Migrants in Crisis Situations

Issue paper for the World Humanitarian Summit

The variety of crisis situations in North Africa, the Middle East and Gulf, and Asia have called for the humanitarian community to more effectively integrate migrants in humanitarian response. As an affected population during crises, migrants\(^1\) have often been less visible or neglected and may not be accounted for in traditional humanitarian responses.

Given the growing number and diversity of migrants around the world – close to 250 million international migrants according to the latest estimates from the World Bank\(^2\) – it is important to acknowledge their resourcefulness and networks as well as their vulnerabilities and rights. The 2016 World Humanitarian Summit, with its associated consultations and initiatives, provides a timely and inclusive platform to understand and address this reality in a more holistic manner.

It is the intention of the International Organization for Migration (IOM) and the NGO Committee on Migration (New York) to submit this joint issue paper as a way to stimulate the discussion, raise awareness, and provide an impetus for action. When governments, humanitarian organizations, civil society, the private sector, and representatives from affected populations meet in Istanbul next year to consider “new ways of working together to save lives and reduce hardship around the globe,”\(^3\) they must give due consideration to the plight of migrants caught in crisis situations, and commit to actions that will further the meaningful inclusion of migrants into this dialogue, and into the humanitarian preparedness and response architecture.

Current Challenges

UN statistics speak of hundreds of millions of people on the move. At times, tens-to-hundreds of thousands find themselves directly exposed to open conflict or the effects of natural disasters in countries where they live and work. Similar numbers, lacking safe and regular options for migration, are forced to travel along dangerous migratory routes across land and sea, usually with few resources. Whether facing these or other crises, migrants in such life-threatening situations — experiencing specific vulnerabilities related to being foreigners — require a tailored humanitarian focus and assistance, together with specific protection support that is legally obligated under international and regional conventions. This is particularly true for migrants caught in crises who are refugees or asylum seekers, children, victims of torture, trafficking or trauma, disabled or elderly. During crisis situations of all kinds, migrants do not self-categorize, self-sort, or line-up according to mandate definitions of international

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\(^1\) For the purposes of this paper, the term “migrant”, refers to a person living in a country other than the one in which he or she was born, irrespective of reason or time period spent in that country.


\(^3\) https://www.worldhumanitariansummit.org/whs_about
agency or civil society actors, but are often mixed together, frequently in high numbers, stranded in place or moving in search of help and safety.

Whether residing at their destination or remaining in transit, migrants are especially vulnerable during crises in which they face any one of an array of adverse conditions: trapped or unable to leave a crisis area; unwilling to leave or unable to access humanitarian assistance; or stranded while seeking refuge and/or international protection across borders. Migrants may also experience heightened exposure to discrimination, violence and exploitation; susceptibility to human traffickers and smugglers; language and communication barriers; a low level of social protection; exclusion from formal justice systems; a shortage of personal means to escape a crisis area; or a lack of access to travel and/or identity documents or embassy officials. These vulnerabilities are typically compounded and amplified in the case of women, children, individuals with specific vulnerabilities and families.

As human beings, all migrants are protected by international human rights law regardless of their migration status, and further, in situations of conflict, by international humanitarian law. States bear the primary responsibility to protect and assist crisis-affected persons residing on their territory in a manner consistent with international humanitarian and human rights law. States also retain obligations of protection and assistance for their nationals abroad. However, in crisis situations, States may experience insecurity and a breakdown of national institutions, may be unable or refuse to uphold their obligations, or other States may cut diplomatic relations which can inhibit them from providing necessary and adequate assistance and protection.

Notably, the current humanitarian architecture does not adequately address the specific needs, nor leverage the specific capabilities, of the range of migrants caught in crises, and may actually prevent them from receiving adequate protection and assistance. Though there are relevant international laws, standards, and frameworks expressly for refugees and internally displaced persons (IDPs) which provide for specific protection and assistance based on such status, no specific framework exists for the protection of migrants who are therefore overlooked during discussions on humanitarian preparedness and in the humanitarian response. They risk not being prioritized, or even not being identified as a specific “affected population,” resulting in inconsistent and all-too-often inadequate responses.

Crisis situations further exacerbate vulnerabilities that migrants often have, depriving them of coping mechanisms that can make all the difference in a crisis. Many migrants experience, for example, illicit practices by recruitment agencies or employers that leave them deeply indebted, without any official documentation, or under a visa system that restricts their movement. Other vulnerabilities many migrants face include discrimination and lack of access to basic social services, infrastructure, and rule of law processes. Many migrants of all migration statuses are reluctant to interact with relevant authorities even in emergency situations for fear of reprisal or deportation, especially where he or she or a family member is undocumented. Furthermore, xenophobic sentiments among nationals can also put migrants in direct danger during a crisis, where any breakdown of law and order might contribute to an unleashing of resentment targeted against them.
Even before crisis situations erupt, migrants can also face a number of practical difficulties, such as language barriers and lack of familiarity with public institutions and services where they live. Crisis or not, large numbers of migrants may be physically cutoff from communicating with their country of origin, or unable to access consular assistance. Typically, practical difficulties like these are even more problematic for migrants who are already extremely vulnerable in everyday life, such as migrant workers without documentation or those employed as domestic or farm workers in isolated workplaces.

How migrants’ human rights are protected before a crisis will directly affect their level of vulnerability during a crisis. Rights deficits and other difficulties increase the everyday vulnerabilities of large numbers of migrants in comparison to nationals of the affected country, and dramatically so in times of crisis. Experience and studies indicate that the higher such vulnerabilities are among migrants in ordinary times, the lower their ability to help themselves autonomously or participate efficaciously within humanitarian efforts during crisis situations.

Protection needs further increase when the migrants’ countries of origin lack adequate mechanisms of migration governance. Quite acutely during crises, the absence of data about nationals living abroad, limited or non-existent consular services in countries of transit or destination, and a general lack of contingency plans to reach out to migrants for the purpose of assistance, protection in situ, or evacuation all further isolate migrants and leave them to have to fend for themselves.

In addition to facing vulnerabilities during crises, the effects of a crisis can be felt by migrants, their families, and their communities long after the crisis itself has subsided. In particular, where a crisis obliges migrants to return to their countries of origin, this can have severe impacts on the well-being of the individual, entire families, and the development and security of the community and country of origin. These migrant-specific post-crisis vulnerabilities therefore need to be considered in migration governance, planning and preparedness by countries of origin with large populations of nationals living and working abroad. For example, when a crisis forces a migrant to give up his or her work in a country abroad, the loss of income and livelihood often affects entire families, who may have relied on remittances as their main source of income. Many migrants fleeing a crisis return not only without a source of income but also indebted to recruiters, employers, smugglers or traffickers, exacerbating their vulnerability. Moreover, if migrants are unable to successfully reintegrate in their origin countries, they may seek to re-migrate but only find that possible through irregular channels or the services of people smugglers and human traffickers.

Where migrants return or are evacuated to their countries of origin, these countries often struggle to receive and reintegrate returnees socially and economically. Policy interventions may alleviate debt, provide financial assistance and income generation projects, provide psychosocial assistance to returnees, or support wider community development projects. Reintegration initiatives should try to differentiate between the needs of men and women, and those with families and those without.

Ways Forward
Crisis or not, migrants are neither objects nor just victims, and they are not categorically helpless. The same courage and capabilities that propel so many to migrate naturally serve as a resource for migrants in crisis situations. In proper measure, the value of such personal resourcefulness needs to be more fully considered and incorporated in dialogue, design and on-the-ground mobilization of humanitarian response to migrants in crisis. Enabling migrants in crisis situations to fully benefit from their own resourcefulness and action requires respect for their rights, support for the networks so many migrants have in the workplace, community, and countries of origin, and the particular trust they usually reserve for faith communities and non-governmental organizations.

To ensure the protection of migrants in crisis situations, actions are required “before”, “during” and “after” a crisis. Migrants and migration therefore need to be factored in pre-crisis preparedness, emergency response, and post-crisis recovery, reconstruction and transition. Some of the main areas for policy responses and cooperation before, during and after crises include:

- **Preparedness and contingency planning**: Consideration and active engagement of migrants, their needs and vulnerabilities must be more systematically included in preparedness efforts at national, regional and international levels. This applies to countries of origin, transit and destination countries, as well as to different types of crises, such as natural disasters, conflict or pandemic emergencies. A lack of information about the size, location and composition of a migrant population in a country can severely impede effective responses in an emergency.

- **Admission and border management systems in crises**: Countries need to be prepared for the potential influx of persons fleeing crises from a nearby country, including many who will not qualify for refugee protection. Mechanisms, such as temporary admission and protection, may be required to prevent the stranding of a large number of people at a border or in danger.

- **Consular assistance**: As the primary mechanisms through which countries protect their nationals in other countries, the capacities of consular services to respond in emergencies need to be strengthened. One of the principal functions of consular services is the replacement of lost travel and identity documents and provision of laissez-passer for migrants to be evacuated to their countries of origin. Consulates need to maintain up-to-date records on their nationals residing in a country abroad – including through the use of innovative tools - and disseminate information about the assistance available to nationals when a crisis strikes. Where countries do not have the capacity to maintain a network of consular services, collaborative solutions between countries may be found.

- **Protection and assistance in situ**: During a crisis all migrants have rights under widely ratified international human rights and humanitarian conventions to non-discriminatory access to aid, such as shelter, food and water, and health care. National civil protection or disaster response mechanisms should take into account migrant populations and potential barriers they may face in accessing assistance, for instance due to irregular status and commonly fear, even on the part of migrants or their family members with regular immigration status or citizenship. At the
international level, the cluster system of the Inter-Agency Standing Committee has developed—and needs to continue developing—strategies to reach out to migrants and address their specific needs.

- **Evacuation and international migration assistance:** Humanitarian evacuation is sometimes the only reliable protection mechanism available for migrants caught in crises, and a way to avert more severe humanitarian consequences. The human right and ability of migrants to move out of harm’s way should not be blocked by visa, exit or readmission regimes. A critical condition is respect for the international law that prohibits refoulement, so that individuals are not returned to situations where they may face persecution, torture or inhumane or degrading treatment. When States do not have the capacity or resources to evacuate their own nationals, international assistance may be needed.

- **Reintegration and longer-term support to returnees and communities:** Where migrants return or are evacuated to their countries of origin, these countries often struggle to receive and reintegrate returnees socially and economically. Reintegration initiatives should provide financial assistance and income generation projects, provide psychosocial assistance to returnees, and/or support wider community development projects.

- **Migration for reconstruction, recovery and development:** Facilitated mobility and the benefits of migration can contribute to restoring the livelihoods of migrants and their communities as well as promote the long-term recovery of a crisis-affected area. Cooperation between countries and with employers and recruiters could aim to ensure the payment of outstanding wages or the option to re-migrate, conditions permitting, to support the reconstruction effort.

While it is important to reiterate that States bear the primary responsibility to protect and assist crisis-affected persons residing on their territory, a number of initiatives have been launched, by States and civil society as well as international agencies, more and more working together.

States in particular have recognized the need for greater shared responsibility and action. Important State-led initiatives have been launched to improve responses to migrants caught in crises, alleviating suffering and protecting their dignity and rights, including the Migrants in Countries in Crises Initiative (MICIC) led by the United States and the Philippines as a multi-stakeholder process. This Initiative aims develop non-binding, voluntary principles, guidelines, and effective practices for the protection of and assistance to migrants caught in countries hit by acute crises, to support countries of origin, transit and destination – as well as civil society, the private sector and international organizations – to better prepare for, respond to and, including address the longer-term implications for migrants, and their home and host communities, of such crises.

Global civil society underlined improving responses to migrants in crisis and transit as point 3 of its top priorities in the “5-year 8-point Plan of Action for Collaboration with Governments” that civil society
presented to member states at the UN General Assembly’s High-level Dialogue on International Migration and Development in 2013.

And agencies like the International Organization for Migration (IOM) have developed a number of frameworks to help organize response to migrants in these situations. These frameworks focus on important phenomena or categories of migrants, such as the “10 Point Plan of Action on Refugee Protection and Mixed Migration” from the UN High Commissioner for Refugees and the new “Recommended Principles and Guidelines on Human Rights at International Borders” from the UN High Commissioner for Human Rights, or more broadly, as in the case of IOM’s “Migration Crisis Operational Framework,” which addresses all migrants and at the pre-, during and post-crisis phases of action. The Inter-Agency Standing Committee (IASC)’s Humanitarian Programme Cycle documents also include migrants in crisis where relevant. Fresh commitment is needed to build dialogue and appropriate coordination that involves the multiple actors across these frameworks, including migrants as central actors.

What is also clear from experience to date is that a number of migration-specific governance supports can be instrumental in the humanitarian response for migrants caught in a crisis situation. These include technical assistance and humanitarian, needs-first, rights-based border management; liaison to ensure that migrants have access to emergency consular services; referral systems for persons with special protection needs; and the organization of safe evacuations for migrants who ask for help to return to their countries of origin. However, these efforts alone are insufficient. States and humanitarian actors must work together with migrants, employers and recruiters, and other civil society partners to further develop their institutional approaches, improve coordination and partnership, account for the varied conditions of all those on the move and proactively incorporate crisis-affected migrants so they are not left behind during humanitarian planning and response nor in subsequent reconstruction and development efforts. This will include gathering more comprehensive data on the number, location, and profile of migrants in transit and destination countries. Rigorously, and with a rights-based perspective from the outset, these approaches must also consider the linkages between migration, humanitarian, development and security perspectives given that population movements prompted by crises have lasting implications for individuals, societies, economies, and the environment.

Despite the aforementioned challenges and with migrant resourcefulness almost always playing an important role, international humanitarian actors have been able to respond directly to the needs of a significant number of migrants caught in recent crises. The range of responses has included the provision of lifesaving assistance, protection, information, logistical and evacuation support, and temporary shelter. It is from these ground-level experiences that the humanitarian community can begin to identify more consistent good practices and ways forward.