an irregular immigration status, from accessing necessary help. In this context, it is important to separate immigration enforcement actions from those that promote migrants' access to services, humanitarian assistance, identity documents, and movement.

Stakeholders can provide migrants—prior to departure from the State of origin, upon arrival in the host State, and during their stay in the host State—with pertinent information related to country-specific conflict or natural disaster hotspots, rights and potential rights violations or abuses, ways to access timely, credible, and regular information, emergency contact points, and what to do and where to go in the event of a crisis. Building migrants' skills to communicate in the host-State language and increasing migrants' financial literacy may prompt migrants to invest in savings, take out micro-insurance, and better prepare for navigating unforeseen circumstances.

Sample Practices

- *Pre-departure and post-arrival training for migrants that includes crisis-related information.*
- *Positive communication about migrants, including through migrant role models and campaigns to promote tolerance, non-discrimination, inclusiveness, and respect.*
- *Financial products, including micro-insurance, savings accounts, and fast-cash loans that target migrants' needs, including low-income migrants.*
- *Measures that respect, protect, and fulfill migrants' human and labor rights, including addressing barriers that inhibit migrants' ability to enjoy their rights.*
- *Identity cards for migrants in an irregular immigration status to promote their access to services.*
- *Ethical recruitment processes and accreditation, and integrity certification schemes.*
- *Community-based alternatives to detention for migrants.*

PRACTICES TO IMPLEMENT GUIDELINE 3:

Empower migrants to help themselves, their families, and communities during and in the aftermath of crises

Multiple Stakeholders

Positive communication about migrants

Migrants may face discrimination, hostility, and xenophobia in host States and States of transit. Positive communication about migrants promotes tolerance, non-discrimination, inclusiveness, and respect toward migrants. Ways to communicate positively about migrants include:

- Profiling migrant role models, giving migrants a voice, and putting a human face on migration;
- Establishing campaigns against xenophobia;
- Conveying migrant stories and positive images, including through online platforms;
- Partnering with social media companies to counter hate speech;
- Targeting educators in schools with information about migrants and migration;
- Highlighting migrant engagement in communities, crisis-response, and recovery;
- Avoiding referring to migrants as ‘illegal’ even if they are in an irregular immigration status;
- Celebrating International Migrants’ Day with activities that highlight the positive contributions of migrants to host societies.

Pre-departure and post-departure orientation

Orientation programs for migrants can be held prior to their departure from the State of origin or following arrival in the host State. Orientation programs can be mandatory or voluntary. They can be targeted at migrants or migrants and their families and delivered in partnership with other stakeholders. These programs could cover:

- Host State-specific information, including culture and local customs;
- Host State-specific conflict or natural disaster hotspots;
- The human rights landscape in the host State and constraints on the ability to enjoy rights;
- Risks of human trafficking and exploitation in the host State and where to seek help;
- Immigration, employment, and other relevant host-State laws;
- Relevant emergency procedures (e.g., where to go and what to do) and emergency contacts;
- Key roles played by consular posts and applicable consular contingency and evacuation plans.

Migrant-to-migrant learning

Through migrant-to-migrant programs, implemented prior to departure or upon arrival in a host State, migrants can obtain knowledge and skills to prepare them for and mitigate risks

associated with a crisis. These programs can cover diverse areas of crisis preparedness and management and persuade participating migrants to also become educators. Migrant-to-migrant programs may be helpful:

- To reach adolescents, women, groups for whom cultural norms may create barriers, and groups who share unique or similar experiences, or trauma;
- Where there is very limited or no funding available;
- In a closed or isolated community;
- When migrants are unable to receive information from other non-migrant actors for various reasons, including language barriers;
- Where migrants face constraints to travel to more formal programs, such as visa restrictions, fiscal constraints, or restrictive or demanding employment conditions.

Language training

Local language training can make migrants more resilient in the event of a crisis by improving their capacity to access information and services. Such programs could teach:

- Vocabulary needed to understand early warnings on natural disasters or conflicts, including any colloquial terms used in the host State;
- Vocabulary needed to understand advice provided in emergency preparedness alerts;
- Information about credible sources of early warning and emergency preparedness information.

Financial literacy training

Good management of financial resources and affairs enhance the resources available to migrants in the event of a crisis. When designing and implementing training programs for migrants, stakeholders could:

- Partner with banks and other relevant financial institutions and providers;
- Target training to suit the profile and characteristics of migrant populations with differing needs;
- Cover insurance and savings options;
- Enlist the assistance of civil society, including migrant networks and associations to encourage participation in the training;
- Leverage existing national government and consular campaigns to promote financial security and consumer protection;
- Partner with civil society in States of origin to conduct complementary trainings with migrants' families who remain in States of origin.

Financial products and services

Financial products and services that target migrants' needs, including low-income migrants, can build resilience and reduce dependence on social services and humanitarian aid. Financial products can be offered in the host State or the State of origin. Relevant financial products include:

- Insurance and micro-insurance, which are discussed in more detail below;
- Savings and investment mechanisms;
- Pension schemes;
- Fast-cash loans;
- Microcredit.

In designing and distributing products, stakeholder could consider:

- Creating products that are relevant in normal times and times of crisis;
- The affordability, flexibility, simplicity, and ease of use of products;
- Which needs to target for migrants;
- Working with migrants and other relevant organizations to understand migrants' needs;
- Adapting documentation requirements to suit migrants;
- Promoting cross-border accessibility and fast product access in crisis situations;
- Using non-traditional distribution channels to reach migrants, including partnering with employers, recruiters, and placement agencies, communities of origin, or diaspora;
- Educating and training migrants on available financial services, their use, and benefits.

Insurance and micro-insurance

Insurance can play a valuable role in mitigating migrants' risks before, during, or after a crisis. Insurance can offer coverage for specific crisis-related needs, such as property damage or the cost of evacuation, and can support migrants' broader risk management needs, such as health care, death, disability, or unemployment. In designing and distributing products, stakeholders could consider:

- Conducting exploratory research to determine salient risks, effective channels or approaches for distributing products, and the information and other support migrants need in order to avail themselves of benefits;
- Which insurance product models to use: insurance products based in migrants' host States, in States of origin, or hybrid models spanning both host States and States of origin;
- Which delivery models to use: sales directly to migrants, to States of origin or host States, or to employers, recruiters, or placement agencies;
- The tradeoffs that the variety of available options for product design and delivery entail, and how coverage and delivery options influence one another;
- Benefits of small, simple, affordable products when selling directly to migrants;
- Ways to monitor effectiveness of insurance products.

States

Respect for international law, including international human rights law and labor law

Respecting, protecting, and fulfilling migrants' human and labor rights promotes their empowerment. This can be done by:

- Ratifying relevant international and regional treaties;

- Adopting or reforming domestic laws, as necessary, to implement obligations relating to international law, including human rights and labor law;
- Complying with international obligations in practice, at the national and local levels;
- Addressing and mitigating barriers that inhibit migrants' ability to enjoy their rights;
- Investing in training, monitoring, and enforcement to promote compliance.

Specific legal and policy actions that promote migrants' resilience

A range of other actions, including adoption of specific legal provisions, can promote empowerment. Such provisions include:

- Clarifying the duty of care and other obligations of employers, recruiters, and placement agencies, including during crises, towards migrant employees in national employment and other relevant laws;
- Upholding migrants' right to associate, organize, and join unions or associations;
- Upholding the right of migrants and civil society to establish, register, and operate organizations and associations.

Ethical and fair recruitment processes

States can establish measures to help ensure that employers, recruiters, and placement agencies respect human rights, and refrain from practices that could potentially put migrant workers and their families in a situation of vulnerability. Measures to put into place ethical and fair recruitment processes include:

- Guidance on the responsibility for recruitment fees, including prohibition on migrants paying these fees;
- Recruitment and employment accreditation and integrity certification schemes;
- Promoting and engaging in international recruitment certification schemes;
- Creating excellence lists or rating systems for recruitment agencies;
- Establishing feedback and complaints mechanisms for migrant workers;
- Instructions on when recruitment and placement should halt deployment of workers because it is too dangerous and when to resume such activities;
- Adopting laws that impose criminal, civil, or administrative penalties on illegal or unethical recruiters.

Laws on duty of care for employers, recruiters, placement agencies, and through supply chains

States can clarify the duty of care toward migrant employees in national employment law, including for employers, recruiters, and placement agencies. Such laws could include:

- Guidance on the application of the duty of care principle for migrant populations;
- Guidance on the application of the duty of care principle when individuals are posted on overseas assignments;
- Guidance on whether and under which circumstances the duty of care principle extends to employees' family members;
- Available remedies when the duty of care principle is violated;
- Penalties to be applied when duty of care obligations are breached.

Measures to monitor employment conditions

States can monitor employers' compliance with employment laws and standards to identify abuses and undertake necessary reforms. State should monitor employment conditions to identify and address:

- Charging unreasonable employment related costs that leave migrants in debt;
- Withholding of passports and other identity and travel documents;
- Level of freedom and mobility provided to migrant workers, including domestic workers;
- The availability of occupational health and safety standards to ensure emergency procedure information is made available to migrants.

Portability of social contributions and pensions

Migrants' social contributions and pensions are often not portable; the inability to gain access to pensions and social contributions may make migrants unwilling to leave a host State to seek safety, or adversely affect return, reintegration, or remigration. Efforts to ensure portability include:

- Establishing measures through which employee contributions to pensions and other social contributions (sometimes referred to as defined contributions) are made mobile in the event migrants leave a host State in the context of a crisis;
- Bilateral agreements between host States and States of origin that specify ways to access pensions and social contributions if migrants leave the host State in the context of a crisis;
- Allowing access to pensions and social contributions from outside the host State;
- Offering assistance to repatriate pensions and social contributions;
- Creating funds that provide support for retirement as well as financial education, housing, and health care when migrants return to States of origin;
- Ensuring migrants in an irregular immigration status can benefit from portability arrangements.

Status-free migrant identity cards

People may be required to present identity cards to receive assistance and services during crises but furnishing such cards may be an obstacle for migrants without authorization to reside or work in a host State. States of origin and host States can make special provisions for migrants in an irregular immigration status to obtain identity cards that do not specify their immigration status in the host State. This could be done by:

- Authorizing consular posts to issue cards (States of origin);
- Verifying residence through documents that evidence utility and rent payments or affidavits;
- Laws and policies that attest to the validity of alternative documents to obtain identity cards and the presentation of such identity cards to obtain assistance and services.

Identity cards could include:

- A biometric identifier, such as a photograph or fingerprint;
- Name of the person;
- Basic demographic data, such as gender, height, and date of birth;
- Address in the host State;
- The authority that can verify the issuance of the card;
- A hologram or other feature that deters counterfeiting.

Measures to facilitate financial services

States of origin can support the development of financial products that meet migrants' needs by encouraging their development, establishing State-led insurance schemes, and offering products directly to migrants. This may include:

- Funding research and supporting pilot programs to test ideas and prove viability of financial services and products;
- Supporting mechanisms for employer contributions to savings, pension, and insurance programs for migrants in regular or irregular immigration status;
- Mandating or incentivizing product purchase or use;
- Purchasing or subsidizing migrant insurance policies;
- Acting as risk carrier (i.e. by undertaking or bearing risks);
- Facilitating cross-border accessibility;
- Regulating distribution to facilitate the viability of distributing to migrant communities;
- Regulating documentation requirements for accessing financial products and services to make these more accessible to migrants, including migrants in an irregular immigration situation;
- Mandating insurance schemes and packages for migrants that entitle members, at a minimum, to evacuation and medical assistance in the event of a crisis;
- Requiring migrant workers traveling abroad to have insurance, which covers risks, such as death, disability, and evacuation costs. Responsibility for purchasing the insurance may fall to the employer, recruitment or placement agency, or employee.

Host States

Separation of immigration enforcement from public services

Separation of immigration enforcement activities from access to assistance, services, administrative, judicial, and complaint mechanisms, and rights protection more generally removes barriers that inhibit access to assistance in the context of crises, particularly by those in an irregular immigration status. Measures that can be adopted include:

- Memorandums of understanding between government departments to ensure that reporting labor violations does not lead to repercussions from immigration enforcement;
- Legal provisions mandating access to education regardless of immigration status;
- Outreach to migrant children and their families, regardless of immigration status, to enroll children in school, provide a sense of normalcy post-crisis, and mitigate the

- heightened risk of violence and exploitation for children in emergencies;
- Legal provisions mandating access to urgent or essential health services and preventive care services, regardless of immigration status;
- Prohibitions on enquiring about immigration status in the context of access to services.

Migrants and detention

Migrants who are detained in the host State rely on authorities for their basic needs. Without adequate contingency planning, detainees, including migrant detainees may be at heightened risk of being denied basic necessities, such as food, water, and medicine during crises when attention is focused elsewhere. They also risk deteriorating conditions or treatment within the detention environment, including human rights abuses, which may go unnoticed by authorities during times of crisis. Actions host States can take include:

- Limiting the reliance upon detention as a border management tool, especially for immigration status offenses, such as irregular entry or stay;
- Taking steps to prevent the arbitrary detention of migrants;
- Facilitating access for legal counsel and advocates to migrants in detention;
- The adoption of laws and policies that prohibit or provide alternatives to the use of immigration-related detention for migrants in particularly vulnerable situations, such as children and families, pregnant and lactating women, victims of abuse, or migrants with medical and mental health needs;
- Proactively adopting alternatives to detention that allow migrants to remain in non-custodial, community-based contexts while their immigration status is being resolved;
- Enabling regular monitoring of facilities where migrants are detained by appropriate authorities as well as independent monitoring bodies;
- Requiring both public and privately managed migrant detention facilities to develop contingency plans for ensuring protection of migrants during crises, including evacuation when needed.

Private Sector Actors

Ethical and fair recruitment processes

Recruitment models that impose financial or other obligations on migrants exacerbate vulnerability. Even in the absence of legal or industry requirements, employers and recruiters can promote ethical and fair recruitment by:

- Avoiding fees or charges to migrants;
- Ensuring workers' identity documents and passports are not retained;
- Participating in accreditation and certification schemes;
- Promoting ethical and fair recruitment within industries and across sectors;
- Adopting codes of conduct on the use of recruiters;
- Enforcing standards on ethical and fair recruitment through supply chains;
- Using migrant-led rating systems and information on recruiters and employers.

Access to identity documents

Migrants must have access to their identity and travel documents to find safety and assistance during crisis. Measures that facilitate access to identity and travel documents for migrant workers and ensure their validity include:

- Sending reminders to migrants of document expiration dates;
- Establishing electronic backup systems to store and easily access copies of documents as a service to migrants;
- Refraining from withholding identity and travel documents any longer than the time strictly required;
- In States where employers are responsible for providing consent or exit permits to their migrant employees, establishing mechanisms to ensure that permits will be readily available in the event of a crisis if employees need or wish to be evacuated or leave.

Employers' duty of care

Employers have responsibilities towards all employees, including migrant workers that stem from obligations related to the duty of care. Due to their non-citizen status, the exercise of duty of care responsibilities towards migrant workers may differ from interventions necessary for citizen workers. Even in the absence of legal or industry standards, employers should consider:

- What actions may be necessary in the context of crises to comply with their duty of care;
- How to include provisions in contracts with internationally and locally hired migrant employees to comply with obligations stemming from their duty of care;
- Developing a code of conduct for suppliers to extend the company's duty of care policy throughout the labor supply chain;
- Determining whether and under what circumstances the duty of care extends to employees' family members.

Code of conduct for suppliers

Many companies have supplier codes of conduct. Supplier codes of conduct can ensure that suppliers enforce safe working conditions and guarantee human and labor rights, including for migrant workers. The following considerations may be valuable for modifying existing codes of conduct or developing new codes of conduct for suppliers:

- Including provisions on workers' health and safety, human and labor rights, ethical and fair recruitment practices, forced labor, and trafficking and exploitation;
- Including provisions on issues directly relevant for crises, such as contingency plans and procedures, identity document practices, and freedom of movement for employees;
- Establishing monitoring and enforcement mechanisms, including audits and clear procedures in case of violation;
- Establishing a supplier qualification process for supplier selection, ongoing evaluation, and assessments of suppliers;
- Providing training on the code of conduct to suppliers.

Mechanisms to recover outstanding wages

Migrant workers who have to be evacuated during a crisis might have earned wages that remain outstanding. Employers can establish mechanisms that enable them to assume responsibility to cover outstanding wages of migrant employees, including by:

- Unlocking wages in advance and facilitating recovery of outstanding wages;
- Providing hazard pay to support migrant workers' needs during a crisis and upon relocation or evacuation;
- Ensuring that wages are deposited into low-cost savings accounts to ensure transparent recording of deposits;
- Enrolling in insurance schemes that compensate for outstanding wages;
- Facilitating reverse remittances by waiving fees or otherwise helping to get money from relatives or communities in States of origin to migrants in host States.

International Organizations

Advocacy

Advocacy and awareness-raising with States, employers, and recruiters as well as other stakeholders can help them improve migrants' rights protection. Important areas of action include:

- Human and labor rights implementation;
- Access to social services, in particular health care, education, and legal counsel;
- Portability of pensions and other social benefits;
- Ethical and fair recruitment and employers' duty of care;
- Access to justice and compensation mechanisms;
- Anti-discrimination;
- Insurance and saving schemes for migrants.

Promotion of international standards on migrant protection

International organizations can play a valuable role in clarifying international laws and standards and in doing so, inform and guide the elaboration of national and regional laws and policies related to migrants' protection as well as their implementation. These efforts can cover a wide range of issues, including:

- Human rights of migrants;
- Labor rights for migrant workers;
- Ethical and fair recruitment processes;
- State obligations as they relate to migrants' immigration status.

The clarification and promotion of international standards can be done through a variety of means, including:

- Sample legal agreements that States can adapt to specific contexts;

- Model agreements for trade unions;
- International systems for certification and vetting of placement agencies, recruiters, and employers;
- Multi-stakeholder initiatives to promote dialogue and encourage the adoption of common standards.

Research and projects for migrants' empowerment

International organizations can promote migrant empowerment through advocacy, programs that directly target migrants, and through support to other stakeholders. Actions that international organizations may consider implementing include:

- Research and analysis on State compliance with international obligations relating to migrants;
- Research and analysis on migrants' inclusion within State laws, policies, strategies, plans, and programs relating to prevention, preparedness, and response to conflicts or natural disasters;
- Compilation of best practices on diverse and pertinent areas of action;
- Programs providing resources to help migrants prepare for a crisis, including communication tools (e.g., phones, prone credit) and emergency kits.

Civil Society

Migrant empowerment programs

Civil society, especially those operating locally, can be in a privileged position to understand and articulate the particular barriers that migrants face in a given community, including those that will prevent migrants from helping themselves, their families, or others during a crisis. Civil society can:

- Inform migrants of their human and labor rights;
- Provide training on a variety of subjects including language skills and financial literacy;
- Provide legal assistance and feedback and complaint mechanisms;
- Promote formal and informal network building, where networks can connect migrants to resources, services, and other relevant stakeholders;
- Help States, employers, or international organizations to identify challenges that migrants face within local communities and propose measures to address barriers that affect their resilience to crises.

Monitor places of detention

Independent monitoring bodies and other civil society can be given regular access to monitor places of detention, to provide services to detainees, and to understand the vulnerability and needs of detainees, including migrants. Ensuring civil society access to detention centers during crises can support efforts to better protect detained populations.