



Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants

**UN Committee on the Protection of the Rights of All Migrant
Workers and Members of their Families and UN Special
Rapporteur on the human rights of migrants**

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The UN Committee on Migrant Workers (CMW) and the UN Special Rapporteur on the human rights of migrants warn that the COVID-19 pandemic is having serious and disproportionate effects on migrants and their families globally. Migrants who are in an irregular situation or undocumented are in a situation of even greater vulnerability. Migrants in many cases already do not have effective access to medical care, education and other social services, work in unstable jobs - usually without benefits or the right to unemployment benefits - and in some cases have been left out of the social assistance measures implemented by States, despite of their significant economic contributions to society. In some countries they show the highest levels of contagions and deaths from COVID-19 as a consequence of the abovementioned factors.

Amidst this global crisis, the Committee and the Special Rapporteur highlight the valuable contributions of migrants on the front lines of the responses to COVID-19. A large percentage of those migrants, regardless of their migration status, who can still work, do so in sectors considered essential including: health; agriculture; food processing factories; supermarkets; restaurants; delivery services; transport; cleaning; and care for children, persons with disabilities, or older persons.

The Committee and the Special Rapporteur also recognize the measures adopted by States to protect migrants and their families, in particular, their inclusion in assistance initiatives, regularization programmes, visa extensions, suspension of sanctions for irregular stay, and inclusion of migrant workers in sectors of containment of the pandemic such as the health sector, among other measures.

However, recalling the joint declaration of the ten United Nations human rights treaty bodies, the joint statement by Special Procedures mandate holders, and the Guidance on COVID-19 and the human rights of migrants of the Office of the High Commissioner for Human Rights (OHCHR), the Committee and the Special Rapporteur call on States to protect the human rights of migrants and their families, irrespective of their migration status, in particular:

1. Strictly limit State emergency responses, publicly declare them and notify the Committee. The use of emergency powers is allowed by international law in response to significant health threats. Nevertheless, any emergency response to the COVID-19 pandemic must be carried out in strict accordance with human rights standards, including the Convention on Migrant Workers ratified by States parties. They must be publicly declared and notified to the Committee when fundamental rights protected by the CMW Convention are being restricted. Such fundamental rights include, but are not limited to, the right to freedom of movement, to speedy judicial proceedings, access to social services, medical care, and education, unity of the family, and unemployment benefits. Therefore, it is of paramount importance that



State emergency responses to the COVID-19 pandemic be necessary to achieve legitimate public health goals; proportionately apply the least intrusive means; and be non-discriminatory so as not to be used to target particularly vulnerable groups including minorities or individuals.

2. Integrate migrant workers into national COVID-19 prevention and response plans and policies. which are gender, age and diversity responsive, and respect their right to health, including by ensuring that the provision of tests, essential medicines, prevention measures and treatment are provided in a non-discriminatory manner. States should follow the World Health Organization's (WHO) technical guidance when formulating and implementing policy actions to stem the pandemic, and implement mechanisms to inform migrants on the measures that impact on their human rights.

3. Guarantee access to social services for migrants and their families. Data generated in various countries show that migrants and their families represent a high percentage of people who lost their jobs, receive decreased income, or stopped receiving income at all, following the implementation by States of measures to counter the spread of COVID-19, such as mandatory lockdown, quarantine, physical distancing, restrictions on the right to freedom of movement and border closures. Continued access to social services for migrants is thus crucial, in particular for those who already lack access to social protection. Particular needs of migrant women, children and others in vulnerable situations should also be attended to.

4. Guarantee the labour rights of migrant workers, especially of those working in essential sectors, and take measures to protect their health, such as by providing personal protection equipment.

5. Implement measures for the labour integration of migrant workers trained in health related sectors to assist in the fight against COVID-19, including by facilitating the necessary procedures for their professional activity and for the homologation and validation of professional degrees of migrants.

6. Facilitate virtual channels to ensure access to education for children of migrants, irrespective of their migration status or of their parents.

7. Include migrants and their families, regardless of their migration status, in economic recovery policies, taking into account the need for the recovery of remittance flows. The impact of the COVID-19 pandemic on the ability of migrants to work has already led to a global drop in the remittances sent to their families in their countries of origin, whose survival depends on them, as well as to countries where remittances are one of the main sources of income for their economies.

8. Establish protocols and create adequate conditions in shelters and other structures designed for the reception or stay of migrants, considering the health requirements for protection against the spread of COVID-19 and particular vulnerabilities of people affected by humanitarian crises, such as those displaced and/or living in camps, in readiness and response operations.

9. Guarantee the rights of persons in need of international protection. This includes guaranteeing access to the territory of the country in which they are seeking international protection, seek and receive asylum, complementary or subsidiary protection, and the principle of *non-refoulement*, including non-rejection at the border. In particular, States must ensure the continuity of asylum and complementary protection procedures and other protection mechanisms for unaccompanied or separated children, victims



of human trafficking and other people in vulnerable situations at the borders. Also, continue search and rescue operations for persons in distress at sea.

10. Avoid implementing migration-related control or repression actions and adopt measures to ensure the protection of personal data and information. Migrants and their families often live in densely concentrated residential areas that may be particularly prone to the spread of COVID-19. In addition, these communities are often underserved by the healthcare system due, in part, for fear of the consequences of seeking treatment when a migrant is in an irregular situation or undocumented. States should establish “firewalls” between immigration enforcement and public services so that all migrants, irrespective of their migration status, can access health care, education, other social services and justice without fear of detection, detention and deportation.

11. Implement mechanisms to review the use of immigration detention with a view to reducing their populations to the lowest possible level, and immediately release families with children and unaccompanied or separated children from immigration detention facilities to non-custodial and community based alternatives with full access to rights and services, including health care. Migrants and their families often face confinement at administrative detention centers that are cramped, overcrowded, and understaffed by healthcare professionals. Measures taken to help address the risk to detainees and to staff in places of detention should reflect the principles of ‘do no harm’ and ‘equivalence of care’.

12. Promote the regularization of migrants in an irregular situation or undocumented migrants. This includes adopting other regular pathways for migrants in a vulnerable situation, measures to allow extensions of work visas and other appropriate measures to reduce the challenges faced by migrants and their families due to business closures to ensure the continued protection of their human rights.

13. Guarantee the right of all migrants and their families to return to the country of which they are nationals. Many of them are stranded all over the world as they try to reach their home countries due to border closures or travel restrictions within countries. This obligation must be harmonized with international health standards and guidelines issued by national health authorities, and covers, according to the conditions of each State, measures of protection, access to information and assistance.

14. Consider the temporary suspension of deportations or enforced returns during the pandemic. A significant number of migrants have been deported or returned from different countries carrying the COVID-19 disease. Deportations, without proper health and safety precautions, may expose them to dangerous conditions, manifested both in transit and upon arrival in the migrants’ country of origin, especially countries with a high rate of infections. Enforced returns can only be carried out if they comply with the principle of non-refoulement and the prohibition of collective expulsions, as well as procedural guarantees, including due process, access to lawyers and translators, and the right to appeal a return decision. States must ensure that returns are carried out on a voluntary basis, which implies that they meet the requirements of a fully informed decision, without coercion and supported by the availability of sufficient valid alternatives. In all cases, all stages of return procedures should be adjusted to ensure they are compatible with public health strategies. Also, migrants once returned to their countries of origin should be integrated in national response to the pandemic and relevant recovery plans.



15. Pro-actively prevent discrimination and scapegoating of individuals or groups of migrants. The Committee and the Special Rapporteur note with concern xenophobic speeches or expressions associating the disease of COVID-19 with migrants or based on their ethnicity or if they are identified as nationals of a particular country. Minority communities, in particular, have faced attacks on individuals linked to fears about COVID-19.

16. Facilitate human rights monitoring and data collection on the human rights situation of migrants during the COVID-19 pandemic, by international organizations, national human rights institutions, and civil society organizations on migration routes, in border areas, places of detention, camps or other places where migrants live or work, within the capacities of the State and with appropriate health measures.

17. Avail the Committee and the Special Rapporteur. The Committee and the Special Rapporteur reiterate the severity of the current health crisis and urge international cooperation, shared responsibility, multilateral engagement and solidarity in response. Also, they will coordinate with the UN human rights treaty bodies, the Special Procedures of the Human Rights Council, the UN Network on Migration, other UN agencies, and civil society organizations, to assist and support States in their responses to COVID-19, in line with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Global Compact for Safe, Orderly and Regular Migration. While all human rights treaty bodies have postponed their meetings at the United Nations Office in Geneva until further notice, the Committee shall nevertheless continue to keep under review the impact that the COVID-19 crisis and State responses to the pandemic have on human rights. END.

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